



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Meeting Agenda City Council

**THE FORT BRAGG CITY COUNCIL MEETS CONCURRENTLY
AS THE FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT
NO. 1 AND THE FORT BRAGG REDEVELOPMENT SUCCESSOR
AGENCY**

Monday, March 28, 2022

6:00 PM

Via Video Conference

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

PLEASE TAKE NOTICE

Due to state and county health orders and to minimize the spread of COVID-19, City Councilmembers and staff will be participating in this meeting via video conference. The Governor's executive Orders N-25-20, N-29-20, and N-15-21 suspend certain requirements of the Brown Act and allow the meeting to be held virtually.

The meeting will be live-streamed on the City's website at <https://city.fortbragg.com/> and on Channel 3. Public Comment regarding matters on the agenda may be made by joining the Zoom video conference and using the Raise Hand feature when the Mayor or Acting Mayor calls for public comment. Any written public comments received after agenda publication will be forwarded to the Councilmembers as soon as possible after receipt and will be available for inspection at City Hall, 416 N. Franklin Street, Fort Bragg, California, during normal business hours. All comments will become a permanent part of the agenda packet on the day after the meeting or as soon thereafter as possible, except those written comments that are in an unrecognized file type or too large to be uploaded to the City's agenda software application. Public comments may be submitted to City Clerk June Lemos at jlemos@fortbragg.com.

ZOOM WEBINAR INVITATION

*You are invited to a Zoom webinar.
When: Mar 28, 2022 06:00 PM Pacific Time (US and Canada)
Topic: City Council Meeting*

*Please click the link below to join the webinar:
<https://us06web.zoom.us/j/89392967260>
Or Telephone: US: +1 720 707 2699 or +1 253 215 8782
Webinar ID: 893 9296 7260*

TO SPEAK DURING PUBLIC COMMENT PORTIONS OF THE AGENDA VIA ZOOM, PLEASE JOIN THE MEETING AND USE THE RAISE HAND FEATURE WHEN THE MAYOR OR ACTING MAYOR CALLS FOR PUBLIC COMMENT ON THE ITEM YOU WISH TO ADDRESS.

AGENDA REVIEW

1. MAYOR'S RECOGNITIONS AND ANNOUNCEMENTS

2. PUBLIC COMMENTS ON: (1) NON-AGENDA, (2) CONSENT CALENDAR & (3) CLOSED SESSION ITEMS

MANNER OF ADDRESSING THE CITY COUNCIL: All remarks and questions shall be addressed to the City Council; no discussion or action will be taken pursuant to the Brown Act. No person shall speak without being recognized by the Mayor or Acting Mayor. Public comments are restricted to three (3) minutes per speaker.

TIME ALLOTMENT FOR PUBLIC COMMENT ON NON-AGENDA ITEMS: Thirty (30) minutes shall be allotted to receiving public comments. If necessary, the Mayor or Acting Mayor may allot an additional 30 minutes to public comments after Conduct of Business to allow those who have not yet spoken to do so. Any citizen, after being recognized by the Mayor or Acting Mayor, may speak on any topic that may be a proper subject for discussion before the City Council for such period of time as the Mayor or Acting Mayor may determine is appropriate under the circumstances of the particular meeting, including number of persons wishing to speak or the complexity of a particular topic. Time limitations shall be set without regard to a speaker's point of view or the content of the speech, as long as the speaker's comments are not disruptive of the meeting.

BROWN ACT REQUIREMENTS: The Brown Act does not allow action or discussion on items not on the agenda (subject to narrow exceptions). This will limit the Council's response to questions and requests made during this comment period.

3. STAFF COMMENTS

4. MATTERS FROM COUNCILMEMBERS

5. CONSENT CALENDAR

All items under the Consent Calendar will be acted upon in one motion unless a Councilmember requests that an individual item be taken up under Conduct of Business.

- 5A. [22-109](#)** Accept Certificate of Completion for the Maple Street Storm Drain and Alley Rehabilitation Project, City Project No. PWP-00116, and Direct City Clerk to File Notice of Completion

Attachments: [Certificate of Completion](#)
[Notice of Completion Maple Street](#)

- 5B. [22-113](#)** Accept Certificate of Completion for the C.V. Starr Center LED Lighting Project, City Project No. PWP-00114, and Direct City Clerk to File Notice of Completion

Attachments: [CV Starr LED Proj Certificate of Completion](#)
[Notice of Completion PWP-00014](#)

- 5C. [22-108](#)** Receive and Accept the City of Fort Bragg's General Plan Annual Progress Report (2021) and Housing Element Annual Progress Report (2021)

Attachments: [DRAFT General Plan Report 2021](#)
[Appendix A - General Plan Policy Implementation](#)
[Appendix B - Annual Housing Element Report](#)
[Appendix C - City Council Goals and Priorities](#)

- 5D. [22-129](#)** Adopt City Council Resolution Approving Contract with Cash Carpet Service,

Inc. for the C.V. Starr Center Women's Locker Room Floor Rehabilitation Project and Authorizing City Manager to Execute Same (Amount Not To Exceed \$31,926.00 Account 810-4812-0751)

Attachments: [RESO Cash Carpet](#)

[Cash Carpet - Women's Locker](#)

- 5E. [22-143](#) Approve Scope of Work for Request for Proposals from Qualified Firms Who Offer Internal Revenue Service (IRS) Code Section 115 Trust Services

Attachments: [RFP- Section 115 Trust](#)

- 5F. [22-141](#) Adopt City Council Resolution Making the Legally Required Findings to Continue to Authorize the Conduct of Remote "Telephonic" Meetings During the State of Emergency

Attachments: [RESO Authorize Continuing Remote Meetings](#)

- 5G. [22-142](#) Adopt City Council Resolution Confirming the Continued Existence of a Local Emergency in the City of Fort Bragg

Attachments: [RESO Declaring Continuing Local Emergency](#)

- 5H. [22-148](#) Approve City Council Letter to the Bureau of Land Management in Support of the Lost Coast Redwoods Project

Attachments: [03-28-2022 Lost Coast Redwoods](#)

- 5I. [22-150](#) Adopt City Council Resolution Approving Federal Earmark Fund Request to Establish Municipal Ocean Water Infrastructure to Support Aquariums, Research, and Aquaculture Blue Economy Innovation Hub

Attachments: [RESO Federal Earmark Funds](#)

- 5J. [22-131](#) Approve Minutes of Special Meeting of March 9, 2022

Attachments: [CCM2022-03-09 Budget Workshop](#)

- 5K. [22-135](#) Approve Minutes of March 14, 2022

Attachments: [CCM2022-03-14](#)

6. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS

7. PUBLIC HEARING

When a Public Hearing has been underway for a period of 60 minutes, the Council must vote on whether to continue with the hearing or to continue the hearing to another meeting.

8. CONDUCT OF BUSINESS

- 8A. [22-136](#) Receive Report and Consider Adoption of City Council Resolution Approving Budget Amendment No. 2022-20 to Appropriate Funds from the Transient Occupancy Tax Special Projects (Account No. 110-4390-0619), Funds from

Asset Forfeiture Funds (Account No. 167-7999-0799), Funds from the State Department of Parks and Recreation Grant (Account No. 329-7999-0799), and Funds from Facilities- Internal Service Funds (Account No. 520-7999-0799) for the Implementation of Two Soccer Fields at Bainbridge Park

Attachments: [03282022 Bainbridge Soccer Fields Report](#)

[Att 1: RESO Bainbridge Park Budget Amendment](#)

[Att 2: RESO Exhibit A](#)

[Att 3: City of Fort Bragg Letter of Support 3-22-2022](#)

[Public Comment 8A](#)

- 8B. [22-137](#) Receive Report and Provide Direction to Staff Regarding Funding for Replacement of Playground Equipment at Wiggly Giggly Playground in Bainbridge Park

Attachments: [03282022 Wiggly Giggly Playground Report](#)

[Att 1 - Bainbridge Park Master Plan](#)

[Public Comment 8B](#)

- 8C. [22-139](#) Receive Report, Receive Finance and Administration Committee Recommendation, and Provide Direction to Staff Regarding Resumption of Water Shutoffs

Attachments: [03282022 Water Shutoff Staff Report](#)

[Att 1: Water Shut Off Policy](#)

- 8D. [22-133](#) Receive Report and Consider Introducing by Title Only and Waiving the First Reading of Ordinance 978-2022 Adding Chapter 6.09 (Organic Waste Disposal Reduction) to Title 6 (Health and Sanitation) of the Fort Bragg Municipal Code in Compliance with SB 1383

Attachments: [03282022 SB1383 Ordinance Staff Report](#)

[Att. 1 - ORD 978 SB1383 Enforcement](#)

- 8E. [22-144](#) Receive Report and Planning Commission Resolution Recommending Adoption of Ordinance 979-2022 Amending Sections 18.22.30, 18.24.30, 18.42.055, 18.42.057, 18.42.059 and 18.100.020 of Title 18 (Inland Land Use and Development Code) of the Fort Bragg Municipal Code Relating to Cannabis Regulations

Attachments: [03282022 Cannabis Ordinance Staff Report](#)

[Att 1 - RESO PC05-2022 Recommendation on Cannabis](#)

[Att 2 - Draft Cannabis Ordinance 979-2022](#)

[Att 3 - Draft Neg Dec Initial Study with ATT and Pub Comm](#)

[Att 4 - Title 18 Cannabis Track Changes](#)

[Public Comment 8E](#)

9. CLOSED SESSION

- 9A. [22-145](#) PUBLIC EMPLOYEE APPOINTMENT, Pursuant to Government Code Section 54957(b): Title: City Manager
- 9B. [22-147](#) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION, Pursuant to Paragraph (1) of Subdivision (d) of Government Code Section 54956.9; Name of Case: City of Fort Bragg vs. Mendocino Railway and Does 1-10, Case No.: 21CV00850, Superior Court of the State of California, County of Mendocino

ADJOURNMENT

The adjournment time for all Council meetings is no later than 10:00 p.m. If the Council is still in session at 10:00 p.m., the Council may continue the meeting upon majority vote.

NEXT REGULAR CITY COUNCIL MEETING: 6:00 P.M., MONDAY, APRIL 11, 2022

STATE OF CALIFORNIA)
)ss.
COUNTY OF MENDOCINO)

I declare, under penalty of perjury, that I am employed by the City of Fort Bragg and that I caused this agenda to be posted in the City Hall notice case on March 24, 2022.

June Lemos, MMC
City Clerk

NOTICE TO THE PUBLIC:

DISTRIBUTION OF ADDITIONAL INFORMATION FOLLOWING AGENDA PACKET DISTRIBUTION:

- *Materials related to an item on this Agenda submitted to the Council/District/Agency after distribution of the agenda packet are available for public inspection upon making reasonable arrangements with the City Clerk for viewing same during normal business hours.*
- *Such documents are also available on the City of Fort Bragg's website at <https://city.fortbragg.com> subject to staff's ability to post the documents before the meeting.*

ADA NOTICE AND HEARING IMPAIRED PROVISIONS:

It is the policy of the City of Fort Bragg to offer its public programs, services and meetings in a manner that is readily accessible to everyone, including those with disabilities. Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities.

If you need assistance to ensure your full participation, please contact the City Clerk at (707) 961-2823. Notification 48 hours in advance of any need for assistance will enable the City to make reasonable arrangements to ensure accessibility.

This notice is in compliance with the Americans with Disabilities Act (28 CFR, 35.102-35.104 ADA Title II).



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
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Text File

File Number: 22-109

Agenda Date: 3/28/2022

Version: 1

Status: Filed

In Control: City Council

File Type: Certificate of
Completion

Agenda Number: 5A.

Accept Certificate of Completion for the Maple Street Storm Drain and Alley Rehabilitation Project, City Project No. PWP-00116, and Direct City Clerk to File Notice of Completion

The Maple Street Storm Drain and Alley Rehabilitation Project rehabilitated the pavement of 16 of 17 locations identified as priority streets in the 2017 Pavement Management Plan. The project was designed by R.E.Y. Engineers, Inc., constructed by Akeff Construction Services and their various sub-contractors, and the construction management was performed by GHD along with City staff. The Construction contract for an amount of \$1,226,354.00, the final contract cost at close-out was in the amount of \$1,357,601.78 for total increase by change order in the amount of \$131,247.78.

The original project budget for the Maple Street Storm Drain and Alley Rehabilitation Project was \$1,750,000 which included design, construction, and construction support services. The Design by R.E.Y. was completed with a final task total of \$166,170.88, Construction cost of \$1,357,601.78, and construction support in the amount of \$187,418.41. The total cost of the project was \$1,711,191.07 for a total savings of \$38,808.93.



CITY OF FORT BRAGG

Incorporated August 5, 1889

416 N. Franklin Street, Fort Bragg, CA 95437

Phone: (707) 961-2823 Fax: (707) 961-2802

www.FortBragg.com

CERTIFICATE OF COMPLETION

All items of work and the provisions of the contract executed with Akeff Construction Services for labor, materials, equipment, and supervision for the Maple Street Stormdrain and Alley Rehabilitation Project, as shown in the Plans and Specifications for the Maple Street Stormdrain and Alley Rehabilitation Project, City Project PWP-00116 dated February 12, 2021, have been completed.

This project as described above was awarded by the Fort Bragg City Council by resolution at their meeting of April 12, 2022.

It is recommended that the completed project be accepted by the City Council.

A handwritten signature in blue ink, appearing to read "Chantell O'Neal", is written over a horizontal line.

Chantell O'Neal

Assistant Director-Engineering

DATED: March 28, 2022.

EXHIBIT "A"

RECORDING REQUESTED BY:

City of Fort Bragg

AND WHEN RECORDED, RETURN TO:

City of Fort Bragg
416 North Franklin Street
Fort Bragg, California 95437
Attention: June Lemos, MMC, City Clerk

The City is exempt from recordation fees per Government Code §27383.

NOTICE OF COMPLETION

1. The undersigned is the duly authorized agent of the owner, City of Fort Bragg.
2. The full name of the owner is City of Fort Bragg, a municipal corporation.
3. The nature of the interest of the owner is a fee interest.
4. This project was constructed in accordance with the Construction Agreement entitled **Maple Street Storm Drain and Alley Rehabilitation Project**, City Project No. PWP-00116, dated April 12, 2021.
5. The name of the contractor of the improvement work is Akeff Construction Services, Inc., 32205 N. Mitchell Creek Road, Fort Bragg, California 95437. The contract was awarded to this firm on April 12, 2021, pursuant to Resolution No. 4379-2021 by the Fort Bragg City Council.
6. The address of the owner is City of Fort Bragg, 416 North Franklin Street, Fort Bragg, California 95437.
7. On March 28, 2022, Chantell O’Neal, Assistant Director-Engineering, executed a Certificate of Completion for the above-referenced project indicating that this project was completed as of that date. See Certificate of Completion attached hereto as Exhibit A.

State of California)

County of Mendocino)

I hereby certify under penalty of perjury that the forgoing is true and correct:

City Council Approval

CITY OF FORT BRAGG

(Date)

By: _____
June Lemos, MMC
City Clerk

PROOF OF SERVICE BY MAIL
(Code of Civil Procedure Sections 1013a, 2015.5)

I am over the age of 18 years, employed in the County of Mendocino, and not a party to the within action; my business address is Fort Bragg City Hall, 416 North Franklin Street, Fort Bragg, California 95437.

On _____, 2022, I served the attached document by placing a true copy thereof enclosed in a sealed envelope, with postage thereon fully prepaid, via Certified Mail, Return Receipt Requested, in the United States mail at Fort Bragg, California addressed as follows:

Akeff Construction Services, Inc.
32205 N. Mitchell Creek Road
Fort Bragg, CA 95437

Apply-A-Line, LLC
19652 N. Hirsch Ct.
Redding, CA 96007

Anrak Corporation
5820 Mayhew Road
Sacramento, CA 95827-9726

Granite Construction Company
10500 South Harlan Road
French Camp, CA 95231-9603

Executed on _____, 2022, at Fort Bragg, Mendocino County, California.

I declare, under penalty of perjury, that the foregoing is true and correct.

ATTEST:

June Lemos, MMC
City Clerk



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 22-113

Agenda Date: 3/28/2022

Version: 1

Status: Filed

In Control: City Council

File Type: Certificate of
Completion

Agenda Number: 5B.

Accept Certificate of Completion for the C.V. Starr Center LED Lighting Project, City Project No. PWP-00114, and Direct City Clerk to File Notice of Completion

The C.V. Starr Center LED Lighting Project rehabilitated various lighting components for the completion of Energy Saving Recommendations. The project was funded through On-Bill Financing (OBF) provided by PG&E and designed and performed by WESCO Services LLC dba SLS Energy Solutions. WESCO Services bid proposal was reviewed, recommended for award by city staff for approval and adopted by Resolution awarding the contract for construction to WESCO Services for the CV Starr LED Lighting Project in October 2019. This project is now complete.



CITY OF FORT BRAGG

Incorporated August 5, 1889

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Phone: (707) 961-2823 Fax: (707) 961-2802

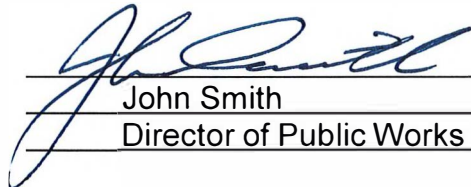
www.City.FortBragg.com

CERTIFICATE OF COMPLETION

All items of work and the provisions of the contract executed with WESCO Services LLC dba SLS Energy Solutions for labor, materials, equipment, and supervision for the C.V. Starr Center LED Lighting Project, as shown in the Plans and Specifications for the C.V. Starr Center LED Lighting Project, City Project PWP-00114 dated October 24, 2019, have been completed.

This project as described above was awarded by the Fort Bragg City Council by resolution at their meeting of October 24, 2019.

It is recommended that the completed project be accepted by the City Council.



John Smith

Director of Public Works

DATED: March 16, 2022

EXHIBIT "A"

RECORDING REQUESTED BY:

City of Fort Bragg

AND WHEN RECORDED, RETURN TO:

City of Fort Bragg
416 North Franklin Street
Fort Bragg, California 95437
Attention: June Lemos, MMC, City Clerk

The City is exempt from recordation fees per Government Code §27383.

NOTICE OF COMPLETION

1. The undersigned is the duly authorized agent of the owner, City of Fort Bragg.
2. The full name of the owner is City of Fort Bragg, a municipal corporation.
3. The nature of the interest of the owner is a fee interest.
4. This project was constructed in accordance with the Construction Agreement entitled **C.V. Starr LED Lighting Project, City Project PWP-00114**, dated October 24, 2019.
5. The name of the contractor of the improvement work is WESCO Services, LLC dba SLS Energy Solutions, 35 Village Road, Suite 203, Middleton, Massachusetts 01946. The contract was awarded to this firm on October 24, 2019, pursuant to Resolution No. 4209-2019 by the Fort Bragg City Council.
6. The address of the owner is City of Fort Bragg, 416 North Franklin Street, Fort Bragg, California 95437.
7. On March 16, 2022, John Smith, Director of Public Works, executed a Certificate of Completion for the above-referenced project indicating that this project was completed as of that date. See Certificate of Completion attached hereto as Exhibit A.

State of California)
County of Mendocino)

I hereby certify under penalty of perjury that the forgoing is true and correct:

City Council Approval

CITY OF FORT BRAGG

(Date)

By: _____
June Lemos, MMC
City Clerk

PROOF OF SERVICE BY MAIL
(Code of Civil Procedure Sections 1013a, 2015.5)

I am over the age of 18 years, employed in the County of Mendocino, and not a party to the within action; my business address is Fort Bragg City Hall, 416 North Franklin Street, Fort Bragg, California 95437.

On March ____, 2022, I served the attached document by placing a true copy thereof enclosed in a sealed envelope, with postage thereon fully prepaid, via Certified Mail, Return Receipt Requested, in the United States mail at Fort Bragg, California addressed as follows:

Todd Myers
President & CEO
WESCO Services LLC dba
SLS Energy Solutions
35 Village Road, Suite 203
Middleton, MA 01949

Kevin Keane
Senior Account Representative
WESCO Energy Solutions
2455 Mercantile Drive, Suite 150
Rancho Cordova, CA 95742

Executed on March ____, 2022, at Fort Bragg, Mendocino County, California.

I declare, under penalty of perjury, that the foregoing is true and correct.

ATTEST:

June Lemos, MMC
City Clerk



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 22-108

Agenda Date: 3/28/2022

Version: 1

Status: Filed

In Control: City Council

File Type: Report

Agenda Number: 5C.

Receive and Accept the City of Fort Bragg's General Plan Annual Progress Report (2021) and Housing Element Annual Progress Report (2021)

Jurisdictions must submit a General Plan Annual Progress Report (APR) and a Housing Element Annual Progress Report to both the Governor's Office of Planning and Research (OPR) and California Department of Housing and Community Development (HCD) by April 1 of each year, per Government Code Sections 65400 and 65700. The purpose of the APR is to inform decision makers and the public of the progress in meeting our community's goals, specifically, how land use decisions relate to the goals, policies and programs of Fort Bragg's General Plan(s).

City of Fort Bragg
GENERAL PLAN
ANNUAL PROGRESS REPORT
2021



March 2022

Fort Bragg City Council

Bernie Norvell, Mayor Jessica Morsell-Haye, Vice Mayor
Tess Albin-Smith, Council Member
Marcia Rafanan, Council Member
Lindy Peters, Council Member

Planning Commission

Jeremy Logan, Chair Jay Andreis, Vice-Chair
Stan Miklose, Planning Commissioner
Michelle Roberts, Planning Commissioner
Nancy Rogers, Planning Commissioner

Prepared by:
Kevin Locke
Community Development Department
City of Fort Bragg
416 N Franklin Street
Fort Bragg, CA 95437

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Appendix A - Implementation of General Plan Elements.....

Appendix B – Housing Element Report (2020)

Appendix C – City Council Goals and Priorities.....

Appendix D – City Council Comments

Introduction

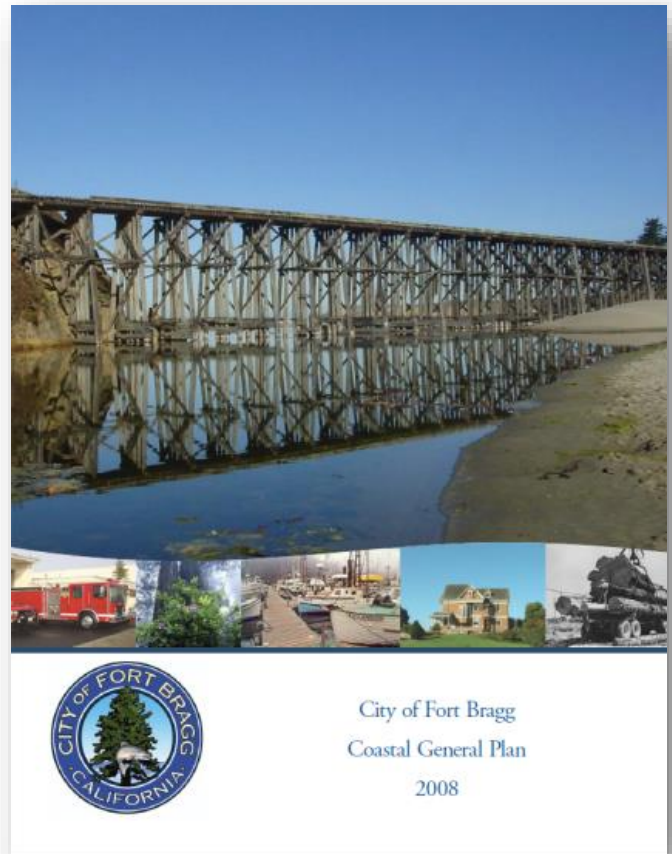
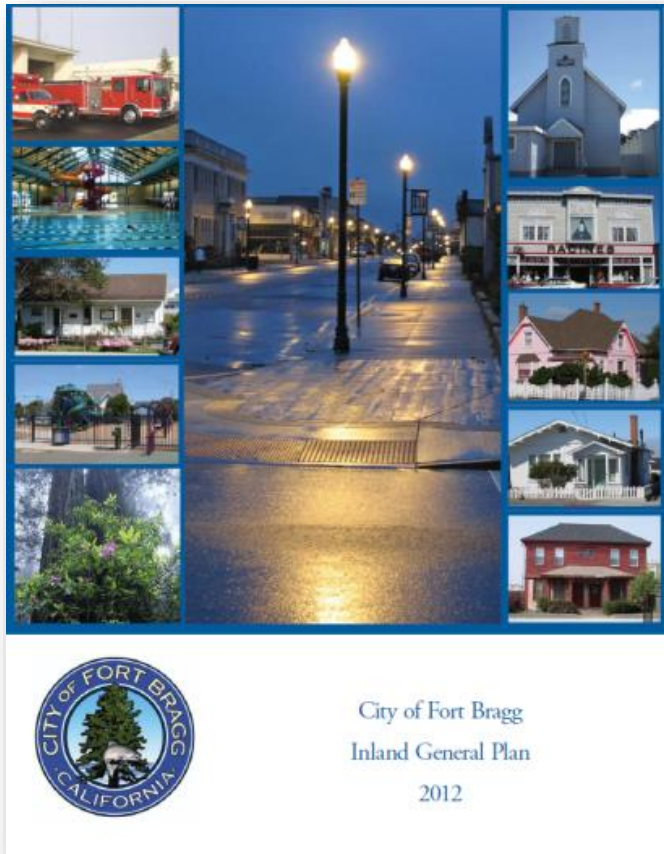
Government Code Section 65400 requires jurisdictions to submit an annual report on the status of the City's General Plan/Coastal General Plan (General Plan) to the Office of Planning and Research (OPR) and to the Department of Housing and Community Development (HCD) prior to April 1st each year. The General Plan Annual Report is a reporting document and does not create or alter policy. The content is provided for informational purposes only, and is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15306.

The City's General Plan is considered the blueprint for the future physical, economic, and social development of the City. The intent of performing an annual review is to assess the level of implementation, as well as the effectiveness of the plan to support orderly growth and development; preservation and conservation of open space and natural resources; and the efficient expenditure of public funds. The General Plan implements California laws that regulate land use planning and development and contains seven State required elements and two additional elements:

- **Land Use Element** - Discusses the location, distribution, and extent of various permitted land uses within the City. This element identifies standards for population density and development intensity for each type of land use.
- **Public Facilities Element** - Establishes the essential public facilities and services to ensure that the existing and future population of Fort Bragg is provided with the highest feasible level of public services.
- **Conservation, Open Space, Energy and Parks Element**- Contains the State-mandated open space and conservation elements. Emphasis is placed on protecting the City's natural resources, protecting and enhancing environmentally sensitive areas, and providing open space and parks to meet the community's recreational needs. This element also includes specific policies and programs to ensure continued public access, preserve and enhance scenic views, protect wetlands, bluff tops, and other natural resources.
- **Circulation Element** - Contains policies and Levels of Service standards for the roadway system, which will be updated to reflect the Vehicle Miles Traveled. This element also contains policies for public transit, bicycle facilities, parking and transportation for the mobility impaired, taking into account the relationship between land use and transportation needs of the community.
- **Community Design Element** - Establishes policies and programs dealing with the appearance of the community. It includes urban design guidelines to ensure that development contributes to the community's identity and unique sense of place, and policies to preserve historic sites and buildings.
- **Safety Element** - Contains policies and programs to reduce the risk of injury, loss of life, and property damage resulting from natural disasters and hazardous conditions and materials.
- **Noise Element** - Contains policies and programs to reduce the community's exposure to

excessive noise.

- **Sustainability Element** - Includes policies and programs to reduce energy use, the production of greenhouse gases, and improve the sustainability of commercial and residential development through policies and programs that encourage green building design, materials and techniques in new construction.
- **Housing Element** - Includes policies and programs to meet the housing needs of all economic segments of the community, emphasizing increased mixed-use housing, effective utilization of infill sites, inclusionary housing, and providing additional housing for special needs groups such as seniors.



Background

Every city and county in California is required by State law to have a General Plan. A General Plan is a legal document that serves as the community's framework for decision-making pertaining to land use, development and conservation. A General Plan must be comprehensive and long term, outlining proposals for the physical development of the City and any land outside its boundaries which in the City's judgment bears relation to its planning. State law requires that General Plans are kept current and internally consistent, but there is no particular timeline imposed, with the exception of the Housing Element, which is required to be updated every eight (8) years. The City Council adopted Fort Bragg's 6th Cycle (2019-2027) Housing Element, reviewed and certified by the Department of Housing and Community Development, in 2019.

Long Range Planning Activities

Long term planning focuses on activities that start now and continue well into the future. It is how Fort Bragg built the Coastal Trail and how the \$20 Million Wastewater Treatment Upgrade Project was just recently completed.

Housing. Boosting housing production to meet the needs of our community is a top priority for City Council. Numerous activities were pursued in 2021 to increase the number of housing units, as well as to diversify housing options in order to better serve households.

- **The Plateau Project** – The City actively supported the developer, The Danco Group, to ensure the development of sixty-nine (69) housing units referred to as The Plateau – 20 Permanently Supportive Housing Units; 23 Affordable Senior Cottages; 25 Affordable Workforce Units; and a Manager’s Unit. This effort included participating in weekly meetings with Danco’s team to help secure financing, hiring legal counsel to represent City interests, as well as advocate for HEAP grant funds, and manage the planning and building permit process. This \$27 million project includes a \$250,000 investment from the City’s Housing Trust Fund, \$3 million in City-secured HEAP grant funds, and a \$3,089,000 IIG Grant that the City jointly submitted and endorsed. A building permit was issued in 2020, with the project breaking ground in January 2021. Completion is expected in June 2022.
- **Community Land Trust (CLT)** – The City contracted professional services to assist staff in the development of a study to determine the feasibility of creating a community land trust to serve Fort Bragg. CLTs are an economic mechanism to create home ownership opportunities to very low, low and moderate income households in perpetuity.

Formula Business. – As the City continues to rely on its reputation as an emerging destination, to sustain and grow its tourism industry the City sought to limit businesses that detract from the City’s unique character. In order to achieve this, the City passed a formula business ordinance in April of 2021. A formula business is defined as one with more than 10 other locations outside of Fort Bragg and at least two of the following standardized features: an array of merchandise/menu, décor, uniforms, façade, color scheme, exterior signage including a trademark or service mark. Should a business meet these qualifying features, certain findings must be made prior to approval of a project in the inland zoning area.

EV Charging. - In 2015, State legislators passed Assembly Bill 1236. The intent of the legislature was to prohibit local agencies from adopting ordinances that created unreasonable barriers to the installation of EV chargers that supply power for plug in electric vehicles (“PEV”), as well as to not unreasonably restrict the ability of homeowners and agricultural/business concerns to install EV chargers. As a result, the City passed an EV Charging ordinance that streamlines review and approval for charging stations. All new charging stations can now be processed administratively and over-the-counter unless there is potential for adverse impact on public health and safety.

Economic Development. Economic Development involves the concerted effort of the City to influence investment toward opportunities leading to sustained economic growth; it is the creation of wealth, from which community benefits are realized. This year the COVID-19 pandemic created financial uncertainty for many local households and businesses. The City's response included: 1) adoption of an urgency ordinance granting businesses the flexibility of certain zoning standards/regulations to facilitate operations under health orders; 2) application and receipt of CDBG grant funds to support small businesses; 3) utilizing HOME grant funds to pay past due rent for eligible households; 4) applying for and award of EDA grant funds help diversify our local economy to be more resilient; 5) adoption of an Eviction Moratorium that included both residential and commercial tenants and 6) creating the smallbiz@fortbragg.com email account to help keep the local businesses informed about all these activities and much more.

In addition, the City continued to fund the Visit Fort Bragg campaign to attract visitors and encourage support of local businesses, as well as provide continued funding for the Noyo Center for Marine Science.

Capital Improvement Program. The Capital Improvement Program (CIP) provides direction and guidance for the City on carefully planning and managing its capital infrastructure assets. The following CIP projects were completed in 2021:

- Water Treatment Plant Upgrade – Plans, Specifications and Estimate (PS&E) have been completed.
- Raw Water Line Replacement Project - PS&E have been completed and funding is provided by the Department of Water Resources
- Water Meter Replacement Project – PS&E completed and funded by Community Development Block Grant Program
- Cure In Place Pipe – Contract awarded – construction in 2022
- Pudding Creek Water Line – move from Georgia-Pacific Dam, PS&E complete, construction 2022
- Pudding Creek Sewer Force Main – move the sewer main line west to allow for bridge widening, PS&E complete, construction 2022
- Maple Street Storm Drain and Alley Rehabilitation – Complete
- Desalination system installation and testing – Complete

Municipal Separate Storm Water System (MS4). The City prepared a National Pollutant Discharge Elimination System (NPDES) Annual Report, submitted on October 15, 2021. This report lists the City's activities performed during the previous fiscal year concerning the Storm Water Management Plan. Examples of this effort include: 1) education and outreach to community members and contractors; 2) prevention of industrial pollutants from regulated facilities; 3) various community clean-up events; 4) trash standards; and 5) ensuring storm drains are clear and free of debris; and incorporating new regulations to ensure industrial facilities are compliant with NPDES.

Grant Activity. The City actively pursued or managed the following grant opportunities in 2021:

Grant Source	Project Description	Applied	Denied/ Withdrawn	Approved/ In Progress
CDBG	Business Assistance Loan Program for eligible business affected by the COVID-19 pandemic			X
CDBG	Develop and implement a Code Enforcement Program to strengthen residential neighborhoods			X
CDBG	For the design, permits and construction of a residential care facility for the elderly under the management of Parents & Friends			X
CDBG	To plan and design for the rehabilitation of the Fire Station			X
CDBG	Micro Enterprise Financial Assistance to provide technical and financial support to eligible businesses.			X
CDBG	Funds to develop a Capacity of City Services study to facilitate rezoning of the Mill Site. This project was reallocated as a study of the City's Ocean water Intake to support a marine-based economic development strategy.			X
CDBG	Replacement of water meters throughout the City to create a more efficient system			X
CDBG-CV1	Utility bill assistance to qualified households affected by financial hardship as a result of the COVID-19 pandemic			X
HEAP	Implementation of pro-housing policies and programs			X
Local Partnership Program SB-1	Maple Street and Storm Drain and Alley improvements			X
Local Streets and Roads	Various project involving street maintenance.			X
OWP-MCOG	Development of a Traffic Study to facilitate rezoning of the Mill Site			X

Grant Source	Project Description	Applied	Denied/ Withdrawn	Approved/ In Progress
SB-2	Implementation of pro-housing policies and programs			X
STIP	Pedestrian and bicycle improvements to south Main St			X
USDA	Funds to purchase a prisoner transport van for the Police Department			X
USDA	Funds to purchase a Vac-Truck for the Public Works Department			X
USDA	Funds to upgrade the Waste Water Treatment Facility			X

Table 1: Grant Activity 2021

2021 Amendments

Ordinance Amendments

An ordinance is a law passed by a municipal government. One of the most significant areas of municipal law pertains to zoning and regulation of land use and development, and many are drafted to maintain public safety, health, morals and the general welfare of residents. The table below describes regular and urgency ordinances approved by Council in 2021.

Ordinance	Description
976-2022 Urgency	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
975-2021 Urgency	An Uncodified Interim Urgency Measure Of The City Council Of Fort Bragg Extending Interim Ordinance No. 972-2021 Placing A Moratorium On The Approval Of Applications And Permits For Cannabis Dispensaries In The Inland Zoning Area
974-2021	An Uncodified Ordinance Rescinding Interim Ordinance No. 964-2021 That Placed A Moratorium On The Approval Of Applications For Formula Business In The Inland Zoning Area
973-2021 Urgency	An Uncodified Urgency Ordinance Rescinding Interim Ordinance No. 964-2021 That Placed A Moratorium On The Approval Of Applications For Formula Business In The Inland Zoning Area
972-2021 Urgency	An Uncodified Urgency Ordinance Establishing A 45-Day Moratorium On Approval Of Applications And Permits For Cannabis Dispensaries In The Inland Zoning Area

971-2021	An Ordinance Adding Chapter 7.18 (Feeding Of Wildlife) To Title 7 (Animals) Of The Fort Bragg Municipal Code To Prohibit The Feeding Of Wildlife
970-2021	An Ordinance Adding Chapter 18.46 (“Formula Business Regulations”) To Article 18.4 (“Standards For Specific Land Uses”) Of The Fort Bragg Inland Land Use And Development Code And Amending Chapters 18.100 (“Definitions”) And 18.20 (“Zoning Districts And Allowable Land Uses”) Of The Fort Bragg Inland Land Use And Development Code
969-2021	An Ordinance Amending Chapter 14.06 (Water Conservation) Of Title 14 (Water And Sewers) Of The Fort Bragg Municipal Code
968-2021	An Ordinance Adding Chapter 15.38 (Streamlined Permitting Process For Electric Vehicle Charging Stations) To Title 15 (Buildings And Construction) Of The City Of Fort Bragg Municipal Code
967-2021 Urgency	An Uncodified Interim Urgency Measure Of The City Council Of Fort Bragg Extending Interim Ordinance No. 964-2021 Placing A Moratorium On The Approval Of Applications And Permits For Formula Businesses In The Inland Zoning Area
966-2021	An Ordinance Amending Chapter 9.30 (Cannabis Businesses) Of Title 9 (Public Peace, Safety And Morals) Of The Fort Bragg Municipal Code
965-2021	An Uncodified Interim Urgency Measure Of The City Council Of Fort Bragg Placing A 45-Day Moratorium On The Approval Of Applications And Permits For Formula Businesses In The Coastal Zoning Area
964-2021 Urgency	An Uncodified Interim Urgency Measure Of The City Council Of Fort Bragg Placing A 45-Day Moratorium On The Approval Of Applications And Permits For Formula Businesses In The Inland Zoning Area
963-2021 Urgency	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

Table 2: Ordinances Adopted 2021

Development Activity

Building Permits

During 2021, the Community Development Department and Public Works Department collectively reviewed 146 building permits. Of these permits, five were for the construction of new housing units.

Planning Permits

The City processed fifty-five (55) planning applications in 2021.

Application Type	2017	2018	2019	2020	2021
Total	46	53	68	33	55
Use Permits	2	3	4	1	4
Minor Use Permit	5	5	5	7	6
Coastal Development Permit	3	9	14	2	6
Design Review	5	3	2	3	6
Subdivision	0	0	0	2	2
Lot Line Adjustments	2	2	1	0	3
Limited Term Permit	27	29	36	17	27
Variance	0	0	5	1	1

Table 3: Planning Applications 2017-2021

Ten planning applications involved public hearings before the Planning Commission:

- Coastal Development Permit 2-20 (CDP 2-20) and Design Review 5-20 (DR 5-20) to construct a fence at 420 N. Harbor Drive (Approved)
- Use Permit 1-21 (UP 1-21) to convert a commercial site into a single family residence at 594 S. Franklin Street (Approved)
- Coastal Development Permit 3-20 (3-20) to construct ADA improvements from Highway 20 to Elm Street (Appealed and withdrawn)
- Coastal Development Permit 4-20 (CDP 4-20) Design Review 3-20 (DR 3-20) and Use Permit 2-20 (UP 2-20) to construct a residential care facility for the elderly at 350 Cypress Street (Approved)
- Coastal Development Permit 8-19 (CDP 8-19) Design Review 1-19 (DR 1-19) and Merger 1-19 (MGR 1-19) to construct a Grocery Outlet at 825 S. Franklin Street (Appealed to City Council and approved by City Council)
- Use Permit 2-21 (UP 2-21) to convert a commercial site into a single family residence at 237 East Alder Street (Approved)
- Minor Use Permit 1-21 (MUP 1-21) to open a Cannabis Dispensary at 144 North Franklin Street (Denied)
- Design Review 5-21 (DR 5-21) for a mural at 221 East Redwood Avenue (Approved)
- Coastal Development Permit 3-17/19/21 (CDP 3-17/19/21) Design Review 5-17/19 (DR 5-17/19)

and Merger 1-21 (MGR 1-21) to amend existing permits to merge lots at 441 South Street (Approved)

- Use Permit 4-21 (UP 4-21) and Sign Permit 13-21 (SP 13-21) to operate a formula business and construct a new sign (Approved)

Collaborative Planning and Consultation

Collaborative planning and consultation is essential for successful projects and policy making. The City prioritizes engagement with the community, local and state agencies, and our local Tribal Council. Depending on the scope of a project this may include consultations with Sherwood Valley Band of Pomo, California Coastal Commission, Department of Fish and Wildlife, California State Parks, Caltrans, North Coast Regional Water Quality Board, Mendocino County Department of Environmental Health, Mendocino County Department of Planning and Building, Fort Bragg Fire Department, California Native Plant Society, Mendocino Coast Audubon Society and/or Fort Bragg Mendocino Historical Society.

City Council, Planning Commission and Council Committee meetings are open to the public and available to live-stream, as well as archived on the City’s website. A “Notify Me” email/text subscription list is available for a range of topics, such as “Downtown Businesses”, and “Affordable Housing”, which sends email and texts pertaining to topics of interest that will be considered by decision makers. The City values input and recognizes that projects and policies are stronger because of it.

Business License

It is unlawful for any person to transact and carry on any business, trade or profession without first having procured a license from the City to do so. All business licenses are annual – effective January 1, becoming delinquent March 1, and expire on December 31.

Business License Activity	2019	2020	2021
New Applications	111	93	99
Cancelled Licenses (out of business)	32	46	5
Renewed Licenses	803	838	813
Delinquent (pending renewal)	140	7	9

Table 4: Business License Activity (2019-2021)

Code Enforcement

In 2021, code enforcement activity was still largely driven by complaints. However, the City was awarded a CDBG grant to establish a proactive code enforcement program with a focus on addressing building and

health safety in our residential neighborhoods. A full-time Assistant Planner transitioned their title to Code Enforcement Officer to begin the work of establishing a proactive program. The Code Enforcement Officer attended educational webinars and completed trainings that focused on key code enforcement topics. The Code Enforcement Officer reviewed current code enforcement practices, policies, and procedures for the City, and started identifying areas that needed to be modified and improved.

The total amount of code enforcement cases initiated in 2021 was 131 cases. This is a 162% increase from the previous year. As in previous years, the majority of the violations addressed were concerning nuisance conditions as specified in Chapter 6.12.040 of the Fort Bragg Municipal Code.

In addition to addressing code enforcement complaints, Code Enforcement assisted with the implementation of one of the Central Business District Economic Development strategies. With the direction of the Housing and Economic Development Coordinator and the Community Development Committee, Code Enforcement along with other City staff conducted exterior site inspections of the properties within the Central Business District to identify existing compliance issues. Throughout this process, Code Enforcement was able to begin outreach with property owners and business owners in the Central Business District, support compliance actions by providing information and resource materials, and pinpoint areas in our records that needed updating.

Conclusion

On March 28, 2022 the Fort Bragg City Council reviewed and accepted the General Plan Progress Report for 2021. Additional City Council comments are included as Appendix D. This report, including the annual Housing Element report, shall be submitted to the Governor's Office of Planning and Research (OPR) and to the California Department of Housing and Community Development (HCD) by the April 1st deadline.

Appendix A - Implementation of General Plan Elements

Fort Bragg's General Plan/Coastal General Plan provides the foundation for all land use decisions. These documents define City policy for public and private development, and provide the City Council, Planning Commission, and City staff with specific direction for future decisions affecting land use development. The following tables include policies of General Plan Elements 1-7; each table illustrating implementation actions for 2021.

If Policy is not demarcated with (Inland) or (Coastal), the policy is the same for both the City's Inland and Coastal General Plan(s).

Appendix B – Housing Element Report (2020)

Fort Bragg’s 6th Cycle Housing Element was adopted by City Council on September 9, 2019 and addresses the planning period from 2019 to 2027. Section 65400 of the Government Code requires that the City to submit an annual report on the status and progress of implementing the Housing Element.

The City completed the 2021 Annual Housing Element Report and submitted it directly into California Department of Housing and Community Development’s (HCD) database on March 28, 2022. This on-line system provides information to HCD, and is included herein for the benefit of the Governor’s Office of Planning and Research. Data is collected on an excel spreadsheet, which contains the following sheets:

Table A	Housing Development Applications Submitted
Table A2	Annual Building Activity Summary Report – New Construction, Entitles, Permits, and Completed Units
Table B	Regional Housing Needs Allocation Progress – Permitted Units Issued by Affordability
Table C	Sites Identified or Rezoned to Accommodate Shortfall Housing Needs
Table D	Program Implementation Status pursuant to Government Code section 65583
Table E	Commercial Development Bonus Approved pursuant to Government Code section 65915.7
Table F	Units Rehabilitated, Preserved and Acquired for Alternative Adequate Sites pursuant to Government Code section 65583.1, subdivision (c)(2)
Table G	Locally Owned Lands Included in the Housing Element Sites Inventory that have been sold, leased, or otherwise disposed of, pursuant to Government Code section 65400.1
Table H	Locally Owned or Controlled Lands Declared Surplus Pursuant to Government Code section 54221, or Identified as Excess Pursuant to Government Code section 50569

Summary

LEAP Reporting

Appendix C – City Council Goals and Priorities

On March 27, 2019 the City Council, City Manager and Facilitators with Heather Paulsen Consulting, spent most of the day in a Goal Setting Meeting. From the City Council's 2050 Vision brainstorm exercise, Councilmembers discovered a shared intention for all of their priority areas: enhancing local self-sufficiency and supporting healthy ecosystems. These concepts underpin all of the goals listed under each of the four top priority areas: Jobs/Industry, Quality of Life, Housing and Infrastructure.

At the City Council budget meeting of March 9, 2022, City Council revisited current goals and refined Top Priorities for the 2021/2022 Fiscal year as shown below.

FY 2021/22 TOP PRIORITIES

- Economic Development initiatives
- Create more Housing Opportunities through support for a Community Land Trust
- Infrastructure projects:
 - Water supply and resiliency
 - Broadband expansion
 - Streets, roadway and Americans with Disabilities Act (ADA) improvements
 - Electric grid and redundancy projects
 - Emergency Response and Resiliency
 - Financial Resiliency
- Improve coordination of social services, mental health and emergency response with the Police Department and other local law enforcement agencies.
- Community Wellness and Equity

Appendix D – City Council Comments

City Council reviewed the 2021 General Plan Annual Report on Monday, March 28, 2022. City Council accepted the 2021 General Plan Annual Progress Report and 2021 Housing Element Annual Progress Report with the following comments:

To be determined at the meeting of March 28, 2022.

Land Use Element

Policy	Objective	Implementation
Goal LU-1: Promote development and conservation of land in Fort Bragg according to the pattern shown on the Land Use Designations Map.		
LU-1.1	Implementation of the Land Use Designations Map: Implement the Land Use Designations Map by approving development and conservation projects consistent with the land use designations, and ensure consistency between the Inland General Plan and the Inland Land Use and Development Code.	Ongoing. The Land Use Designations Map is used as part of the review of every planning application.
LU-1.2 (Coastal)	Require that development on APNs 018-440-38, -39, -49, -50, & -59 in excess of one dwelling per existing lot obtain a Planned Development approval that minimizes access	Ongoing. Future applications for these parcels will adhere to this policy.
Goal LU-2: Establish and maintain clear boundaries and guidelines for the future expansion of Fort Bragg.		
LU-2.1	Boundaries of the Sphere of Influence: Retain the existing Sphere of Influence boundaries, as shown on Map LU-2.	The City has retained the boundaries of the current sphere of influence.
LU-2.2 (Coastal)	Annexations to the Municipal Improvement District Boundary: Require annexation approval prior to permitting new connections to the sanitary sewer system operated by the City's Municipal Improvement District in the Sphere of Influence. Out-of-area service agreements may be approved for new connections to the sanitary sewer system for development proposals that comply with the policy of the Municipal Improvement District regarding projects that provide affordable housing per Resolution No. ID 230-2003, adopted on December 8, 2003.	Ongoing.
LU-2.2 (Inland)	Sewer and Water Connections outside of the Municipal Service District Boundary: Out-of-area service agreements may be approved for new connections to the sanitary sewer system for development proposals that are located outside of the Municipal Service District Boundary and that comply with the policy of the Municipal Improvement District 2 – Land Use Element 2 - 9 November 2012 Fort Bragg Inland General Plan regarding projects that provide affordable housing per Resolution No. ID 230-2003, adopted on December 8, 2003.	In 2021, no new sewer connections were made outside of the Municipal Improvement District 2, however City Council in coordination with the Mendocino Local Agency Formation Commission approved two (2) emergency water connections to residents within our sphere of Influence.
LU-2.3	County Referrals: Request referrals from the County for all development projects in the City's Sphere of Influence, which are under the jurisdiction of Mendocino County.	The City requests referrals on an on-going basis.

Policy	Objective	Implementation
LU-2.4	<p>Annexation Standards</p> <ul style="list-style-type: none"> • Areas annexed must be able to be served by existing City facilities and by facilities provided by other agencies, or by environmentally and economically feasible Improvements to these facilities. Prior to City approval of an annexation application, findings shall be made indicating that: necessary public and private infrastructure to support the development is available, or that a development plan for extending or upgrading the infrastructure has been adopted, and that the annexation would not result in a substantial reduction or deterioration of public services and facilities, including streets, water supply, wastewater treatment, storm drainage facilities, fire, police, schools, and other public services and facilities. • Proposed annexations must be contiguous to existing developed areas. Annexation proposals that “leapfrog” over vacant and undeveloped land shall not be approved. • Based on a cost-revenue analysis, annexations shall have a cumulative net positive fiscal effect on the City within fifteen years of approval. The fiscal analysis must demonstrate that annexed properties would generate sufficient City revenues to pay for ongoing services to the annexed area and infrastructure cost benefiting annexed area borne by City – such as public safety, road maintenance, street lighting, etc. To achieve this, property owner(s) may be required to establish Mello-Roos districts and/or other forms of benefit assessment districts as a condition of, and at the time of, annexation to the City. • All annexation applications shall include an environmental review document which provides full disclosure of any potential adverse environmental impacts. To the maximum extent possible, annexations that would result in significant environmental impacts will not be approved. • A development plan, including maps and text, showing how existing and proposed future development within the annexation area contributes to the attainment of Inland General Plan goals and policies, shall be submitted with an annexation application. • All proposed future development within an annexation area shall be consistent with the land use designations shown on the Land Use Designations Map and all other requirements of the Inland General Plan and the Fort Bragg Municipal Code. • A cost-revenue analysis is not required for parcels that are annexed by the City of Fort Bragg for public purposes. 	<p>The City discouraged piecemeal annexation applications by two property owners located just outside the City limits. Future annexation considerations will adhere to this policy.</p>
LU-2.5	<p>Discourage Piecemeal Annexations: Discourage annexations of small, individual parcels of land in a piecemeal fashion.</p>	<p>Ongoing. There were no requests for annexations made in 2021.</p>

Policy	Objective	Implementation
Goal LU-3 Ensure that the Central Business District remains the historic, civic, cultural, and commercial core of the community.		
LU-3.1	Central Business District: Retain and enhance the small-scale, pedestrian-friendly, and historic character of the Central Business District (CBD).	Examples include waiving parking requirements in the CBD, pedestrian only events such as the Farmer’s Market, Paul Bunyan Days, Rodder’s Car Show, etc.
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.	Vacation rentals are banned in the City, other than those located on the second/third floor, above commercial use in the CDB to support building improvements and mixed uses.
LU-3.3	Historic Buildings and Mixed Uses: In the Central Business District and in other commercial areas with historic residential structures, encourage residential uses, mixed residential, and commercial uses, and the preservation of historic structures.	The City continues to encourage preservation of historic structures.
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 General Plan and rezoning to obtain additional commercial land elsewhere.	The City continues to encourage in-fill commercial development and is not considering annexation of additional commercial land.
LU-3.5 (Coastal)	Encourage the adaptive re-use and more complete utilization of buildings in the Central Business District and other commercial districts.	The City continues to encourage adaptive reuse of commercial structures.
LU-3.5 (Inland)	Encourage Smart Growth: Locate new residential, commercial, or industrial development within, contiguous with, or in close proximity to, existing developed areas.	All new residential, commercial, or industrial development has been located contiguous with existing developed areas.
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.	The City continues to encourage adaptive reuse of commercial structures.
Goal LU-4 Promote economic vitality of the City’s existing commercial areas.		
LU-4.1	Formula Businesses and Big Box Retail: The location, scale, and appearance of formula businesses and big box retail shall not detract from the economic vitality of established commercial businesses, and shall be consistent with the small town, rural character of Fort	City Council on September 13, 2021 added chapter 18.46 to the Inland Land Use & Development Code adding “Formula Business

Policy	Objective	Implementation
	Bragg.	Regulations” to the code. Subsequently, a formula business, the “Baymont Inn” was regulated through this ordinance.
LU-4.2 (Coastal)	Require that a fiscal and economic analysis be performed as part of the conditional use permit process for big box retail projects. The analysis shall evaluate the economic effects of the project for a minimum five-year time frame. A consultant selected by the City and paid for by the project proponent shall carry out the analysis.	The City did not receive applications for big box retail projects in 2020. This requirement will apply to future relevant applications.
LU-4.2 (Inland)	Large-Scale Commercial Development: To maintain scenic views along Main Street and to ensure that building sizes at the City’s gateways are in scale with the community, no commercial building shall exceed the following limitations on the gross floor area: a) between the Noyo River and Pudding Creek Bridges - maximum 50,000 square feet; b) east of Highway One and north of Pudding Creek Bridge - maximum 30,000 square feet	The City continues to regulate the size of commercial development when discussing potential projects with developers. There are no current large-scale retail projects under review. However, recent projects include Grocery Outlet and Dollar General.
LU-4.3 (Coastal)	Large-Scale Commercial Development: To maintain scenic views of the coast and to ensure that building sizes at the City’s gateways are in scale with the community, no commercial building shall exceed the following limitations on the gross floor area: a) between the Noyo River and Pudding Creek Bridges - maximum 50,000 square feet; b) east of Highway One and north of Pudding Creek Bridge - maximum 30,000 square feet; c) west of Highway One and north of Pudding Creek Bridge and south of the Noyo River Bridge - maximum 15,000 square feet; and d) east of Highway One and south of Noyo River Bridge – maximum 40,000 square feet.	Ongoing. This policy applies to development in the outlined areas.
LU-4.3 (Inland) LU-4.4 (Coastal)	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.	Ongoing. No specific instances in 2021.
<p>Goal LU-5 (Coastal): Maximize public recreational opportunities in the Coastal Zone consistent with sound resource conservation principles and the constitutionally protected rights of power.</p> <p>Goal LU-5 (Inland): Support Industrial development which is consistent with the protection, enhancement and restoration of natural resources</p>		
LU-5.1 (Coastal)	Additional Sites for Visitor-Serving Commercial: Continue to provide for and encourage additional visitor-serving commercial facilities.	Ongoing. Visitor Serving Commercial zoning includes vacant and available land for these

Policy	Objective	Implementation
		types of facilities.
LU-5.1 (Inland)	Siting New Industrial Development: Site new industrial development so that it is contiguous with, or in close proximity to, existing developed areas able to accommodate it, or where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects on natural and scenic resources, either individually or cumulatively.	Ongoing. No new industrial development proposed in 2021.
LU-5.2 (Coastal)	Ensure that there are adequate sites for visitor-serving land uses by: a) Maintaining existing areas designated for Highway-Visitor Commercial uses; b) Maintaining the Highway Visitor Commercial land use designation as one allowing primarily recreational and visitor-serving uses; and c) Reserving adequate infrastructure capacity.	The City continues to regulate new development to ensure adequate sites are available for visitor serving uses.
LU-5.2 (Inland)	Industrial Land Use Standards: Require that industrial development avoid or minimize creating substantial pollution, noise, glare, dust, odor, or other significant adverse impacts.	The City continues to regulate new industrial development and conduct code enforcement activities to ensure compliance City standards are met.
LU-5.3 (Coastal)	Lower Cost Facilities: Protect, encourage, and, where feasible, provide lower cost visitor and recreational facilities for persons and families of low and moderate income. If and when average annual occupancy rates at Fort Bragg visitor facilities exceed 70%, removal or conversion of existing lower cost facilities shall be prohibited unless the use will be replaced with another facility offering comparable visitor serving or recreational facilities.	Ongoing. The City will continue to review vacancy rates and continue to protect, encourage and, where feasible, provide lower cost visitor and recreational facilities.
LU-5.4 (Coastal)	Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.	The City continues to regulate new development to ensure adequate sites are available for recreational uses.
LU-5.5 (Coastal)	Lower cost visitor and recreational facilities shall be protected, encouraged, and where feasible, provided. Developments providing public recreational opportunities are preferred.	Ongoing. The City maintains the Noyo Headlands coastal trail, which provides free coastal access and recreation.
LU-5.6 (Coastal)	The use of private lands suitable for visitor-serving and commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.	The City continues to regulate new development to ensure adequate sites are available for visitor serving and recreational uses.
LU-5.7	Adequate parking should be provided to serve coastal access and recreation uses to the	Ongoing. The City continues to provide free

Policy	Objective	Implementation
(Coastal)	extent feasible. Existing parking areas serving recreational uses shall not be displaced unless a comparable replacement area is provided.	parking to access the coastal trail, preserve existing parking serving coastal access, and requires adequate parking for future development where access and recreation is proximate.
LU-5.8 (Coastal)	Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.	Ongoing. There are limited locations in the City limits where water-oriented recreational activities are possible.
<p>Goal LU-6 (Coastal): Support industrial development which is consistent with the protection, enhancement, and restoration of coastal resources.</p> <p>Goal LU-6 (Inland): Provide adequate land to accommodate the housing needs of all income groups</p>		
LU-6.1 (Coastal)	Policy LU-6.1: Standards for Noyo Harbor Industrial Development: Limit industrial development in the Noyo Harbor to uses which: a) are coastal-dependent uses or aquaculture, giving priority to commercial fishing activities; b) do not generate excessive traffic on City streets, such as South Street, North Harbor Drive, and Cypress Street; c) do not interfere with existing coastal-dependent industry, especially commercial fishing; and d) are consistent with applicable LCP policies, including but not limited to LCP policies regarding the protection of public access and recreation, visual resources, and environmentally sensitive habitat areas, and Coastal Act public access policies.	Ongoing. The City’s General Plan and CLUDC contain policies defining what land uses are permissible in the Noyo Harbor, and future development in the Harbor is subject to Coastal Development Permitting, where discretionary review can ensure ongoing implementation with this policy. In 2020 an application was received for retail on N Franklin Street, between N Harbor Drive and South Street, which could impact traffic. Additional traffic analysis is underway, pursuant to CEQA.
LU-6.1 (Inland)	Preserve Neighborhoods: Preserve and enhance the character of the City’s existing residential neighborhoods.	The City currently has a code enforcement grant and officer specifically meant for abating nuisances in residential areas related to the degradation of neighborhoods.
LU-6.2 (Coastal)	In areas designated for industrial land uses, coastal-dependent and coastal related industrial uses shall have priority over other industrial uses on or near the shoreline.	Ongoing. The City’s General Plan and CLUDC contain policies defining what land uses are permissible in the in the Coastal Zone, and future development is subject to Coastal Development Permitting to ensure compliance.

Policy	Objective	Implementation
LU-6.3 (Coastal)	Pipeline, Electrical, and Telecommunications Transmission Corridors: Consolidate new pipeline, electrical, and telecommunications transmission corridors within existing pipeline or electrical and telecommunications transmission corridors, wherever feasible, unless there are overriding technical constraints or significant social, aesthetic, environmental, or economic concerns.	Ongoing. As infrastructure projects of this nature are planned and scheduled, conformance with this policy will take place.
LU-6.4 (Coastal)	Electrical and telecommunications transmission rights-of-way and pipelines shall be routed to minimize impacts to scenic resources and to Environmentally Sensitive Habitat Areas according to the following standards: a) Require underground installation of electrical and telecommunication lines where technically and economically feasible, unless it can be shown that other options are less environmentally damaging. b) Scarring, grading, or other vegetative removal shall be minimized and construction areas shall be revegetated with plants native to the area. c) Where above-ground electrical or telecommunications transmission lines are necessary, the design and color of the support towers shall be compatible with the surroundings to the extent feasible. Avoid locating above-ground transmission lines along the crests of hills, bluffs, and in scenic resource areas.	Ongoing. As infrastructure projects of this nature are planned and scheduled, conformance with this policy will take place.
Goal LU-7 (Coastal): Support industrial development which is consistent with the protection, enhancement, and restoration of coastal resources.		
LU-7.1 (Coastal)	Changes in Industrial Land Use: Require that any Local Coastal Program (LCP) amendments and rezoning of lands which are designated Timber Resources Industrial be subject to a specific plan process. The portions of a Specific Plan that meet the definition of “Land Use Plan” as defined by Coastal Act Section 30108.5 and “Implementing Actions” as defined by Coastal Act Section 30108.4 shall be submitted to, and effectively certified by, the Coastal Commission as an LCP amendment before those portions of the Specific Plan become effective.	Ongoing. LCP amendments become effective after Coastal Commission review and certification.
LU-7.3 (Coastal)	Siting New Industrial Development: Site new industrial development so that it is contiguous with, or in close proximity to, existing developed areas able to accommodate it, or where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects on coastal resources, either individually or cumulatively.	Ongoing. The CLUDC lists the land uses permitted in each zoning district, and industrial uses are allowable in industrial zoning districts so that it is contiguous with existing developed areas able to accommodate it and where public services are present to serve future industrial development.
LU-7.4	Where feasible, locate new hazardous industrial development away from	Ongoing. The CLUDC requires discretionary

Policy	Objective	Implementation
Coastal	existing developed areas.	review of most hazardous industrial development to ensure that it is compatible with existing and future land uses in the vicinity.
LU-7.5 (Coastal)	Industrial Land Use Standards: Require that industrial development avoid or minimize creating substantial pollution, noise, glare, dust, odor, or other significant adverse impacts.	Ongoing. The CLUDC requires discretionary review of most industrial development to ensure that it is compatible with existing and future land uses in the vicinity. Most industrial development is restricted to industrial zoning districts to minimize adverse impacts to sensitive land uses.
Goal LU-8 (Coastal): Encourage a mixture of commercial fishing, recreational boating and fishing, mixed commercial and visitor-serving uses consistent with coastal access policies.		
LU-8.1 (Coastal)	Annexation of Noyo Harbor: Consider annexation of the Noyo Harbor.	The City Council periodically discusses annexation to determine feasibility and benefits. No plans for annexation are currently in process.
LU-8.2 (Coastal)	Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced and shall be protected unless written findings are made that present and foreseeable future demand for the facilities that could be accommodated on the property is already adequately provided for in the area. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.	The City has little jurisdiction within the harbor; however, the City continues to support and protect existing infrastructure and recreational opportunities.
LU-8.3 (Coastal)	Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.	The City has little jurisdiction within the harbor; however, the City continues to support and protect existing infrastructure and recreational opportunities.

Policy	Objective	Implementation
LU-8.4 (Coastal)	The economic, commercial, and recreational importance of fishing activities shall be recognized and protected.	The City has little jurisdiction within the harbor; however, the City continues to support and protect existing infrastructure and recreational opportunities. City promotional efforts highlight fishing activities.
Goal LU-9 (Coastal): Minimize impacts of aquaculture development on coastal resources.		
LU-9.1 (Coastal)	Aquaculture Development. All aquaculture development or facilities shall require a coastal development permit and shall be consistent with all policies and standards of the certified LCP, including but not limited to policies regarding the protection of public access, water and marine resources, environmentally sensitive habitat areas, hazards, water quality, archaeological resources, and visual resources.	Ongoing. Any future aquaculture development would require Coastal Development Permit approval.
LU-9.2 (Coastal)	No intake or discharge lines shall be placed above ground in the Timber Resources Industrial District in any Environmentally Sensitive Habitat Areas as defined in Policy OS-1.2 and Section 30107.5 of the Coastal Act, including but not limited to, along portions of any coastal bluff that constitute ESHA, or within any rocky intertidal habitat area.	Ongoing. Any future aquaculture development would require Coastal Development Permit approval.
LU-9.3 (Coastal)	No intake or discharge lines shall be placed above ground within the Harbor District, the adjoining tidelands and submerged lands of the Noyo River, or on the face of coastal bluffs within the Timber Resources Industrial district, unless all other alternatives have been demonstrated to be infeasible or more environmentally damaging. Alternatives to be evaluated shall include, but not be limited to, (1) placing lines underground through use of directional drilling or trenching, (2) using closed-loop aquaculture systems that do not require offshore intake and discharge lines, and (3) connecting discharge lines to the existing sanitary sewer system. If all other alternatives have been demonstrated to be infeasible or more environmentally damaging and intake or discharge lines must be placed above ground within the Harbor District and the adjoining tidelands and submerged lands of the Noyo River, or on the face of coastal bluffs within the Timber Resources Industrial district, the lines shall be placed in the least environmentally damaging feasible location and in a manner that will not interfere with Noyo River navigation, existing recreational boating facilities, and coastal dependent industry, especially commercial fishing facilities.	Ongoing. Any future development would require Coastal Development Permit approval.
LU-9.4 (Coastal)	Any intake or discharge lines allowed to be placed above ground within the Harbor District and the adjoining tidelands and submerged lands of the Noyo River shall be removed upon	Ongoing. The City continues to regulate these facilities in the Harbor District consistent with

Policy	Objective	Implementation
	abandonment of the aquaculture development or facility it was installed to serve.	this policy.
LU-9.5 (Coastal)	All aquaculture development or facilities shall be sited and designed to be visually compatible with the character of surrounding areas, and shoreline facilities shall be screened.	Ongoing. Aquaculture development requires a Coastal Development Permit including analysis of visual impacts of proposed development.
LU-9.6 (Coastal)	All aquaculture development or facilities shall be sited and designed to prevent impacts which would significantly degrade environmentally sensitive habitat areas, as defined in Policy OS-1.1 and section 30107.5 of the Coastal Act, and shall be compatible with the continuance of biological and ecological values in those habitat areas.	Ongoing. Aquaculture development requires a Coastal Development Permit and analysis of potential environmental impacts of proposed development.
LU-9.7 (Coastal)	All aquaculture development or facilities shall be sited and designed to avoid encroachment of aquaculture operations into adjacent recreational areas.	Ongoing. Aquaculture development requires a Coastal Development Permit to ensure conformance with this policy.
LU-9.8 (Coastal)	No aquaculture development or facilities shall interfere with the public's right of access to the sea. All aquaculture development or facilities shall ensure adequate provision of lateral and vertical access.	Ongoing. Aquaculture development requires a Coastal Development Permit to ensure conformance with this policy.
LU-9.9 (Coastal)	All aquaculture development or facilities shall be sited and designed to: (1) minimize risks to life and property from geologic and flood hazards, including but not limited to bluff erosion, slope stability, seismic events, liquefaction, tsunamis, floods, and wave attack; and (2) assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.	Ongoing. Aquaculture development requires a Coastal Development Permit to ensure conformance with this policy.
LU-9.10 (Coastal)	Availability of adequate water to serve all aquaculture development or facilities shall be demonstrated prior to approval of such aquaculture development or facilities.	Ongoing. Aquaculture development requires a Coastal Development Permit to ensure conformance with this policy.
LU-9.11 (Coastal)	All aquaculture development or facilities shall be sited and designed to minimize the chances for release of non-native species, pathogens, and parasites into the aquatic environment.	Ongoing. Aquaculture development requires a Coastal Development Permit to ensure conformance with this policy.

Policy	Objective	Implementation
LU-9.12 (Coastal)	All aquaculture development or facilities shall be sited and designed to ensure that waste discharges will comply with all applicable water quality regulations, including, but not limited to, any applicable regulations contained within (1) the State Water Resources Control Board’s “Water Quality Control Plan, Ocean Waters of California” Ocean Plan, (2) the State Water Resources Control Board’s “Water Quality Control Plan for Control of Temperature in the Coastal and Interstate Waters and Enclosed Bays and Estuaries of California” (Thermal Plan), and (3) the North Coast Regional Water Quality Control Board’s (RWQCB) “Water Quality Control Plan for the North Coast Region” (Basin Plan).	Ongoing. Aquaculture development requires a Coastal Development Permit to ensure conformance with this policy.
LU-9.13 (Coastal)	All aquaculture development or facilities shall be sited and designed to minimize the discharge of pollutants to water, including but not limited to substances in concentrations toxic to human, animal, plant, or aquatic life.	Ongoing. Aquaculture development requires a Coastal Development Permit to ensure conformance with this policy
LU-9.14 (Coastal)	All aquaculture development or facilities shall implement Best Management Practices (BMPs) to ensure the number and quantity of pollutants discharged or potentially discharged from the facility shall be minimized to the maximum extent feasible. BMPs shall specifically address adequate cleaning, feeding, transfer and importation of species, husbandry practices, removal of dead species, storage and handling of raw material, drugs and chemicals, and disposal of solid waste.	Ongoing. Aquaculture development requires a Coastal Development Permit to ensure conformance with this policy
LU-9.15 (Coastal)	All aquaculture development or facilities shall be carried out in a manner that will sustain the biological productivity of coastal waters, protect human health and maintain healthy populations of all species of marine organisms for long-term commercial, recreational, scientific and educational purposes.	Ongoing. Aquaculture development requires a Coastal Development Permit to ensure conformance with this policy.
LU-9.16 (Coastal)	Aquaculture facilities sited within the Harbor District shall not interfere with existing recreational boating facilities and existing coastal-dependent industry, including fishing.	Ongoing. Aquaculture development requires a Coastal Development Permit to ensure conformance with this policy.
LU-9.17 (Coastal)	Ocean front land that is suitable for coastal dependent aquaculture shall be protected for that use, and proposals for aquaculture facilities located on those sites shall be given priority, except over other coastal dependent developments or uses.	Ongoing. Aquaculture development requires a Coastal Development Permit to ensure conformance with this policy.
Goal LU-10: Provide adequate land to accommodate the housing needs of all income groups.		
LU-10.1 (Coastal)	Preserve Neighborhoods: Preserve and enhance the character of the City’s existing residential neighborhoods.	Ongoing. The City engages in code enforcement to abate nuisance conditions.

Policy	Objective	Implementation
LU-10.2 (Coastal)	Locating New Development. New residential, commercial, or industrial development, except as otherwise provided in the LCP, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. Where feasible, new hazardous industrial development shall be located away from existing developed areas.	Ongoing. The City’s land use map and zoning districts prescribe the locations for new development, and Coastal Development Permit review ensures conformance with this policy.
LU-10.3 (Coastal)	The location and amount of new development shall maintain and enhance public access to the coast by: (1) facilitating the extension of transit services where feasible; (2) providing non-automobile circulation within the development that includes circulation connections outside of the development; (3) assuring that the recreational needs of new residents will be supported by onsite recreational facilities and/or off-site local park recreational facilities to ensure that coastal recreation areas are not overloaded; and (4) utilizing smart growth and mixed-use development concepts where feasible to improve circulation and reduce auto use, where such auto use would impact coastal access roads.	New development in the Coastal Zone requires a Coastal Development Permit, where conformance with this policy will be ensured.
LU-10.4 (Coastal)	Ensure Adequate Services and Infrastructure for New Development. Development shall only be approved when it has been demonstrated that the development will be served with adequate water and wastewater treatment. Lack of adequate services to serve the proposed development shall be grounds for denial of the development.	New development in the Coastal Zone requires a Coastal Development Permit, where conformance with this policy will be ensured.
LU-10.5 (Coastal)	Minimize Impacts on Air Quality and Green House Gasses. New development shall: 1) be consistent with requirements imposed by an air pollution control district or the State Air Resources Control Board as to each particular development, and 2) minimize energy consumption and vehicle miles traveled.	New development in the Coastal Zone requires a Coastal Development Permit, where conformance with this policy will be ensured.
LU-10.6 (Coastal)	Protect Special Communities. New Development shall, where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.	New development in the Coastal Zone requires a Coastal Development Permit, where conformance with this policy will be ensured.
LU-10.7 (Coastal)	Priority for Coastal Dependent Uses. Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When	New development in the Coastal Zone requires a Coastal Development Permit, where conformance with this policy will be ensured.

Policy	Objective	Implementation
	appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.	

Public Facilities Element

Policy	Objective	Implementation
Goal PF-1 Ensure that new development is served by adequate public services and Infrastructure.		
PF-1.1 (Coastal)	All new development proposals shall be reviewed and conditioned to ensure that adequate public services and infrastructure can be provided to the development without substantially reducing the services provided to existing residents and businesses.	Ongoing. This is standard practice on all development applications.
PF-1.1 (Inland)	Ensure Adequate Services and Infrastructure for New Development: Review new development proposals to ensure that the development can be served with adequate potable water; wastewater collection, treatment, and disposal; storm drainage; fire and emergency medical response; police protection; transportation; schools; and solid waste collection and disposal. .	Ongoing. This is standard practice on all development applications.
PF-1.2 (Coastal)	Ensure Adequate Services and Infrastructure for New Development. No permit for development shall be approved unless it can be demonstrated that such development will be served upon completion with adequate services, including but not limited to potable water; wastewater collection, treatment and disposal; storm drainage; fire and emergency medical response; police protection; transportation; schools; and solid waste collection and disposal; as applicable to the proposed development. a. Demonstration of adequate water and sewer facilities shall include evidence that adequate capacity will be available within the system to serve the development and all other known and foreseeable development the system is committed to serving, and that the municipal system will provide such service for the development; b. Demonstration of adequate road facilities shall include information demonstrating that (i) access roads connecting to a public street can be developed in locations and in a manner consistent with LCP policies; and (ii) that the traffic generated by	Any new development will be required to construct/contribute to any infrastructure necessary for proposed and future development.

Policy	Objective	Implementation
	the proposed development, and all other known and foreseeable development, will not cause Levels of Service (LOS) of roads, streets, and intersections within the City to reduce below LOS standards contained in Policy C-1.1 of the Circulation Element of the Coastal General Plan.	
PF-1.2 (Inland)	All new development proposals shall be reviewed and conditioned to ensure that adequate public services and infrastructure can be provided to the development without substantially reducing the services provided to existing residents and businesses.	All proposed development is reviewed and conditioned to ensure adequate public infrastructure/capacity. Water and sewer capacity fees are calculated based on proposed use.
PF-1.3 (Coastal)	Ensure Adequate Service Capacity for Priority Uses. a. New development that increases demand for new services by more than one equivalent dwelling unit (EDU) shall only be permitted in the Coastal Zone if, <input type="checkbox"/> Adequate services do or will exist to serve the proposed development upon completion of the proposed development, and <input type="checkbox"/> Adequate services capacity would be retained to accommodate existing, authorized, and probable priority uses upon completion. Such priority uses include, but are not limited to, coastal dependent industrial (including commercial fishing facilities), visitor serving, and recreational uses in commercial, industrial, parks and recreation, and public facilities districts. Probable priority uses are those that do not require an LCP amendment or zoning variance in the Coastal Zone. b. Prior to approval of a coastal development permit, the Planning Commission or City Council shall make the finding that these criteria have been met. Such findings shall be based on evidence that adequate service capacity remains to accommodate the existing, authorized, and probable priority uses identified above.	The City is in the process of evaluating potential future build out to assure appropriate services will be available for those priority uses.
PF-1.3 (Inland)	Ensure Adequate Services and Infrastructure for Annexations: Review annexation requests to ensure that the area can be served with adequate potable water; wastewater collection, treatment, and disposal; storm drainage; fire and emergency medical response; police protection; transportation; schools; and solid waste collection and disposal. See also Policy LU-2.4 regarding annexations.	The City is not currently considering annexation. However, with the addition of Summer's Lane Reservoir, a new 1.5 MG water tank, addition of an emergency desalinization plant, and wastewater facility upgrades, annexation might be considered in the future.
PF-1.4 (Coastal)	New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division; provided, however, that it is the intent of the Legislature that State Highway Route 1 in rural areas of the coastal zone remain a scenic two-lane road. Special districts shall not	All development will be reviewed for consistency with this policy.

Policy	Objective	Implementation
	be formed or expanded except where assessment for, and provision of, the service would not induce new development inconsistent with the certified LCP. Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development.	
PF-1.5 (Coastal)	Ensure Adequate Services and Infrastructure for Annexations: Review annexation requests to ensure that the area can be served with adequate potable water; wastewater collection, treatment, and disposal; storm drainage; fire and emergency medical response; police protection; transportation; schools; and solid waste collection and disposal.	The City is not currently considering annexation. However, with the addition of Summer’s Lane Reservoir, a new 1.5 MG water tank, addition of an emergency desalinization plant, and wastewater facility upgrades, annexation might be considered in the future.
Goal PF-2 Assure that the City's infrastructure is maintained and expanded to meet the needs of the City's residents.		
PF-2.1	Development Pays its Share: Require that new development pay its share of capital improvements and the cost of public services to maintain adequate levels of service.	New development does not currently pay its share of some costs because the City does not have Development Impact Fees for capital projects such as parks and transportation. The City does require new development to pay it’s fair share of costs associated with new Public infrastructure.
PF-2.2	Potable Water Capacity: Develop long-term solutions regarding the supply, storage, and distribution of potable water and develop additional supplies.	In 2021, the design phase has been completed on the relocation of water main to Pudding Creek bridge and this will go to construction in summer of 2022. Additional progress was made on the raw water line replacement project; and preliminary investigations into additional water storage and possible reclamation activities are on-going.
PF-2.3	Emergency Water Supply: Develop an emergency water supply for disaster preparedness.	In addition to the Summers Lane Reservoir Project (2016) and the new water storage tank (2019), staff continues to seek additional sources and funding to provide emergency

Policy	Objective	Implementation
		water supply. In 2021 staff began seeking funding for the rehabilitation of one of the City's Water Tanks and installed a desalination intake system on the Noyo River to treat brackish water during high tides and drought.
PF-2.4	Potable Water Quality: Maintain the safety of the water supply.	The City Water Treatment Plant over haul project commenced in 2021 to ensure continued compliance with all State and Federal regulations.
PF-2.5	Wastewater: Review wastewater capacity and expansion plans as needed when regulations change and as the treatment and disposal facility nears capacity.	An upgrade to the Waste Water Treatment Facility was completed in 2020, and has capacity for increased treatment volumes. As a result of the increased plant efficiencies, the Wastewater treatment plant was fitted with a biosolids dryer in 2021 to decrease transportation costs of the biosolid waste.
PF-2.6	Storm Drainage: Annually review storm drain system capacity and expansion plans.	The City Storm Drainage infrastructure is badly in need of repairs throughout the system. Staff have started including storm drainage improvements with Street Rehabilitation projects, this includes the replacement of 1,100 linear feet of stormdrain in 2021 with the Maple Street Rehabilitation project. Staff will continue to seek out funding opportunities to complete these much needed repairs.
PF-2.7	Public Buildings: Ensure that public buildings in the City are adequate to provide services for the community	City Hall and Town Hall was closed to the public due to COVID-19 pandemic. In lieu, the City offered virtual meetings, e-comment features, individual appointments, and outdoor portable toilets.
PF-2.8	Capital Improvement Plan: Continually update the Capital Improvement Plan to ensure that it identifies capital projects necessary to maintain adequate levels of performance as well as	The Capital Improvement Plan (CIP) is updated every year as part of the Budget

Policy	Objective	Implementation
	funding sources for all phases of intended projects.	process.
PF-2.9	Schools: Work with the Fort Bragg Unified School District to ensure that the District has the means to provide a high quality education to City students.	This is an ongoing activity.

Conservation & Open Space Element

Policy	Objective	Implementation
Goal OS-1 (Coastal) Preserve and Enhance the City's Environmentally Sensitive Habitat Areas		
Goal OS-1 (Inland) Preserve areas with important biotic resources		
OS-1.1 (Coastal)	Definition of ESHA. "Environmentally sensitive habitat area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.	Ongoing. This definition match's the Coastal Act's definition.
OS-1.1 (Inland)	Special Review Areas: Areas in the City containing watercourses, wetlands, sensitive plant and wildlife habitat, and forested land shall be designated as Special Review Areas.	The City continues to require biological reports and other specialized studies when reviewing projects designated as Special Review areas.
OS-1.2 (Coastal)	<p>Determination of ESHA. The determination of what constitutes ESHA shall not be limited by what is mapped and not all parcels that are mapped necessarily contain ESHA. Map OS-1 serves to identify those general areas known to potentially contain ESHA and for which a biological report is required consistent with Policy OS-1.7 to substantiate the presence or absence of ESHA on any particular parcel. Any area not designated on LUP Map OS-1 that meets the ESHA definition is ESHA and shall be accorded all the protection provided for ESHA in the LCP. All habitat maps shall include a note that states that "the maps may be updated as appropriate and may not include all areas that constitute ESHA." The following areas shall be considered ESHA:</p> <ul style="list-style-type: none"> • Any habitat area that is rare or especially valuable because of their special nature or role in an ecosystem and is easily degraded or disturbed by human activities or developments. • Any habitat area of plant or animal species designated as rare, threatened, or 	Ongoing. The City will continue to use this policy when reviewing development.

Policy	Objective	Implementation
	<p>endangered under State or Federal law.</p> <ul style="list-style-type: none"> • Any habitat area of species designated as Fully Protected or Species of Special Concern under State law or regulations. • Any habitat area of plant species for which there is compelling evidence of rarity, for example, those designated 1b (Rare or endangered in California and elsewhere) or 2 (rare, threatened or endangered in California but more common elsewhere) by the California Native Plant Society. 	
OS-1.2 (Inland)	Preserve Natural Resources: Require that sensitive natural resources in Special Review Areas be preserved and protected to the maximum degree feasible.	The City continues to require biological reports and other specialized studies when reviewing projects designated as Special Review areas.
OS-1.3 (Coastal)	Development in ESHA Wetlands: Diking, Filling, and Dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following uses: a. New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities. b. Maintaining existing or restoring previously dredged depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps. c. New or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities. d. Incidental public service purposes, including but not limited to burying cables and pipes or inspection of piers and maintenance of existing intake and outfall pipelines. e. Restoration purposes. f. Nature study, aquaculture, or similar resource dependent activities. Policy	Ongoing. The City will continue to use this policy when reviewing CDP applications.
OS-1.3 (Inland)	Biological Report Required for Special Review Areas: Permit applications for development within or adjacent to Special Review Areas which have the possibility of containing sensitive habitat shall include a biological report prepared by a qualified biologist which identifies the resources and provides recommended measures to ensure that the requirements of CEQA, the Department of Fish and Wildlife, and the City of Fort Bragg's General Plan(s) are fully met. The required content of the biological report is specified in the <i>Land Use and Development Code</i> .	The City continues to require biological reports and other specialized studies when reviewing projects designated as Special Review areas.
OS-1.4	The more specific permissible use provisions for wetlands identified in Policy OS-1.3 shall	Ongoing. The City will continue to use this

Policy	Objective	Implementation
(Coastal)	control over the more general permissible use provisions for other types of ESHA identified in Policy OS-1.5 and Policy OS-1.6.	policy when reviewing CDP applications.
OS-1.4 (Inland)	Maintain Open Space: Require site planning and construction to maintain adequate open space to permit effective wildlife corridors for animal movement between open spaces.	The comprehensive planning process for reuse of the former Mill Site includes Open Space/Parks zoning along the coastal trail. This “green-belt” serves multiple functions, including a wildlife corridor for animal movement.
OS-1.5 (Coastal)	Development in Rivers and Streams with ESHA. Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to: a. Necessary water supply projects, b. Flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or c. Developments where the primary function is the improvement of fish and wildlife habitat.	Ongoing. The City will continue to use this policy when reviewing CDP applications. No development in the Coastal Zone may be approved without conformance with this policy.
OS-1.6 (Coastal)	Development within Other Types of ESHA shall protect ESHA against any significant disruption of habitat values and shall be limited to the following uses: a. Resource Dependent Uses. Public nature trails within riparian ESHA are considered a resource dependent use provided that: (1) the length of the trail within the riparian corridor shall be minimized; (2) the trail crosses the stream at right angles to the maximum extent feasible; (3) the trail is kept as far up slope from the stream as possible; (4) trail development involves a minimum of slope disturbance and vegetation clearing; and (5) the trail is the minimum width necessary. Interpretive signage may be used along permissible nature trails accessible to the public to provide information about the value and need to protect sensitive resources. b. Restoration projects where the primary purpose is restoration of the habitat. c. Invasive plant eradication projects if they are designed to protect and enhance habitat values. d. Pipelines and utility lines installed underneath the ESHA using directional drilling techniques designed to avoid significant disruption of habitat values.	Ongoing. The City will continue to use this policy when reviewing CDP applications. No development in the Coastal Zone may be approved without conformance with this policy. The City requires biological studies in conjunction with almost all CDP applications. These studies are referred to the Coastal Commission, Fish and Wildlife, and is relevant, the State Water Board and/or Army Corps of Engineers to ensure consistency with these policies.
OS-1.7 (Coastal)	Development in areas adjacent to Environmentally Sensitive Habitat Areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.	Ongoing. The City will continue to use this policy when reviewing CDP applications. No development in the Coastal Zone may be approved without conformance with this policy.

Policy	Objective	Implementation
		<p>The City requires biological studies in conjunction with almost all CDP applications. These studies are referred to the Coastal Commission, Fish and Wildlife, and is relevant, the State Water Board and/or Army Corps of Engineers to ensure consistency with these policies.</p>
<p>OS-1.8 (Coastal)</p>	<p>Development adjacent to ESHA shall provide buffer areas to serve as transitional habitat and provide distance and physical barriers to human intrusion. The purpose of this buffer area is to provide for a sufficient area to protect environmentally sensitive habitats 4 – Conservation, Open Space, Energy, & Parks Element 4 - 4 July 2008 Fort Bragg Coastal General Plan from significant degradation resulting from future development. Buffers shall be of a sufficient size to ensure the biological integrity and preservation of the ESHA they are designed to protect. The width of the buffer area shall be a minimum of 100 feet, unless an applicant can demonstrate, after consultation with the California Department of Fish and Game, other relevant resource agencies, and the City, that 100 feet is not necessary to protect the resources of that particular habitat area and the adjacent upland transitional habitat function of the buffer from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the environmentally sensitive habitat areas and in no event shall be less than 30 feet in width.</p>	<p>Ongoing. The City will continue to use this policy when reviewing CDP applications. No development in the Coastal Zone may be approved without conformance with this policy.</p> <p>The City requires biological studies in conjunction with almost all CDP applications. These studies are referred to the Coastal Commission, Fish and Wildlife, and is relevant, the State Water Board and/or Army Corps of Engineers to ensure consistency with these policies.</p>
<p>OS-1.9 (Coastal)</p>	<p>Utilize the following criteria to establish buffer areas: a. Biological Significance of Adjacent Lands. Lands adjacent to a wetland, stream, or riparian habitat area vary in the degree to which they are functionally related to these habitat areas. Functional relationships may exist if species associated with such areas spend a significant portion of their life cycle on adjacent lands. The degree of significance depends upon the habitat requirements of the species in the habitat area (e.g., nesting, feeding, breeding, or resting). Where a significant functional relationship exists, the land supporting this relationship shall also be considered to be part of the ESHA, and the buffer zone shall be measured from the edge of these lands and be sufficiently wide to protect these functional relationships. Where no significant functional relationships exist, the buffer shall be measured from the edge of the ESHA that is adjacent to the proposed development. b. Sensitivity of Species to Disturbance. The width of the buffer zone shall be based, in part, on the distance necessary to ensure that the most sensitive species of plants and animals will not be disturbed significantly by the permitted development. Such a determination shall be based on the following after consultation with the Department of Fish and Game or others with similar expertise: (i) Nesting, feeding,</p>	<p>Ongoing. The City will continue to use this policy when reviewing CDP applications. No development in the Coastal Zone may be approved without conformance with this policy.</p> <p>The City requires biological studies in conjunction with almost all CDP applications. These studies are referred to the Coastal Commission, Fish and Wildlife, and is relevant, the State Water Board and/or Army Corps of Engineers to ensure consistency with these policies.</p>

Policy	Objective	Implementation
	<p>breeding, resting, or other habitat requirements of both resident and migratory fish and wildlife species; (ii) An assessment of the short-term and long-term adaptability of various species to human disturbance; (iii) An assessment of the impact and activity levels of the proposed development on the resource. Erosion susceptibility. The width of the buffer shall be based, in part, on an assessment of the slope, soils, impervious surface coverage, runoff characteristics, erosion potential, and vegetative cover of the parcel proposed for development and adjacent lands. A sufficient buffer to allow for the interception of any additional material eroded as a result of the proposed development shall be provided. d. Use natural topography. Where feasible, use hills and bluffs adjacent to Environmentally Sensitive Habitat Areas, to buffer these habitat areas. Where otherwise permitted, locate development on the sides of hills away from Environmentally Sensitive Habitat Areas. Include bluff faces in the buffer area. e. Use existing man-made features. Where feasible, use man-made features such as roads and dikes to buffer environmentally sensitive habitat areas. f. Lot Configuration and Location of Existing Development. Where an existing subdivision or other development is largely built-out and the buildings are a uniform distance from a habitat area, at least that same distance shall be required as a buffer zone for any new development permitted. However, if that distance is less than one hundred (100) feet, additional mitigation measures (e.g., planting of native vegetation) shall be provided to ensure additional protection. g. Type and Scale of Development Proposed. The type and scale of the proposed development will, to a large degree, determine the size of the buffer zone necessary to protect the ESHA. Such evaluations shall be made on a case-by-case basis depending upon the resources involved, the degree to which adjacent lands are already developed, and the type of development already existing in the area. Required buffer areas shall be measured from the following points as applicable: ☐ The outer edge of the canopy of riparian vegetation for riparian ESHA, or from the top of stream bank where no riparian vegetation exists. ☐ The upland edge of a wetland for a wetland ESHA. ☐ The outer edge of the plants that comprise the rare plant community for rare plant community ESHA.</p>	
OS-1.10 (Coastal)	<p>Permitted Uses within ESHA Buffers. Development within an Environmentally Sensitive Habitat Area buffer shall be limited to the following uses: a. Wetland Buffer. i. Uses allowed within the adjacent Wetland ESHA pursuant to Policy OS-1.3. ii. Nature trails and interpretive signage designed to provide information about the value and protection of the resources iii. Invasive plant eradication projects if they are designed to protect and enhance habitat values. b. Riparian Buffer. i. Uses allowed within the adjacent River and Stream ESHA pursuant to Policy OS- 1.5. ii. Uses allowed within the adjacent ESHA pursuant to Policy OS- 1.6. iii. Buried pipelines and utility lines. iv. Bridges. v. Drainage and flood control facilities. c.</p>	<p>Ongoing. The City will continue to use this policy when reviewing CDP applications. No development in the Coastal Zone may be approved without conformance with this policy.</p> <p>The City requires biological studies in conjunction with almost all CDP applications.</p>

Policy	Objective	Implementation
	Other types of ESHA Buffer. i. Uses allowed within the adjacent ESHA pursuant to Policy OS-1.6. ii. Buried pipelines and utility lines. iii. Bridges. iv. Drainage and flood control facilities.	These studies are referred to the Coastal Commission, Fish and Wildlife, and is relevant, the State Water Board and/or Army Corps of Engineers to ensure consistency with these policies.
OS-1.11 (Coastal)	Land Divisions and ESHA. Prohibit new land divisions creating new parcels located entirely within an environmentally sensitive habitat area or buffer area unless the parcel to be created is restricted at the time of its creation solely for open space, public recreation, or conservation.	<p>Ongoing. The City will continue to use this policy when reviewing CDP applications. No development in the Coastal Zone may be approved without conformance with this policy.</p> <p>The City requires biological studies in conjunction with almost all CDP applications. These studies are referred to the Coastal Commission, Fish and Wildlife, and is relevant, the State Water Board and/or Army Corps of Engineers to ensure consistency with these policies.</p> <p>Subdivisions in the Coastal Zone are required to identify development envelopes where development may occur consistent with the ESHA policies of the LCP.</p>
OS-1.12 (Coastal)	Drainage and Erosion Control Plan. Permissible development on all properties containing environmentally sensitive habitat, including but not limited to those areas identified as ESHA Habitat Areas on Map OS-1, shall prepare a drainage and erosion control plan for approval by the City. The plan shall include measures to minimize erosion during project construction, and to minimize erosive runoff from the site after the project is completed. Any changes in runoff volume, velocity, or duration that may affect sensitive plant and animal populations, habitats, or buffer areas for those populations or habitats, shall be reviewed by a qualified biologist to ensure that there will not be adverse hydrologic or, erosion, or sedimentation impacts on sensitive species or habitats. Mitigation measures shall be identified and adopted to minimize potential adverse runoff impacts. All projects resulting in new runoff to any streams in the City or to the ocean shall be designed to minimize the transport of pollutants from roads, parking lots, and other impermeable surfaces of the project.	<p>Ongoing. The City will continue to use this policy when reviewing CDP applications. No development in the Coastal Zone may be approved without conformance with this policy.</p> <p>The Public Works Department, in conjunction with the Coastal Commission, Fish and Wildlife and the State Water Board, review development applications in the Coastal Zone for consistency with this and other related policies.</p>

Policy	Objective	Implementation
OS-1.13 (Coastal)	Landscaping Adjacent to ESHA. All development located within or adjacent to environmentally sensitive habitat areas shall be conditioned to: a) Require all proposed plantings be obtained from local genetic stocks within Mendocino County. If documentation is provided to the review authority that demonstrates that native vegetation from local genetic stock is not available, native vegetation obtained from genetic stock outside the local area, but from within the adjacent region of the floristic province, may be used; and if local genetic stocks within the floristic province are unavailable, the Director may authorize use of a commercial native mix, provided it is clear of invasive seed. Director may also authorize use of a seed mix that is selected for rapid senescence and replacement with native stock; and b) Require an invasive plant monitoring and removal program; and c) Prohibit the planting of any plant species on the property that is (a) listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, and/or by the State of California, or (b) listed as a 'noxious weed' by the State of California or the U.S. Federal Government.	<p>Ongoing. The City will continue to use this policy when reviewing CDP applications. No development in the Coastal Zone may be approved without conformance with this policy.</p> <p>CDP applicants are required to submit landscape plans and biological reports, which are reviewed by City staff in conjunction with the Coastal Commission, Fish and Wildlife and the State Water Board to ensure consistency with this and related policies.</p>
OS-1.14 (Coastal)	Vegetation Removal in ESHA. Prohibit vegetation removal in Environmentally Sensitive Habitat Areas and buffer areas except for: a) Vegetation removal authorized through coastal development permit approval to accommodate permissible development, b) Removal of trees for disease control, c) Vegetation removal for public safety purposes to abate a nuisance consistent with Coastal Act Section 30005, or d) Removal of firewood for the personal use of the property owner at his or her residence to the extent that such removal does not constitute development pursuant to Coastal Act Section 30106. Such activities shall be subject to restrictions to protect sensitive habitat values.	<p>Ongoing. The City will continue to use this policy when reviewing CDP applications. No development in the Coastal Zone may be approved without conformance with this policy.</p> <p>CDP applicants are required to submit landscape plans and biological reports, which are reviewed by City staff in conjunction with the Coastal Commission, Fish and Wildlife and the State Water Board to ensure consistency with this and related policies.</p>
OS-1.15 (Coastal)	Implement the following measures when a project involves dredging, filling or diking of open coastal waters, wetlands, estuaries, or lakes: a) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and to water circulation to the maximum extent feasible. Avoiding significant disruption means, in part, that the functional capacity of the wetland is maintained to the maximum extent feasible. b) Limitations may be imposed, including but not limited to, limitations on the timing of the operation, the type of operation, the quantity of dredged material removed, and the location of the spoils site. c) Dredge spoils suitable for beach replenishment shall, where feasible, be transported to appropriate beaches or into suitable longshore current	<p>Ongoing. The City will continue to use this policy when reviewing CDP applications. No development in the Coastal Zone may be approved without conformance with this policy.</p>

Policy	Objective	Implementation
	systems. d) Other mitigation measures may include opening areas to tidal action, removing dikes, improving tidal flushing, or other restoration measures.	
OS-1.16 (Coastal)	<p>Biological Report Required. a) Permit applications for development within or adjacent to Environmentally Sensitive Habitat Areas including areas identified in Map OS-1 or other sites identified by City staff which have the possibility of containing environmentally sensitive habitat shall include a biological report prepared by a qualified biologist which identifies the resources and provides recommended measures to ensure that the requirements of the Coastal Act and the City of Fort Bragg’s Local Coastal Program are fully met. The required content of the biological report is specified in the Coastal Land Use and Development Code.</p> <p>b) Submittal of Biological Reports. These biological reports shall be reviewed by the City and approving agencies. The biological reports described above shall be submitted prior to filing as complete a coastal development permit application and may also be submitted as a part of any environmental documentation required pursuant to CEQA. The selection of the professional preparing the report shall be made or approved by the City or the agency approving the permit and paid for by the applicant. Biological reports shall contain mitigating measures meeting the following minimum standards: i. They are specific, implementable, and, wherever feasible, quantifiable. ii. They result in the maximum feasible protection, habitat restoration and enhancement of sensitive environmental resources. Habitat restoration and enhancement shall be required wherever feasible, in addition to the applicable baseline standard of either avoiding or minimizing significant habitat disruption. iii. They are incorporated into a Mitigation Monitoring Program; and iv. They include substantial information and analysis to support a finding that there is no feasible, less environmentally damaging alternative.</p>	<p>Ongoing. The City will continue to use this policy when reviewing CDP applications. No development in the Coastal Zone may be approved without conformance with this policy.</p> <p>The City requires biological studies in conjunction with almost all CDP applications. These studies are referred to the Coastal Commission, Fish and Wildlife, and sometimes the State Water Board to ensure consistency with these policies.</p>
Goal OS-2 (Coastal) Preserve and enhance the City’s other natural resources.		
Goal-OS-2 (Inland) Encourage Native Plants and Discourage Non-native Plants and trees		
OS-2.1 (Coastal)	Riparian Habitat: Prevent development from destroying riparian habitat to the maximum feasible extent. Preserve, enhance, and restore existing riparian habitat in new development unless the preservation will prevent the establishment of all permitted uses on the property.	<p>Ongoing. The City will continue to implement this policy when reviewing CDP applications. No development in the Coastal Zone may be approved without conformance with this policy.</p> <p>The Public Works Department, in conjunction with the Coastal Commission, Fish and Wildlife and the State Water Board, review</p>

Policy	Objective	Implementation
		development applications in the Coastal Zone for consistency with this and other related policies.
OS-2.1 (Inland)	Native Landscaping: All development shall be conditioned to require that 50% of all plantings are native plants and shall prohibit the planting of any plant species that is (a) listed as problematic and/or invasive by the California Invasive Plant Council, and/or by the State of California, or (b) listed as a 'noxious weed' by the State of California or the U.S. Federal Government.	Ongoing. The City will continue to implement this policy when reviewing CDP applications. No development in the Coastal Zone may be approved without conformance with this policy.
OS-2.2 (Coastal)	Policy OS-2.2: Protect Aquifers: Protect groundwater aquifers.	Ongoing. The City will continue to implement this policy when reviewing CDP applications. No development in the Coastal Zone may be approved without conformance with this policy. CDP applicants are required to submit landscape plans and biological reports, which are reviewed by City staff in conjunction with the Coastal Commission, Fish and Wildlife and the State Water Board to ensure consistency with this and related policies.
OS-2.2 (Inland)	Prohibit Invasive Species: Condition development projects requiring discretionary approval to prohibit the planting of any species of broom, pampas grass, gorse, or other species of invasive non-native plants deemed undesirable by the City.	The City requires a landscape plan with most projects that require discretionary approval in order to ensure compliance with this and related policies.
OS-2.3 (Inland)	Preserve Native Vegetation and Trees: To the maximum extent feasible and balanced with permitted use, require that site planning, construction, and maintenance of development preserve existing healthy trees and native vegetation on the site.	All new development is required to preserve or conditioned to provide mitigation for removal of native vegetation or trees.
OS-2.4 (Inland)	Forested Areas: Maintain existing forested areas and reforest parks and streetscapes with new trees as needed. Projects proposed in forested areas are required to meet the	The City continues to preserve and protect forested areas and trees. Discretionary

Policy	Objective	Implementation
	requirements of the Special Review Areas.	applications that involve the removal of major vegetation are referred to Fish and Wildlife for additional review.
Goal OS-3 Protect and preserve soil as a natural resource.		
OS-3.1	Soil Erosion: Minimize soil erosion to prevent loss of productive soils, prevent flooding and landslides, and maintain infiltration capacity and soil structure.	All building permits involving soil disturbance of 120 SF or greater are required to provide additional documentation to ensure provisions are in place to stabilize soil.
Goal OS-4 Protect and preserve Cultural Resources.		
OS-4.1	Preserve Archaeological Resources: New development shall be located and/or designed to avoid archaeological and paleontological resources where feasible, and where new development would adversely affect archaeological or paleontological resources, reasonable mitigation measures shall be required.	The City actively consults with Sherwood Valley Band of Pomo to ensure that this policy is followed for all private and public projects.
OS-4.2 (Coastal)	Archaeological Resources Report Required. A) Development located within areas of known or potential archaeological or paleontological resources included in (i) – (iv) shall be required to submit a report consistent with the requirements of section B below prior to approval of a building, grading, or coastal development permit for the development. i. Former Georgia Pacific timber mill. The entire property which comprises the former Georgia-Pacific timber mill site; ii. Noyo Bay. The area located along the south side of Noyo Bay (e.g., Todd Point); iii. Noyo River. All of the areas located adjacent to the north side of the Noyo River; iv. North Fort Bragg Coast. All of the areas located west of Highway 1 and north of Pudding Creek; v. Special Review Areas. All Special Review Areas identified on Map OS-2 in the Coastal General Plan; and vi. Other areas identified by the Director. Other areas identified by the environmental review process (Chapter 18.72), or brought to the attention of the City through special studies performed after the enactment of this Section, as having the potential for containing archaeological or paleontological resources. B) Report required. A project specific report shall be prepared by a qualified archaeologist and shall be submitted prior to filing as complete a coastal development permit application. The permit review authority may waive the requirement for a project specific report if the Director determines that an existing report satisfies the requirements of this section. The report shall be prepared consistent with the requirements of Section 18.50.030 of the Coastal Land Use	The City requires archaeological reports for development projects in the areas described by this policy. In addition, all project involving ground disturbing activities are referred Sherwood Valley Band of Pomo for review and coordination of tribal monitoring, if requested.

Policy	Objective	Implementation
	& Development Code.	
OS-4.3 (Coastal)	Halt all work if archaeological resources are uncovered during construction. Require an evaluation by a qualified archaeologist before recommending construction.	The ILUDC and CLUDC includes policies requiring compliance with this General Plan policy. Discretionary permits require adherence to this policy as a standard condition of approval.
OS-4.4 (Coastal)	Locate and/or design new development to avoid archaeological resources where feasible.	The City requires archaeological reports for development projects in sensitive areas (as mapped and recommended by the Sherwood Valley Band of Pomo) in order to review projects for potential environmental impacts related to cultural and/or archaeological resources. These reports are referred to the Sherwood Valley Band of Pomo for review and coordination.
OS-4.5 (Coastal)	Mitigation shall be designed in compliance with the guidelines of the State Office of Historic Preservation and the State Native American Heritage Commission.	The City requires archaeological reports for development projects in sensitive areas (as mapped and recommended by the Sherwood Valley Band of Pomo) in order to review projects for potential environmental impacts related to cultural and/or archaeological resources. These reports are referred to the Sherwood Valley Band of Pomo for review and coordination. Mitigation measures are developed, where necessary, with the assistance of the Sherwood Valley Band of Pomo.
Goal OS-5 (Coastal) Preserve areas with biotic resources.		
Goal OS-5 (Inland) Protect, enhance, restore riparian areas and wetlands		
OS-5.1 (Coastal)	Native Species: Preserve native plant and animal species and their habitat.	The City continues to require biological reports and other specialized studies when reviewing projects designated as Special Review areas. The City has mapped open

Policy	Objective	Implementation
		space areas where development is prohibited to help preserve natural habitats.
OS-5.1 (Inland)	Streams and Creeks: To the maximum extent feasible, preserve, protect, and restore streams and creeks to their natural state.	The City has explored the feasibility of daylighting Alder and Maple stormwater culverts.
OS-5.2 (Coastal)	To the maximum extent feasible and balanced with permitted use, require that site planning, construction, and maintenance of development preserve existing healthy trees and native vegetation on the site.	The City continues to require biological reports and other specialized studies when reviewing projects designated as Special Review areas. The City has mapped open space areas where development is prohibited to help preserve natural habitats. Discretionary permits are reviewed for consistency with this policy.
OS-5.2 (Inland)	Riparian Habitat: Prevent development from destroying riparian habitat to the maximum feasible extent. Preserve, enhance, and restore existing riparian habitat in new development unless the preservation will prevent the establishment of all permitted uses on the property.	The City continues to protect riparian habitat. No riparian habitat was impacted in 2021.
OS-5.3 (Coastal)	Require site planning and construction to maintain adequate open space to permit effective wildlife corridors for animal movement between open spaces.	The City continues to require biological reports and other specialized studies when reviewing projects designated as Special Review areas. The City has mapped open space areas where development is prohibited to help preserve natural habitats. The City's draft LCP amendment includes a buffer along the coastline to provide numerous benefits, including wildlife corridors. City actively refers relevant projects to Water Quality Board and Army Corps of Engineers for Section 401/404 permitting
OS-5.3 (Inland)	No Net Loss of Wetlands: Ensure no net loss of wetlands, as defined by the U.S. Army Corps of Engineers.	City actively refers relevant projects to Water Quality Board and Army Corps of Engineers for Section 401/404 permitting

Policy	Objective	Implementation
OS-5.4 (Coastal)	Condition development projects, requiring discretionary approval to prohibit the planting of any species of broom, pampas grass, gorse, or other species of invasive non-native plants deemed undesirable by the City.	The City requires a landscape plan with discretionary applications, and reviews these projects for consistency with this and other related policies. The CLUDC prohibits the planting of invasive species, and many projects are required to remove invasive plants where they exist. The City also periodically relies on code enforcement efforts to help eradicate invasive species around the City.
OS-5.4 (Inland)	Protect Aquifers: Protect groundwater aquifers.	New development projects are reviewed for potential impacts to groundwater resources. Code enforcement actions taken to protect aquifers.
Goal-6 (Coastal) Reduce dependence on non-renewable energy and materials.		
Goal -6 (Inland) Improve water quality.		
OS-6.1 (Coastal)	Energy Conservation Measures in Buildings: Continue to require structures to comply with State energy conservation standards and encourage owners of existing dwellings to retrofit with energy-saving features.	The City implements the California Building Code and its progressive measures related to energy conservation.
OS-6.1 (Inland)	Pollution in Runoff: Ensure protection of water resources from pollution and sedimentation.	Applicants undergoing projects with ground disturbing activities complete stormwater checklist and implement best management practices to reduce pollution runoff. Larger projects (>1 acre) are subject to National Pollution Discharge Elimination Permits (NPDES) and must prepare Storm Water Pollution Prevention Plans for construction and industrial activities with propensity to create pollution.
OS-6.2 (Coastal)	Development Review Process: Make energy conservation an important criterion in the development review process.	The City implements the California Building Code and its progressive measures related to energy conservation. In 2021 City Council approved Ordinance No. 968-2021 to

Policy	Objective	Implementation
		streamline the permitting process for Electric Vehicle Charging Stations in compliance with Assembly Bill 1236.
OS-6.2 (Inland)	Minimize Introduction of Pollutants: Development shall be designed and managed to minimize the introduction of pollutants into estuaries, wetlands, rivers and streams to the extent feasible.	The City implements its MS4 stormwater permit which includes regulations to ensure all private and public sector development projects minimize pollutants.
OS-6.3 (Coastal)	Alternative Energy: Encourage the development and use of alternative sources of energy such as wind, solar, and waves to meet Fort Bragg's energy needs.	The City implements the California Building Code and its progressive measures related to energy conservation, including newly enacted requirements related to solar-readiness for new homes. The City continues to explore the local feasibility of wave energy for City energy needs.
OS-6.3 (Inland)	Minimize Increases in Stormwater Runoff: Development shall be designed and managed to minimize post-project increases in stormwater runoff volume and peak runoff rate, to the extent feasible.	The City continues to review and require that all new development is in compliance with the MS4. This includes incorporation of Low Impact Design (LID) features into all new construction as well as tiers out greater requirements for those projects that construct or re-construct projects over 2,500 square feet of impervious area.
OS-6.4 (Inland)	Maintain and Restore Biological Productivity and Water Quality: Development shall maintain and, where feasible, restore the biological productivity and the quality of streams and wetlands to maintain optimum populations of aquatic organisms and for the protection of human health.	The City continues to work with property owners and developers to restore biological productivity and water quality.
OS-6.5	Municipal Activities to Protect and Restore Water Quality: The City shall promote both the	The City continues to provide public education

Policy	Objective	Implementation
(Inland)	protection and restoration of water quality. Water quality degradation can result from a variety of factors, including but not limited to the introduction of pollutants, increases in runoff volume and rate, generation of non-stormwater runoff, and alteration of physical, chemical, or biological features of the landscape.	regarding protection and restoration of water quality. 2021 activities included maintaining on-line resources on the City’s website, held discussions at Public Works and Facilities Committee regarding initiatives to improve trash collection in the downtown, and the City continues to host Adopt-A-Streets and Adopt-A-Park Programs.
Goal OS-7 Improve air quality.		
OS-7.1	Participate in Regional Planning to Improve Air Quality: Continue to cooperate with the Mendocino County Air Quality Management District (MCAQMD) in implementing the <i>Regional Clean Air Plan</i> .	New development that triggers CEQA is required to submit a CalEEMod analysis (required by MCAQMD) to determine potential Air Quality impacts. All demolitions are referred to Mendocino County Environmental review for review.
OS-7.2	Air Quality Standards: Seek to comply with State and Federal standards for air quality.	Discretionary projects subject to CEQA review must meet air quality requirements in order for impacts to be less than significant, including compliance with State and Federal standards. All demolitions are referred to Mendocino County Environmental review for review.
Goal OS-8 (Coastal) Reduce, recycle, and reuse solid waste generated in the City. Goal OS-8 (Inland) Conserve and enhance a variety of open space features including creeks, wildlife habitats, scenic view corridors, and other amenities.		
OS-8.1 (Coastal)	Recycling and Reuse of Solid Waste: Comply with State requirements to reduce the volume of solid waste through recycling and reduction of solid waste.	The City requires building permits with demolition components and with substantial construction components submit a construction and demolition waste deposit. Applicants can retrieve their deposit after

Policy	Objective	Implementation
		showing a reduced amount of waste going to the landfill.
OS-8.1 (Inland)	Open Space: Plan for and condition new development to implement the City’s priorities for open space.	The comprehensive planning process to facilitate development and reuse of former Mill Site includes zoning for Open Space/Parks. This “green-belt” serves multiple functions, including a wildlife habitat, wildlife corridor, and possibility of daylighting Maple/Alder Creeks.
OS-8.2 (Inland)	Protect and Restore Open Space: During the development review process, protect and restore open space areas such as wildlife habitats, view corridors, and watercourses as open and natural.	The comprehensive planning process to facilitate development and reuse of former Mill Site includes zoning for Open Space/Parks. This “green-belt” serves multiple functions, including a wildlife habitat and corridor.
OS-8.3 (Inland)	Trails in Open Space: Wherever feasible, plan and construct trails through the greenbelts and open space that connect to the City’s trail system with those of State Parks and MCRPD.	The City completed the middle section of the Coastal Trail in 2018, providing connection to multi-use trail system from Pomo Bluffs to MacKerricher State Park.
<p>Goal OS-9 (Coastal) Improve water quality.</p>		
<p>Goal OS-9 (Inland) Provide an attractive system of parks and recreation facilities throughout the City to meet the needs of all age groups and capabilities.</p>		
OS-9.1 (Coastal)	Parkland Standard: Use the standard of three acres of parkland per 1,000 residents for the acquisition of additional parkland pursuant to the provisions of the Quimby Act (Government Code Section 66477).	Fort Bragg has considerably more than three acres of parkland per 1,000 residents. Noyo Headlands Park alone is over 105 acres, accounting for 15 acres for every 1,000 residents. This does not include the other parks in the City. The comprehensive planning process to facilitate development and reuse of former Mill Site includes zoning for Open

Policy	Objective	Implementation
		Space/Parks. The intention is to serve multiple functions, including additional parklands.
OS-9.1 (Inland)	Parkland Standard: Use the standard of three acres of parkland per 1,000 residents for the acquisition of additional parkland pursuant to the provisions of the Quimby Act (Government Code Section 66477).	Fort Bragg has considerably more than three acres of parkland per 1,000 residents. Noyo Headlands Park alone is over 105 acres, accounting for 15 acres for every 1,000 residents. This does not include the other parks in the City. The comprehensive planning process to facilitate development and reuse of former Mill Site identified zoning for Open Space/Parks. The intention is to serve multiple functions, including additional parklands.
OS-9.2 (Coastal)	Minimize Increases in Stormwater Runoff. Development shall be designed and managed to minimize post-project increases in stormwater runoff volume and peak runoff rate, to the extent feasible, to avoid adverse impacts to coastal waters.	Development is subject to the City's MS4 requirements, and development applications are reviewed for compliance.

Policy	Objective	Implementation
OS-9.2 (Inland)	Neighborhood Parks: Acquire and develop new neighborhood parks, in concert with other local recreation agencies, to meet the needs of the existing population and consistent with growth of the City's population.	In 2019 the City applied for and was not awarded grant funds for Bainbridge Park improvements. The City received a Per Capita allotment of \$178,000 to improve Bainbridge Park. The City has leveraged these funds to restore the playground and construct two half-court artificial turf soccer fields. In addition, the comprehensive planning process to facilitate development and reuse of former Mill Site includes Open Space/Parks zoning. The intention is to serve multiple functions, including additional parklands and athletic fields.
OS-9.3 (Coastal)	Maintain Biological Productivity and Quality of Coastal Waters. Development shall be designed and managed to maintain, and restore where feasible, the biological productivity and quality of coastal waters, consistent with sections 30230, 30231, and other relevant sections of the California Coastal Act. The Coastal Act sections set forth below are incorporated herein as policies of the Land Use Plan:	Development in the Coastal Zone is subject to Coastal Development Permitting. Compliance with this policy would be required for the approval of any permit.
OS-9.3 (Inland)	Recreational Facilities: Provide recreational facilities to meet the needs of all Fort Bragg citizens, especially children and teenagers.	The comprehensive planning process to facilitate development and reuse of former Mill Site includes zoning for Open Space/Parks. The intention is to serve multiple functions, including additional parklands and athletic fields. The City worked with a potential applicant to determine if it was feasible to develop a bike pump track at the Coastal Trail. The project would have been owned by the City and leased to the applicant. The City provides ongoing support to Mendocino Park and Recreation Department for operation of CV Starr Center and amenities, as well as use of City Hall gym for activities such as Skate Night and drop-in Volleyball and Basketball. The City began investigating sources of funds to upgrade the

Policy	Objective	Implementation
		existing City Hall gym and renovate the former City pool building to provide spaces for more indoor active recreation.
OS-9.4 (Coastal)	Maintain, Enhance, and Restore Marine Resources. Marine resources shall be maintained, enhanced, and, where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.	Development is subject to Coastal Development Permitting and therefore compliance with this policy. Additionally, the City has helped fund the Noyo Center for Marine Science over the past several years. The Center includes education on the maintenance, enhancement and restoration of marine resources to locals and tourists to the region
OS-9.4 (Inland)	Playground Facilities: Add or upgrade playground facilities at existing neighborhood parks.	In 2021, the City submitted an application for funding to upgrade Wiggly Giggly Playground with new equipment and ADA accessible surfacing at Bainbridge Park. Internal funds have been identified to complete essential improvements necessary for maintenance and safety.
OS-9.5 (Coastal)	Maintain and Restore Biological Productivity and Water Quality. The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.	Development is subject to Coastal Development Permitting and therefore compliance with this policy. Development is also subject to the City's MS4, and all development proposals are reviewed for compliance with established storm water runoff standards. Additionally, the City contributes funding to the Noyo Center for Marine Science. The Center includes education on the maintenance, enhancement and restoration of marine resources to locals and tourists to the region.

Policy	Objective	Implementation
OS-9.5 (Inland)	Ballfields: Develop additional baseball, softball, and other ballfields.	The comprehensive planning process to facilitate development and reuse of former Mill Site includes Open Space/Parks zoning. The intention is to serve multiple functions, including additional parklands and athletic fields. The City applied for funding to create a new half-court soccer field at Bainbridge Park. Partial funding was received and the City is actively pursuing additional funds to complete the project.
OS-9.6 (Inland)	Prioritize Park Acquisitions: Use the following criteria to prioritize acquisition of parkland and open space: a) distribution of neighborhood parks/playground facilities and ballfields on a neighborhood basis; b) scenic beauty; c) relationship to the existing and proposed trail systems and parks; d) natural resource protection; and e) appropriateness (physical characteristics) of the site to meet specific recreational needs.	The comprehensive planning process to facilitate development and reuse of former Mill Site includes Open Space/Parks zoning. The intention is to serve multiple functions, including additional parklands and athletic fields. Since the General Plan was adopted, the City has acquired over 90 acres of parkland. Based on the size and capacity of the City, this goal has been met.
OS-9.7 (Inland)	Financing Parks: Consider methods of increasing revenues for the acquisition and development of parkland and open space areas and supporting recreational facilities.	The City continues to seek grant funding to support open space and recreation facilities.
<p>Goal OS-10 (Coastal) Improve water quality through the Selection and Design of Appropriate Best Management Practices (BMPs).</p> <p>Goal OS-10 (Inland) Develop park and recreation facilities with the coordination of other agencies and the public.</p>		
OS-10.1 (Coastal)	Construction-phase Stormwater Runoff Plan. All development that requires a grading permit shall submit a construction-phase erosion, sedimentation, and polluted runoff control plan. This plan shall evaluate potential construction-phase impacts to water quality and coastal waters, and shall specify temporary Best Management Practices (BMPs) that will be implemented to minimize erosion and sedimentation during construction, and prevent contamination of runoff by construction chemicals and materials.	ALL projects (>1 acre) are subject to THE Construction General Permit (CGP) under the NPDES and must prepare Storm Water Pollution Prevention Plans for construction and post construction phases of the project to ensure best practices are used to reduce impacts to water quality at each phase of a

Policy	Objective	Implementation
		project. Smaller projects must comply with BMPs appropriate for their sites and these are inspected and enforced by staff.
OS-10.1 (Inland)	Coordinate with Other Agencies: Coordinate with other governmental entities to procure and develop additional park and recreational facilities.	The City provides ongoing support to Mendocino Park and Recreation Department for operation of CV Starr Center and amenities, as well as use of City Hall gym for activities such as Skate Night and drop-in Volleyball and Basketball. The City has identified a project to develop additional recreation facilities by renovating the former City Hall Gym and Pool buildings to create a multi-sport recreation room that will still accommodate the above activities but can also be used to support other indoor active recreation.
OS-10.2 (Coastal)	Post-Construction Stormwater Runoff Plan. All development that has the potential to adversely affect water quality shall submit a post-construction polluted runoff control plan (“Runoff Mitigation Plan”). This plan shall specify long-term Site Design, Source Control, and, if necessary, Treatment Control BMPs that will be implemented to minimize stormwater pollution and erosive runoff after construction, and shall include the monitoring and maintenance plans for these BMPs	Applicants undergoing projects with ground disturbing activities complete stormwater checklist and implement best management practices to reduce pollution runoff.
OS-10.2 (Inland)	MacKerricher State Park: Continue to coordinate with State Department of Parks and Recreation regarding development adjacent to MacKerricher State Park.	The City continues to coordinate with State Department of Parks and Recreation regarding development adjacent to MacKerricher State Park.
OS-10.3 (Coastal)	Policy OS-10.3: Emphasize Site Design and Source Control BMPs. Long-term post-construction Best Management Practices (BMPs) that protect water quality and control runoff flow shall be incorporated in the project design of development that has the potential to adversely impact water quality in the following order of emphasis: A) Site Design BMPs: Any project design feature that reduces the creation or severity of potential pollutant sources, or reduces the alteration of the project site’s natural flow regime. Examples include minimizing impervious surfaces, and minimizing grading. B) Source Control BMPs: Any schedules of activities, prohibitions of practices, maintenance procedures,	The City implements its MS4 stormwater permit which includes regulations to ensure all private and public sector development projects minimize pollutants.

Policy	Objective	Implementation
	<p>managerial practices, or operational practices that aim to prevent stormwater pollution by reducing the potential for contamination at the source of pollution. Examples include covering outdoor storage areas, use of efficient irrigation, and minimizing the use of landscaping chemicals. C) Treatment Control BMPs: Any engineered system designed to remove pollutants by simple gravity settling of particulate pollutants, filtration, biological uptake, media adsorption, or any other physical, biological, or chemical process. Examples include vegetated swales, and storm drain inserts. Site Design BMPs may reduce a development’s need for Source and/or Treatment Control BMPs, and Source Control BMPs may reduce the need for Treatment Control BMPs. Therefore, all development that has the potential to adversely affect water quality shall incorporate effective post-construction Site Design and Source Control BMPs, where applicable and feasible, to minimize adverse impacts to water quality and coastal waters resulting from the development. Site Design and Source Control BMPs may include, but are not limited to, those outlined in the City’s Storm Water Management program.</p>	
OS-10.3 (Inland)	<p>City/School/Recreation District Cooperation: Continue to encourage City/School/Recreation District cooperation in developing and maintaining park and recreation facilities.</p>	<p>A portion of the City’s Transient Occupancy Tax is earmarked for the improvement of City and school district playing fields. There is a committee established for the management of these funds, in which the City has partnered with the school district. The City included the Fort Bragg Unified School District as a stakeholder for Bainbridge Park improvements.</p>
OS-10.4 (Coastal)	<p>Incorporate Treatment Control BMPs if Necessary. If the combination of Site Design and Source Control BMPs is not sufficient to protect water quality and coastal waters consistent with Policy OS-9.3, as determined by the review authority, development shall also incorporate post-construction Treatment Control BMPs. Projects of Special Water Quality Concern (see Policy OS-12.1) are presumed to require Treatment Control BMPs to meet the requirements of OS-9.3. Treatment Control BMPs may include, but are not limited to, those outlined in the City’s Storm Water Management program, including biofilters (e.g., vegetated swales or grass filter strips), bioretention, infiltration trenches or basins, retention ponds or constructed wetlands, detention basins, filtration systems, storm drain inserts, wet vaults, or hydrodynamic separator systems.</p>	<p>The City continues to work with property owners and developers to restore biological productivity and water quality, as well as implement MS4 stormwater permit which includes regulations to ensure all private and public sector development projects minimize pollutants.</p>
OS-10.4	<p>Public Participation: Actively solicit public participation in the selection, design, and facilities</p>	<p>The City engaged in an extensive public</p>

Policy	Objective	Implementation
(Inland)	planning for existing and future park sites.	participation process to revise the Bainbridge Park Master Plan, including facility selection, design and location. As part of the City’s application process for the State Parks grants, we held more than five separate hybrid public engagement sessions in 2021 specific to park development.
OS-10.5 (Coastal)	<p>Guidance on BMP Selection and Design. Where BMPs, are required, BMPs shall be selected that have been shown to be effective in reducing the pollutants typically generated by the proposed land use. The strategy for selection of appropriate BMPS to protect 4 – Conservation, Open Space, Energy, & Parks Element 4 - 14 July 2008 Fort Bragg Coastal General Plan water quality and coastal waters shall be guided by Chapter 18.64.070, Tables 1-3, of the Land Use & Development Code, or equivalent tables which list pollutants of concern for each type of development or land use.</p> <p>The design of BMPs shall be guided by the California Stormwater Quality Association (CASQA) Stormwater BMP Handbooks dated January 2003 (or the current edition), or an equivalent BMP manual that describes the type, location, size, implementation, and maintenance of BMPs suitable to address the pollutants generated by the development. Caltrans' 2007 "Storm Water Quality Handbook: Project Planning and Design Guide" (or the current edition) may also be used to guide design of construction-phase BMPs.</p>	The City continues to work with property owners and developers to restore biological productivity and water quality, as well as implement MS4 stormwater permit which includes regulations to ensure all private and public sector development projects minimize pollutants.
OS-10.6 (Coastal)	Water Quality Checklist. A water quality checklist shall be developed and used in the permit review process to evaluate a proposed development’s potential impacts to water quality and coastal waters, and proposed mitigation measures.	Applicants undergoing projects with ground disturbing activities complete stormwater checklist and implement best management practices to reduce pollution runoff.
Goal OS-11 (Coastal) Improve water quality through site design and source control BMPs		
Goal OS-11 (Inland) Provide a comprehensive trail system		
OS-11.1 (Coastal)	Use Integrated Management Practices in Site Design. The city shall require, where appropriate and feasible, the use of small-scale integrated management practices (e.g., Low Impact Development techniques) designed to maintain the site’s natural hydrology by minimizing impervious surfaces and infiltrating stormwater close to its source (e.g., vegetated swales, permeable pavements, and infiltration of rooftop runoff).	The City continues to work with property owners and developers to integrate BMPs into site design, as well as implement MS4 stormwater permit which includes regulations to ensure all private and public sector

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		development projects minimize pollutants.
OS-11.1 (Inland)	Multiple Use Trail System: Develop a multiple use trail system.	The City completed the middle section of the Coastal Trail in 2018, providing connection to a multi-use trail system from Pomo Bluffs to MacKerricher State Park.
OS-11.2 (Coastal)	Preserve Functions of Natural Drainage Systems. Development shall be sited and designed to preserve the infiltration, purification, detention, and retention functions of natural drainage systems that exist on the site, where appropriate and feasible. Drainage shall be conveyed from the developed area of the site in a non-erosive manner.	The City continues to work with property owners and developers to preserve natural drainage systems, as well as implement MS4 stormwater permit which includes regulations to ensure all private and public sector development projects minimize pollutants.
OS-11.2 (Inland)	Establish an integrated trail system serving inland hiking and trail needs utilizing existing rights-of-way, City streets, and river front property.	On-going effort.
OS-11.3 (Coastal)	Minimize Impervious Surfaces. Development shall minimize the creation of impervious surfaces (including pavement, sidewalks, driveways, patios, parking areas, streets, and roof-tops), especially directly connected impervious areas, where feasible. Redevelopment shall reduce the impervious surface site coverage, where feasible. Directly connected impervious areas include areas covered by a building, impermeable pavement, and/or other impervious surfaces, which drain directly into the storm drain system without first flowing across permeable land areas (e.g., lawns).	The City continues review proposed development to minimize impervious surfaces, as well as implement MS4 stormwater permit which includes regulations to ensure all private and public sector development projects minimize pollutants.
OS-11.3 (Inland)	Review development applications and require a trail easement dedication, where an appropriate nexus is established.	Proposed Avalon Hotel includes public access dedication from HWY 1 to the Haul Road. As of the end of 2021, this project has not yet received land use entitlement. Proposed Avalon Hotel includes public access dedication from HWY 1 to the Haul Road.
OS-11.4 (Coastal)	Infiltrate Stormwater Runoff. Development shall maximize on-site infiltration of stormwater runoff, where appropriate and feasible, to preserve natural hydrologic conditions, recharge groundwater, attenuate runoff flow, and minimize transport of pollutants. Alternative management practices shall be substituted where the review authority has determined that	The City continues review proposed development to minimize impervious surfaces and maximize infiltration, as well as implement MS4 stormwater permit which

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	infiltration BMPs may result in adverse impacts, including but not limited to where saturated soils may lead to geologic instability, where infiltration may contribute to flooding, or where regulations to protect groundwater may be violated.	includes regulations to ensure all private and public sector development projects minimize pollutants.
OS-11.4 (Inland)	Require new development to provide direct pedestrian connections, such as sidewalks, trails, and other rights-of-way to the existing and planned network of parks and trails wherever feasible.	On-going.
OS-11.5 (Coastal)	Divert Stormwater Runoff into Permeable Areas. Development that creates new impervious surfaces shall divert stormwater runoff flowing from these surfaces into permeable areas, where appropriate and feasible, to enhance on-site stormwater infiltration capacity.	The City continues review proposed development to minimize impervious surfaces and maximize infiltration, as well as implement MS4 stormwater permit which includes regulations to ensure all private and public sector development projects minimize pollutants.
OS-11.5 (Inland)	Review development applications to ensure that new development does not block proposed trail easements shown on Map OS-1.	On-going.
OS-11.6 (Coastal)	Use Permeable Pavement Materials. To enhance stormwater infiltration capacity, development shall use permeable pavement materials and techniques (e.g., paving blocks, porous asphalt, permeable concrete, and reinforced grass or gravel), where appropriate and feasible. Permeable pavements shall be designed so that stormwater infiltrates into the underlying soil, to enhance groundwater recharge and provide filtration of pollutants. All permeable pavement that is not effective in infiltrating as designed will be replaced with effective stormwater detention and infiltration methods.	The City continues review proposed development to minimize impervious surfaces and maximize infiltration, as well as implement MS4 stormwater permit which includes regulations to ensure all private and public sector development projects minimize pollutants.
OS-11.6 (Inland)	Consider the access needs of a variety of users, including schoolage children, the elderly, and those with handicaps or disabilities when developing trails and recreation facilities.	On-going.
OS-11.7 (Coastal)	Avoid Steep Slopes with Highly Erodible Soil. Where feasible, development shall be sited and designed to avoid areas on steep slopes (i.e., 12% or greater) with highly erodible soil. Developments on these hillside areas are considered Developments of Special Water Quality Concern, and are subject to additional requirements (see Policies OS-12.1 and OS-12.2).	In 2021, no project were proposed on steep slopes.
OS-11.7 (Inland)	Pursue development of a trail through east Fort Bragg.	This is currently not being actively pursued.
OS-11.8	Landscape with Native Plant Species. The City shall encourage development to use drought-	The City conditions all development near

Policy	Objective	Implementation
(Coastal)	resistant native plant species for landscaping, to reduce the need for irrigation and landscaping chemicals (e.g., pesticides and fertilizers).	ESHA to only utilize native plants and to remove invasive plants. All other development is encouraged to use drought tolerant landscaping.
OS-11.8 (Inland)	Consider completing a feasibility study for the development of a pedestrian bridge over Pudding Creek.	Implemented. In addition to Pudding Creek Trestle, Caltrans is planning pedestrian upgrade to the Hwy 1 bridge.
OS-11.9 (Coastal)	Provide Storm Drain Inlet Markers. Markers or stenciling shall be required for all storm drain inlets constructed or modified by development, to discourage dumping and other illicit discharges into the storm drain system.	In 2019, the City replaced many aging storm drain inlet markers and continues to replace, as needed.
OS-11.10 (Coastal)	Continue Operation and Maintenance of Post-Construction BMPs. Permittees shall be required to continue the operation, inspection, and maintenance of all post-construction BMPs as necessary to ensure their effective operation for the life of the development.	The City continues to work with property owners and developers to implement MS4 stormwater permit which includes regulations to ensure all private and public sector development projects minimize pollutants during and post construction.
Goal OS-12 (Coastal) Improve water quality through additional requirements for Developments of Special Water Concern		
OS-12.1	Developments of Special Water Quality Concern. The categories of development listed below have the potential for greater adverse coastal water quality impacts, due to the development size, type of land use, impervious site coverage, or proximity to coastal waters. A development in one or more of the following categories shall be considered a “Development of Special Water Quality Concern,” and shall be subject to additional requirements set forth in Policy OS-12.2 below to protect coastal water quality. Developments of Special Water Quality Concern include the following: a) Housing developments of ten or more dwelling units. b) Hillside developments on slopes greater than 12 percent, located in areas with highly erodible soil. c) Developments that result in the creation, addition, or replacement of 10,000 square feet or more of impervious surface area. d) Parking lots with 5,000 square feet or more of impervious surface area, potentially exposed to stormwater runoff. e) Heavy industrial developments. f) Vehicle service facilities (including retail gasoline outlets, service stations, commercial car washes, and vehicle repair facilities). g) Commercial or industrial outdoor storage areas of 5,000 square feet or more, or as determined by the review authority based on the use of the storage area, where used	No project in 2020 was proposed in areas identified as Special Water Concern. Implementation ongoing.

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	<p>for storage of materials that may contribute pollutants to the storm drain system or waterbodies. h) All developments within 125 feet of the ocean or a coastal waterbody (including estuaries, wetlands, rivers, streams, and lakes), or that discharge directly to the ocean or a waterbody, if such development results in the creation, addition, or replacement of 2,500 square feet or more of impervious surface area. a. "Discharge directly to" the ocean or a waterbody means outflow from a drainage conveyance system that is composed entirely of flows from the subject development or redevelopment site, and not commingled with flows from adjacent lands. i) Any other development determined by the review authority to be a Development of Special Water Quality Concern.</p>	
OS-12.2	<p>Additional Requirements for Developments of Special Water Quality Concern. All Developments of Special Water Quality Concern (as identified in Policy OS-12.1, above) shall be subject to the following four additional requirements to protect coastal water quality: 1) Water Quality Management Plan. The applicant for a Development of Special Water Quality Concern shall be required to submit for approval a Water Quality Management Plan (WQMP), prepared by a qualified licensed professional, which supplements the Runoff Mitigation Plan required for all development. The WQMP shall include hydrologic calculations per City standards that estimate increases in pollutant loads and runoff flows resulting from the proposed development, and specify the BMPs that will be implemented to minimize post-construction water quality impacts. 2) Selection of Structural Treatment Control BMPs. As set forth in Policy OS-10.4, if the review authority determines that the combination of Site Design and Source Control BMPs is not sufficient to protect water quality and coastal waters as required by Policy OS-9.3, structural Treatment Control BMPs shall also be required. The WQMP for a Development of Special Water Quality Concern shall describe the selection of Treatment Controls BMPs, and applicants shall first consider the BMP, or combination of BMPs, that is most effective at removing the pollutant(s) of concern, or provide a justification if that BMP is determined to be infeasible. 3) 85th Percentile Design Standard for Treatment Control BMPs. For post-construction treatment of runoff in Developments of Special Water Quality Concern, Treatment Control BMPs (or suites of BMPs) shall be sized and designed to treat, infiltrate, or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1- hour storm event (with an appropriate safety factor of 2 or greater) for flow-based BMPs. 4) Goal for Runoff Reduction. In Developments of Special Water Quality Concern, the post-development peak stormwater runoff discharge rate shall not exceed the estimated pre-development rate for developments where an increased discharge rate will result in increased potential for downstream erosion or other adverse habitat impacts.</p>	<p>No project in 2020 was proposed in areas identified as Special Water Concern. Implementation ongoing.</p>

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Goal OS-13 (Coastal) Improve water quality through Municipal activities to protect water quality.		
OS-13.1	Municipal Activities to Protect and Restore Water Quality. The City shall promote both the protection and restoration of water quality and coastal waters. Water quality degradation can result from a variety of factors, including but not limited to the introduction of pollutants, increases in runoff volume and rate, generation of non-stormwater runoff, and alteration of physical, chemical, or biological features of the landscape.	No project in 2020 was proposed in areas identified as Special Water Concern. Implementation ongoing.
Goal OS-14 Improve water quality through construction-phase pollution control.		
OS-14.1	Minimize Polluted Runoff and Pollution from Construction. All development shall minimize erosion, sedimentation, and the discharge of other polluted runoff (e.g., chemicals, vehicle fluids, concrete truck wash-out, and litter) from construction activities, to the extent feasible.	The City continues to work with property owners and developers to implement MS4 stormwater permit which includes regulations to ensure all private and public sector development projects minimize pollutants from construction.
OS-14.2	Minimize Land Disturbance During Construction. Land disturbance activities during construction (e.g., clearing, grading, and cut-and-fill) shall be minimized, to the extent feasible, to avoid increased erosion and sedimentation. Soil compaction due to construction activities shall be minimized, to the extent feasible, to retain the natural stormwater infiltration capacity of the soil.	The City continues to work with property owners and developers to implement MS4 stormwater permit which includes regulations to ensure all private and public sector development projects minimize pollutants during construction.
OS-14.3	Minimize Disturbance of Natural Vegetation. Construction shall minimize the disturbance of natural vegetation (including significant trees, native vegetation, and root structures), which are important for preventing erosion and sedimentation.	The City continues to work with property owners and developers to implement MS4 stormwater permit which includes regulations to ensure all private and public sector development projects minimize pollutants during construction.
OS-14.4	Stabilize Soil Promptly. Development shall implement soil stabilization BMPs (including, but not limited to, re-vegetation) on graded or disturbed areas as soon as feasible.	The City continues to work with property owners and developers to implement MS4 stormwater permit which includes regulations to ensure all private and public sector development projects minimize pollutants during construction.
OS-14.5	Grading During Rainy Season. Grading is prohibited during the rainy season (from November 1 to March 30), except in response to emergencies, unless the review authority determines	The City continues to work with property owners and developers to implement MS4

Policy	Objective	Implementation
	that soil conditions at the project site are suitable, and adequate erosion and sedimentation control measures will be in place during all grading operations.	stormwater permit which includes regulations to ensure all private and public sector development projects minimize pollutants during grading activities.

Circulation Element

Policy	Objective	Implementation
<p>Goal C-1 (Coastal) Coordinate land use and transportation planning</p> <p>Goal C-1 (Inland) Complete Street Planning</p>		
C-1.1 (Coastal)	<p>Level of Service Standards: Signalized and All-Way-Stop Intersections Along Highway One: LOS D Side Street Stop Sign Controlled Intersections Along Highway One (Side Street Approach): LOS D, or LOS F if there are less than 15 vehicles/hour left turns plus through movements from the side street and the volumes do not exceed Caltrans rural peak hour signal warrant criteria levels. Signalized and All-Way Stop Intersections not Along Highway One: LOS D, or LOS F if there are less than 15 vehicles/hour left turns plus through movements from the side street and the volumes do not exceed Caltrans rural peak hour signal warrant criteria levels. Side Street Stop Sign Controlled Intersections Not Along Highway One (Side Street Approach): LOS C, or LOS E if there are less than 15 vehicles/hour left turns plus through movements from the side street and the volumes do not exceed Caltrans rural peak hour signal warrant criteria levels.</p> <ul style="list-style-type: none"> • If volumes at an unsignalized intersection are increased to meet or exceed Caltrans rural peak hour signal Warrant #11 criteria levels and the intersection is operating at an unacceptable level of service, then signalization of the intersection is warranted. • LOS E for Main Street (Highway One) between the northbound lane merge area and Manzanita Street. 	Continue implementation of current standards.

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	<ul style="list-style-type: none"> • LOS D for Main Street south of the northbound merge lane and north of Manzanita Street and other City-designated arterials and collectors. • LOS C on all City-designated local streets. • The maximum allowable LOS standards for Main Street apply to the p.m. peak hour weekdays during the summer and to the p.m. peak hour on weekdays and weekends during the remainder of the year. They do not apply to p.m. peak hours on weekends and holidays during the summer. During the p.m. peak hours on summer weekends and holidays, Main Street can operate at LOS F. 	
C-1.1 (Inland)	Balance the need of all users. The City shall balance the need to increase motor vehicle capacity with the need for complete streets that provide facilities for bicycle and pedestrian circulation and commercial viability.	The City is working with Caltrans to implement upgrades to pedestrian facilities along Main Street.
C-1.2 (Coastal)	Coordinate Land Use and Transportation: Ensure that the amount and phasing of development can be adequately served by transportation facilities.	Ongoing, transportation facilities are reviewed for high-trip generating projects.
C-1.2 (Inland)	Walking and bicycling shall be considered an essential and integral part of the city's circulation network.	The City continues to integrate pedestrian and cycling facilities into long-range planning and implementation efforts.
C-1.3 (Coastal)	Do not permit new development that would result in the exceedance of roadway and intersection Levels of Service standards unless one of the following conditions is met: a) Revisions are incorporated in the proposed development project which prevent the Level of Service from deteriorating below the adopted Level of Service standards; or b) Funding of pro-rata share of the cost of circulation improvements and/or the construction of roadway improvements needed to maintain the established Level of Service is included as a condition or development standard of project approval.	Continue implementation of current conditions and standards.
C-1.3 (Inland)	Complete Streets: New development, that includes new streets or street segments, shall build multi-modal “complete streets” that are designed for the safety and comfort of cyclists and pedestrians, including children, the elderly, and people with disabilities, consistent with US Department of Transportation complete streets guidelines.	The City continues to implement complete streets standards throughout the City through grant funded projects and development applications.
C-1.4 (Coastal)	Include specific time frames for the funding and completion of roadway improvements for projects which cause adopted roadway and intersection Level of Service standards to be	Street infrastructure projects are guided by the Alley Master Plan and the City’s Pavement

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	exceeded. Require security, bonding or other means acceptable to the City to ensure the timely implementation of roadway mitigations.	Management Program
C-1.5 (Coastal)	Traffic Impact Fees. When traffic impact fees are collected, establish a schedule from the date of collection of said fee for the expenditure of funds to construct roadway improvements that meets project needs. Where a project would cause a roadway or intersection to operate below the adopted traffic Level of Service standards, the roadway or intersection improvements should be completed in a timely manner but no later than five years after project completion.	Minimal development has not triggered a requirement for traffic impact fees.
<p>Goal C-2 (Coastal) Develop and manage a roadway system that accommodates future growth and maintains acceptable Levels of Service while considering the other policies and programs of the Coastal General Plan.</p> <p>Goal C-2 (Inland) Coordinate land use and transportation planning.</p>		
C-2.1 (Coastal)	Roadway Improvements: In coordination with Caltrans and Mendocino County, plan for and seek funding for on-going improvements to the local and regional road system to ensure that the roadway system operates safely and efficiently and to ensure that Highway 1 in rural areas outside the Mendocino County urban/rural boundary will remain a scenic two-lane road consistent with Section 30254 of the Coastal Act. Project applicants are fiscally responsible for their fair share of roadway improvements necessary to serve their projects.	City collaborates with Caltrans on their Highway 1 projects in and near Fort Bragg: Pudding Creek Bridge widening, installation of Traffic Management Systems, and ADA upgrades.
C-2.1 (Inland)	<p>Level of Service Standards:</p> <p>Signalized and All-Way-Stop Intersections Along Highway One: LOS D</p> <p>Side Street Stop Sign Controlled Intersections Along Highway One (Side Street Approach): LOS D, or LOS F if there are less than 15 vehicles/hour left turns plus through movements from the side street and the volumes do not exceed Caltrans rural peak hour signal warrant criteria levels.</p> <p>Signalized and All-Way Stop Intersections not Along Highway One: LOS D, or LOS F if there are less than 15 vehicles/hour left turns plus through movements from the side street and the volumes do not exceed Caltrans rural peak hour signal warrant criteria levels.</p> <p>Side Street Stop Sign Controlled Intersections Not Along Highway One (Side Street Approach): LOS C, or LOS E if there are less than 15 vehicles/hour left turns plus through movements from the side street and the volumes do not exceed Caltrans rural peak hour signal warrant criteria levels.</p> <ul style="list-style-type: none"> • If volumes at an unsignalized intersection are increased to meet or exceed Caltrans rural peak hour signal Warrant #11 criteria levels and the intersection is operating at an 	Continue implementation of current standards.

Policy	Objective	Implementation
	<p>unacceptable level of service, then signalization of the intersection is warranted.</p> <ul style="list-style-type: none"> • LOS E for Main Street (Highway One) between the northbound lane merge area and Manzanita Street. • LOS D for Main Street south of the northbound merge lane and north of Manzanita Street and other City-designated arterials and collectors. • LOS C on all City-designated local streets. • The maximum allowable LOS standards for Main Street apply to the p.m. peak hour weekdays during the summer and to the p.m. peak hour on weekdays and weekends during the remainder of the year. They do not apply to p.m. peak hours on weekends and holidays during the summer. During the p.m. peak hours on summer weekends and holidays, Main Street can operate at LOS F. 	
C-2.2 (Coastal)	Improvements to major road intersections for public safety or increased vehicle capacity shall be permitted, as necessary, in existing developed areas and where such improvements are sited and designed to be consistent with all policies of the LCP.	Minimal development has not required significant capacity enhancements.
C-2.2 (Inland)	Coordinate Land Use and Transportation: Ensure that the amount and phasing of development can be adequately served by transportation facilities.	The City continues to ensure development can be served by transportation facilities.
C-2.3 (Coastal)	Design Roadways to Protect Scenic Views. In scenic areas, roadway improvements, including culverts, bridges or overpasses, shall be designed and constructed to protect public views and avoid or minimize visual impacts and to blend in with the natural setting to the maximum extent feasible.	Continue implementation of current standards.
C-2.3 (Inland)	Do not permit new development that would result in the exceedance of roadway and intersection Levels of Service standards unless one of the following conditions is met: a) Revisions are incorporated in the proposed development project which prevent the Level of Service from deteriorating below the adopted Level of Service standards; or b) Funding of pro-rata share of the cost of circulation improvements and/or the construction of roadway improvements needed to maintain the established Level of Service is included as a condition or development standard of project approval.	The City reviews all proposed development to ensure projects do not result in LOS exceedance without appropriate mitigation.
C-2.4 (Coastal)	Roadway Standards: Continue to provide consistent standards for the City's street system.	Continue implementation of current standards.
C-2.4 (Inland)	Include specific periods for the funding and completion of roadway improvements for projects, which cause adopted roadway and intersection Level of Service standards to be exceeded. Require security, bonding or other means acceptable to the City to ensure the	The City reviews all proposed development to ensure projects do not result in LOS exceedance without appropriate mitigation.

Policy	Objective	Implementation
	timely implementation of roadway mitigations.	
C-2.5 (Coastal)	Continue to prohibit the establishment of private roads.	Continue current prohibition.
C-2.5 (Inland)	When traffic impact fees are collected, establish a schedule from the date of collection of said fee for the expenditure of funds to construct roadway improvements that meets project needs. Where a project would cause a roadway or intersection to operate below the adopted traffic Level of Service standards, the roadway or intersection improvements should be completed in a timely manner but no later than five years after project completion.	Minimal development has not triggered any requirements for traffic impact fees
C-2.6 (Coastal)	Traffic Studies for High Trip Generating Uses: Traffic studies shall be required for all major development proposals, including but not limited to, drive-through facilities, fast food outlets, convenience markets, major tourist accommodations, shopping centers, commercial development, residential subdivisions, and other generators of high traffic volumes that would affect a Level of Service. Traffic studies shall identify, at a minimum: (a) the amount of traffic to be added to the street system by the proposed development; (b) other known and foreseeable projects and their effects on the street system; (c) the direct, indirect, and cumulative adverse impacts of project traffic on street system operations, safety, and public access to the coast; (d) mitigation measures necessary to provide for project traffic while maintaining City Level of Service standards; (e) the responsibility of the developer to provide improvements; and (f) the timing of all improvements.	Traffic studies are required for all projects with significant possibility of traffic impacts. Continue implementation of current requirements and standards.
C-2.7 (Coastal)	Consider Impacts to Roads for LCP Amendments. Direct, indirect, and cumulative adverse impacts to Highway 1 capacity in the rural areas surrounding Fort Bragg shall be considered during the review of proposed LCP amendments that would increase density or change land use classifications to ensure that Highway 1 in rural areas outside the Mendocino County urban/rural boundary remains a scenic two-lane road consistent with Section 30254 of the Coastal Act.	Continue implementation of current standards. No such project submittals during the current reporting year.
C-2.8 (Coastal)	Continuation of Streets: Require the continuation of streets and bicycle and pedestrian paths through new developments wherever possible.	Continue implementation of current standards.

Policy	Objective	Implementation
C-2.9 (Coastal)	Policy C-2.9: Facilitate Street Connections. Review site plans for new development to facilitate the continuation of streets to improve local circulation. Priority shall be given to providing pedestrian and bicycle trails that establish connections to streets wherever possible.	Continue implementation of current standards. No such project submittals during the current reporting year.
C-2.10 (Coastal)	Continue Grid System onto Mill Site: Ensure that the grid street system and a north/south arterial on the Mill Site be designed to ensure the maximum benefit to local traffic, pedestrian, and bicycle circulation and to provide maximum public access to the coast.	Continue implementation of current standards.
C-2.11 (Coastal)	Right-of-Way Acquisition: Require right-of-way acquisition for new development to meet the City's roadway width standards.	Engineering staff reviews all projects with potential need for right-of-way acquisitions and takes measures to acquire as necessary.
C-2.12 (Coastal)	Roadway Safety: Improve the safety of the roadway system. All safety improvements shall be consistent with the applicable policies of the LCP including, but not limited to, the wetlands, environmentally sensitive habitat area, public access, and visual protection policies.	City staff worked with MCOG and consultant team TJKM to complete a Local Road Safety Plan in 2021.
<p>Goal C-3 (Coastal) Preserve the peace and quiet of residential areas</p> <p>Goal C-3 (Inland) Develop and manage a roadway system that accommodates future growth and maintains acceptable Levels of Service while considering the other policies and programs of the General Plan.</p>		
C-3.1 (Coastal)	Reduce Through-Traffic on Local Streets: Reduce through-traffic on local streets to preserve the peace and quiet of residential areas.	Continue implementation of current standards.
C-3.1 (Inland)	Roadway Improvements: In coordination with Caltrans and Mendocino County, plan for and seek funding for on-going improvements to the local and regional road system to ensure that the roadway system operates safely and efficiently. Project applicants are fiscally responsible for their fair share of roadway improvements necessary to serve their projects.	On-going coordination for funding and project coordination through the Mendocino Council Of Governments (MCOG) and Caltrans.
C-3.2 (Coastal)	Additional Connector Streets: Establish additional connectors between residential streets to improve emergency access, particularly on dead-end streets south of Chestnut Street.	Continue implementation of current standards. No such project undertaken during the current reporting year.
C-3.2 (Inland)	Roadway Standards: Continue to provide consistent standards for the City's street system.	Continue implementation of current standards.

Policy	Objective	Implementation
C-3.3 (Inland)	High Trip Generating Uses: Traffic studies shall be required for all major development proposals that require a conditional approval, including but not limited to, drive through facilities, fast food outlets, convenience markets, major tourist accommodations, shopping centers, commercial development, residential subdivisions, and other generators of high traffic volumes that would affect a Level of Service. Traffic studies shall identify, at a minimum: a) The amount of traffic to be added to the street system by the proposed development; b) Other known and foreseeable projects and their effects on the street system; c) The direct, indirect, and cumulative adverse impacts of project traffic on street system operations, safety, and public access to the coast; d) Mitigation measures necessary to provide for project traffic while maintaining City Level of Service standards; e) The responsibility of the developer to provide improvements; and f) The timing of all improvements.	Continue implementation of current standards. No such project submittals during the current reporting year.
C-3.4 (Inland)	Continuation and Connectivity of Streets: Require the continuation of streets, bicycle and pedestrian paths through new developments wherever possible, and require connectivity to the street grid at as many points as feasible.	Continue implementation of current standards. No such project submittals during the current reporting year.
C-3.5 (Inland)	Right-of-Way Acquisition: Require right-of-way dedications for new development to meet the City's roadway width standards.	Continue implementation of current standards. One such acquisition occurred during the reporting year (Redwood Avenue extension).
C-3.6 (Inland)	Roadway Safety: Improve the safety of the roadway system	A Street Safety Plan was prepared during the reporting year.
C-3.7 (Inland)	Integration of Low Impact Development (LID): Development projects shall incorporate LID features, and subdivision or development projects that include street improvements shall incorporate LID features into the public rights-of-way when feasible.	Continue implementation of current standards.
C-3.8 (Inland)	Installation of Conduit in New Roads and Road Reconstruction Projects. Conduit shall be installed in all new roads and road reconstruction projects and dedicated to the City of Fort Bragg. Conduit shall be sized to accommodate fiber optic and other telecom technologies.	Continue implementation of current standards. No such project undertaken during the current reporting year.
<p>Goal C-4 (Coastal) Regard the quality of life in Fort Bragg and maintaining community identity as more important than accommodating through-traffic.</p> <p>Goal C-4 (Inland) Preserve the peace and quiet of residential areas.</p>		

Policy	Objective	Implementation
C-4.1 (Coastal)	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.	Continue implementation of current standards.
C-4.1 (Inland)	Reduce Through-Traffic on Local Streets: Reduce through-traffic on local streets to preserve the peace and quiet of residential areas.	The City continues to implement recommendation for street calming measures contained in Street Safety plan, which is regularly updated.
C-4.2 (Inland)	Additional Connector Streets: Establish additional connectors between residential streets to improve emergency access, particularly on dead-end streets south of Chestnut Street.	Continue implementation of current standards. No such project undertaken during the current reporting year.
<p>Goal C-5 (Coastal) Provide additional parking spaces in the Central Business District.</p> <p>Goal C-5 (Inland) Regard the quality of life in Fort Bragg and maintaining community identity as more important than accommodating through-traffic.</p>		
C-5.1 (Coastal)	Additional Off-Street Parking: Continue to construct additional off-street parking spaces in the Central Business District.	Currently, the City has waived parking requirements in the CBD.
C-5.1 (Inland)	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.	Continue implementation of current standards.
C-5.2 (Inland)	Franklin Street: Ensure that Franklin Street in the Central Business District is maintained as a pedestrian-oriented corridor with safe vehicular and pedestrian traffic patterns.	Franklin Street south of Oak Street was rehabilitated in 2017 and existing multi-modal features were maintained.
<p>Goal C-6 (Coastal) Improve access to the North Part of the Noyo Harbor.</p> <p>Goal C-6 (Inland) Provide additional parking in the Central Business District.</p>		
C-6.1 (Coastal)	Provide Additional Access Routes to Noyo Harbor: Consider constructing a new access route from the west side of Main Street to the north side of the Noyo Harbor. Any new access route to the north side of the Noyo Harbor shall be consistent with all applicable policies of the LCP including, but not limited to, the wetland, environmentally sensitive habitat area, public access, and visual protection policies.	Continue implementation of current standards.
C-6.1	Additional Off-Street Parking: Continue to construct additional off-street parking spaces in	Currently, the City has waived parking

Policy	Objective	Implementation
(Inland)	the Central Business District.	requirements in the CBD.
C-6.2 (Coastal)	Improve Existing North Harbor Drive: Consider improvements to North Harbor Drive to increase capacity and safety for vehicles and pedestrians. Any improvements to North Harbor Drive shall be consistent with all applicable policies of the LCP including, but not limited to, the wetland, environmentally sensitive habitat area, public access, and visual protection policies.	Continue implementation of current standards.
<p>Goal C-7 (Coastal) Improve emergency access to the City.</p> <p>Goal C-7 (Inland) Improve the Design of Parking Lots in Accordance with Smart Growth Principles.</p>		
C-7.1 (Coastal)	Emergency Access: Establish an access route out of Fort Bragg that could be used in the event of damage to the Noyo River and Pudding Creek Bridges.	Continue implementation of current standards.
C-7.1 (Inland)	Improve and update parking regulations in accordance with best practices and smart growth principles.	The City does not require on-site parking for ADUs and recently updated regulations to comply with state law, which states that if a garage is converted into an ADU, replacement parking is not required.
<p>Goal C-8 (Coastal): Provide better public education.</p> <p>Goal C-8 (Inland): Improve emergency access to the City.</p>		
C-8.1 (Coastal)	Encourage transit use	Continue implementation of current standards; collaborate with the Mendocino Transit Authority (MTA).
C-8.1 (Inland)	Emergency Access: Establish an access route out of Fort Bragg that could be used in the event of damage to the Noyo River and Pudding Creek Bridges.	Continue implementation of current standards.
C-8.2 (Coastal)	Bus Shelters: Encourage attractive, well-lighted, and comfortable bus shelters placed in convenient locations.	Continue implementation of current standards; collaborate with the Mendocino Transit Authority (MTA).
C-8.3 (Coastal)	Transit Facilities in New Development. Continue to require the provision of bus stops, bus shelters, benches, turnouts, and related facilities in all major new commercial, industrial, residential, and institutional developments.	Continue implementation of current standards; collaborate with the Mendocino Transit Authority (MTA).

Policy	Objective	Implementation
<p>Goal C-9 (Coastal): Make it easier and safer for people to walk in Fort Bragg.</p> <p>Goal C-9 (Inland): Improve east-west access routes that are sensitive to the environment and preserve Fort Bragg's unique identity and sense of place.</p>		
C-9.1 (Coastal)	Provide Continuous Sidewalks: Provide a continuous system of sidewalks throughout the City.	Continue implementation of current standards. The 2019 Street Rehabilitation Project filled some gaps and Caltrans improvements along Main Street are in progress.
C-9.1 (Inland)	Eastern Areas: Identify the location of extensions to City streets and new streets in anticipation of future annexation and development east of City limits.	The City's Sphere of Influence includes areas that could potentially be appropriate for annexation. The 2019 Housing Element update includes a program to consider annexation for residential development.
C-9.2 (Coastal)	Require Sidewalks. Require a sidewalk on both sides of all collector and arterial streets and on at least one side of local streets as a condition of approval for new development.	Continue implementation of current standards.
C-9.2 (Inland)	Improve East-West Arterials: Improve Oak Street, Chestnut Street, and Redwood Avenue to provide safe and efficient circulation between Main Street and east Fort Bragg.	Continue implementation of current standards.
C-9.3 (Coastal)	Where feasible, incorporate pedestrian facilities into the design and construction of all road improvements.	Continue implementation of current standards.
C-9.4 (Coastal)	Sidewalk Maintenance: Ensure that property owners maintain sidewalks in a safe manner.	Continue implementation of current standards and code enforcement efforts.
C-9.5 (Coastal)	Pedestrian Paths: Develop a series of continuous pedestrian walkways throughout the commercial districts and residential neighborhoods.	Continue implementation of current standards.
C-9.6 (Coastal)	Ensure that pedestrian paths are sited to avoid wetlands and other environmentally sensitive areas.	Continue implementation of current standards.
C-9.7 (Coastal)	Improve Pedestrian Safety.	Continue implementation of current standards.

Policy	Objective	Implementation
<p>Goal C-10 (Coastal): Make it easier and safer for people to travel by bicycle.</p> <p>Goal C-10 (Inland): Provide better public transportation.</p>		
C-10.1 (Coastal)	Comprehensive Bikeway System: Establish a comprehensive and safe system of bikeways connecting all parts of Fort Bragg.	Continue implementation of current standards and master planning.
C-10.1 (Inland)	Encourage Transit Use	Continue implementation of current standards; collaborate with the Mendocino Transit Authority (MTA).
C-10.2 (Coastal)	Require Bikeways. Require new development to provide on-site connections to existing and proposed bikeways, as appropriate.	Continue implementation of current standards.
C-10.2 (Inland)	Bus Shelters: Encourage attractive, well-lighted, and comfortable bus shelters placed in convenient locations.	Continue implementation of current standards; collaborate with the Mendocino Transit Authority (MTA).
C-10.3 (Coastal)	Require that streets linking residential areas with school facilities be designed to include bikeways.	Continue implementation of current standards.
C-10.4 (Coastal)	Consider bicycle operating characteristics in the design of intersections and traffic control systems.	Continue implementation of current standards.
C-10.5 (Coastal)	Bicycle Parking: Provide adequate and secure bicycle parking at public transit facilities, park and ride lots, schools, the library, parks, City offices, and commercial areas.	Continue implementation of current standards. Several bicycle parking area are included in The Plateau housing project.
<p>Goal C-11 (Coastal): Provide mobility-impaired persons with access to transportation.</p> <p>Goal C-11 (Inland): Make it easier and safer for people to walk in Fort Bragg.</p>		
C-11.1 (Coastal)	Regulations for Disabled Persons: Enforce Federal and State regulations regarding access for persons with disabilities.	Continue implementation of current standards. Caltrans implemented ADA upgrades in 2020 along Main Street.
C-11.1 (Inland)	Continuous Sidewalks: Require an uninterrupted pedestrian network of sidewalks, with continuous sidewalks along both sides of streets. New development shall provide sidewalks along project frontages to close gaps in the City's sidewalk network.	Continue implementation of current standards. The 2019 Street Rehabilitation Project filled some sidewalk gaps and designs

Policy	Objective	Implementation
		are currently in progress to improve connectivity on south Main Street.
C-11.2 (Coastal)	Handicapped Access. In conformance with State and Federal regulations, continue to review all projects for handicapped access and require the installation of curb cuts, ramps, and other improvements facilitating handicapped access.	Continue implementation of current standards. The 2019 Street Rehabilitation Project filled some sidewalk gaps and designs are currently in progress to improve connectivity on south Main Street.
C-11.2 (Inland)	Where feasible, incorporate pedestrian and bicycle facilities into the design and construction of all road improvements.	Continue implementation of current standards.
C-11.3 (Coastal)	Support Improved Access: Support improved access to public transportation and pedestrian facilities for people with disabilities.	Continue implementation of current standards. Caltrans completed ADA upgrades to several intersections along Main Street.
C-11.3 (Inland)	Sidewalk Maintenance: Ensure that property owners maintain safe sidewalks.	Continue implementation of current standards and code enforcement efforts. City initiated abatement of troublesome sidewalk in front of the Post Office.
C-11.4 (Inland)	Sidewalk Design: Sidewalks should be designed, constructed and reconstructed to enhance the safety, comfort, aesthetic appeal, and interest of the pedestrian environment.	Sidewalk, curb and gutters are installed based on City standards.
C-11.5 (Inland)	Pedestrian Paths: Develop a series of continuous pedestrian and multi-use walkways throughout the commercial districts and residential neighborhoods.	Continue implementation of current standards.
C-11.6 (Inland)	Improve Pedestrian Safety	Continue implementation of current standards. Several grant funded efforts are underway to improve pedestrian safety along Main Street.
<p>Goal C-12 (Coastal): Increase use of the Skunk Line for transportation of people and freight.</p> <p>Goal C-12 (Inland):</p>		

Policy	Objective	Implementation
C-12.1 (Inland)	Comprehensive Bikeway System: Establish a comprehensive and safe system of bikeways connecting all parts of Fort Bragg.	Continue implementation of current standards. No such project undertaken during the current reporting year. A bikeway system has been largely completed and gap filling is the current focus.
C-12.2 (Inland)	Improve and expand bicycle facilities and infrastructure according to the City's Bicycle Master Plan and the Residential Streets Safety Plan recommendations.	Continue implementation of current standards. No such project undertaken during the current reporting year. A bikeway system has been largely completed and gap filling is the current focus.
C-12.3 (Inland)	Require new development to provide on-site connections to existing and proposed bikeways, as appropriate.	New development is reviewed for compliance of this policy; ongoing.
C-12.4 (Inland)	Require new development, redevelopment, and significant renovation projects to provide superior bicycle/bicyclist support infrastructure.	Continue implementation of current standards. No such project submittals during the current reporting year.
C-12.5 (Inland)	Bicycle Parking: Provide adequate and secure bicycle parking at bus stops, schools, the library, parks, City offices, and commercial areas.	Continue implementation of current standards.
C-12.6 (Inland)	Require that streets linking residential areas with school facilities be designed to include bikeways.	Continue implementation of current standards. No such project undertaken during the current reporting year.
C-12.7 (Inland)	Consider bicycle operating characteristics in the design of intersections and traffic control systems. Incorporate bicycle and pedestrian facilities into the design and construction of all road improvements as feasible.	Continue implementation of current standards.
C-12.8 (Inland)	Improve continuity and connections between the City's bike facilities and those of the County and State.	Continue coordination through MCOG and Caltrans
<p>Goal C-13 (Coastal): Coordinate regional traffic planning.</p> <p>Goal C-13 (Inland): Provide mobility-impaired persons with access to transportation.</p>		

Policy	Objective	Implementation
C-13.1 (Coastal)	Regional Transportation Efforts: Participate in regional transportation planning efforts.	Continue coordination with MCOG and Caltrans to fund and implement transportation planning efforts.
C-13.1 (Inland)	Regulations for Disabled Persons: Enforce Federal and State regulations regarding access for persons with disabilities.	Continue implementation of current standards.
C-13.2 (Inland)	Conformance with State and Federal ADA regulations: Continue to review all projects for handicapped access and require the installation of curb cuts, ramps, and other improvements facilitating handicapped access.	Continue implementation of current standards.
C-13.3 (Inland)	Support Improved Access: Support improved access to public transportation and pedestrian facilities for people with disabilities.	Continue implementation of current standards.
<p>Goal C-14 (Coastal): Promote balanced funding for transportation.</p> <p>Goal C-14 (Inland): Coordinate regional traffic planning.</p>		
C-14.1 (Coastal)	Development to Pay Its Fair Share: Require new development to pay its fair share of transportation improvements to maintain levels of service and traffic safety in the City.	Development applicants pay real-time funding for project processing through Development Deposit Accounts (DDAs).
C-14.1 (Inland)	Regional Transportation Efforts: Participate in regional transportation planning efforts.	Continue coordination through MCOG and Caltrans to fund and implement transportation planning efforts.
<p>Goal C-15 (Inland) Promote balanced funding for transportation.</p>		
C-15.1 (Inland)	Development to Pay its Fair Share: Require new development to pay its fair share of transportation improvements to maintain levels of service and traffic safety in the City.	Development applicants pay real-time funding for project processing through Development Deposit Accounts (DDAs).

Community Design Element

Policy	Objective	Implementation
<p>Goal CD-1 (Coastal): Preserve and enhance scenic views.</p> <p>Goal CD-1 (Inland): Ensure that new development demonstrates excellence of design and sensitivity to the character of the surrounding neighborhood.</p>		
<p>CD-1.1 (Coastal)</p>	<p>Visual Resources: Permitted development shall be designed and sited to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural landforms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance scenic views in visually degraded areas.</p>	<p>Development in the Coastal Zone is subject to Coastal Development Permitting. CDPs require visual analysis in areas where public views to and along the ocean are affected, as mapped in the LCP. Continued review of projects for consistency with the visual resource policies of the LCP will ensure ongoing compliance with this policy.</p>
<p>CD-1.1 (Inland)</p>	<p>Citywide Design Guidelines: Ensure that new development and remodels are constructed in a manner consistent with the Citywide Design Guidelines.</p>	<p>City requires Design Review for all significant commercial projects. The Citywide Design Guidelines are the standard of review for these permit reviews.</p>
<p>CD-1.2 (Coastal)</p>	<p>The large trees fronting the west side of Highway One between the North Cliff Hotel and Cypress Street shall be retained as far as feasible; trees may be removed if they are dead or damaged or pose a public safety hazard, or to provide driveways or new public streets. The forested area north of the Georgia-Pacific nursery and south of Maple Street shall be maintained as a sensitive natural habitat and scenic resource, and it shall not be developed.</p>	<p>These areas have been maintained and remain unchanged.</p>
<p>CD-1.2 (Inland)</p>	<p>Discourage Sameness and Repetitive Residential Designs.</p>	<p>Implementation ongoing.</p>
<p>CD-1.3 (Coastal)</p>	<p>Visual Analysis Required. A Visual Analysis shall be required for all development located in areas designated "Potential Scenic Views Toward the Ocean or the Noyo River" on Map CD-1 except development listed in below. Development exempt from Visual Analysis includes the following: 1. The replacement of any structure, other than a public works facility, destroyed by a disaster. The replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and shall</p>	<p>The City continues to require visual analysis for projects subject to CDPs in areas with "Potential Scenic Views Toward the Ocean or the Noyo River."</p>

Policy	Objective	Implementation
	<p>be sited in the same location on the affected property as the destroyed structure. 2. The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure. 3. Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure. 4. The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not seaward of the location of the former structure. 5. Any repair or maintenance activity for which the Director determines has no potential for impacts to visual resources. Definitions as used in this subsection: 1. "Disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner. 2. "Bulk" means total interior cubic volume as measured from the exterior surface of the structure. 3. "Structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.</p>	
CD-1.3 (Inland)	<p>Scenic Views and Resource Areas: Ensure that development does not adversely impact scenic views and resources as seen from public rights-of-way.</p>	<p>City requires Design Review for all significant commercial projects. The Citywide Design Guidelines are the standard of review for these permit reviews.</p>
CD-1.4 (Coastal)	<p>New development shall be sited and designed to minimize adverse impacts on scenic areas visible from scenic roads or public viewing areas to the maximum feasible extent.</p>	<p>The City continues to require visual analysis for projects subject to CDPs in areas with "Potential Scenic Views Toward the Ocean or the Noyo River."</p>
CD-1.4 (Inland)	<p>Property Maintenance and Nuisances: Ensure that properties are well maintained and nuisances are abated.</p>	<p>The City regularly pursues code enforcement actions to abate nuisance conditions related to property maintenance.</p>
CD-1.5 (Coastal)	<p>All new development shall be sited and designed to minimize alteration of natural landforms by: 1. Conforming to the natural topography. 2. Preventing substantial grading or reconfiguration of the project site. 3. Minimizing flat building pads on slopes. Building pads on sloping sites shall utilize split level or stepped-pad designs. 4. Requiring that man-made</p>	<p>Development in the Coastal Zone continues to require a CDP, where consistency with this and related policies is ensured through visual analysis.</p>

Policy	Objective	Implementation
	<p>contours mimic the natural contours. 5. Ensuring that graded slopes blend with the existing terrain of the site and surrounding area. 6. Minimizing grading permitted outside of the building footprint. 7. Clustering structures to minimize site disturbance and to minimize development area. 8. Minimizing height and length of cut and fill slopes. 9. Minimizing the height and length of retaining walls. 10. Cut and fill operations may be balanced on-site, where the grading does not substantially alter the existing topography and blends with the surrounding area. Export of cut material may be required to preserve the natural topography.</p>	
<p>CD-1.5 (Inland)</p>	<p>Strip Development: Discourage strip development along Main Street.</p>	<p>The City continues to work with prospective applicants and developers to design projects that significantly comply with the Citywide Design Guidelines.</p>
<p>CD-1.6 (Coastal)</p>	<p>Fences, walls, and landscaping shall minimize blockage of scenic areas from roads, parks, beaches, and other public viewing areas.</p>	<p>Development in the Coastal Zone continues to require a CDP, where consistency with this and related policies is ensured through visual analysis.</p>
<p>CD-1.7 (Coastal)</p>	<p>Bluff Face and Bluff Retreat Setback Development. Development on the bluff face and within the bluff retreat setback shall be limited to the following uses with a conditional use permit where there is no feasible less environmentally damaging alternative, feasible mitigation measures have been provided to minimize all adverse environmental impacts. And allowable structures are designed be visually compatible with the surrounding area to the maximum extent feasible. (a) engineered access ways or staircases to beaches, boardwalks, viewing platforms, and trail alignments for public access purposes, (b) pipelines to serve coastal dependent industry, (c) habitat restoration, (d) hazardous materials remediation, and (e) landform alterations where such alterations re-establish natural landforms and drainage patterns that have been eliminated by previous development activities.</p>	<p>Development in the Coastal Zone continues to require a CDP to determine consistency with this policy.</p>
<p>CD-1.8 (Coastal)</p>	<p>Bluff top development shall incorporate a setback from the edge of the bluff that avoids and minimizes visual impacts from the beach and ocean below. The bluff top setback necessary to protect visual resources may be in excess of the setback necessary to ensure that risk from geologic hazards are minimized for the life of the structure, as detailed in Policy SF-B.</p>	<p>Development in the Coastal Zone continues to require a CDP to determine consistency with this policy.</p>
<p>CD-1.9</p>	<p>Exterior lighting (except traffic lights, navigational lights, and other similar safety lighting)</p>	<p>Development in the Coastal Zone continues to</p>

Policy	Objective	Implementation
(Coastal)	shall be minimized, restricted to low intensity fixtures, and shielded so that no light shines beyond the boundary of the property.	require a CDP to determine consistency with this policy.
CD-1.10 (Coastal)	All proposed divisions of land and boundary line adjustments shall be analyzed for consistency of potential future development with the visual resource protection policies of the LCP, and no division of land or boundary line adjustment shall be approved if development of resulting parcel(s) would be inconsistent with these policies.	Development in the Coastal Zone, including subdivisions and boundary line adjustments, continues to require a CDP to determine consistency with this policy.
CD-1.11 (Coastal)	New development shall minimize removal of natural vegetation. Existing native trees and plants shall be preserved on the site to the maximum extent feasible.	Development in the Coastal Zone continues to require a CDP to determine consistency with this policy.
CD-1.12 (Coastal)	Maintain Unobstructed Views of the Ocean: Require new development north of Pudding Creek to leave unblocked views to the ocean from Highway One.	Development in the Coastal Zone continues to require a CDP to determine consistency with this policy.
CD-1.13 (Coastal)	Retain Views North of Pudding Creek. New development north of Pudding Creek and west of Main Street on parcels with total frontage of more than 135 feet, on either the Haul Road or Main Street as determined by the Planning Commission, shall be required to leave a minimum of 30 percent of the project's total parcel frontage free of view-blocking development. The area free of view-blocking development shall not include narrow passageways between buildings on the site, and shall be concentrated.	Development in the Coastal Zone continues to require a CDP to determine consistency with this policy.
CD-1.14 (Coastal)	All new development (including decks and balconies) north of Pudding Creek shall be set back at least 30 feet from the edge of the Old Haul Road and shall be consistent with all other applicable LCP setback requirements.	Development in the Coastal Zone continues to require a CDP to determine consistency with this policy.
<p>Goal CD-2 (Coastal): Ensure that new development demonstrates excellence of design and sensitivity to the character of the surrounding neighborhood.</p> <p>Goal CD-2 (Inland): Preserve the Central Business District as the commercial, civic, historic, and cultural center of the community.</p>		
CD-2.1 (Coastal)	Design Review: All development that has the potential to affect visual resources shall be subject to Design Review, unless otherwise exempt from Design Review pursuant to Coastal Land Use & Development Code Section 18.71.050. Design Review approval requirements shall not replace, supersede or otherwise modify the independent requirement for a coastal	Design Review is required for multi-family projects, new commercial development, and most commercial additions, consistent with this requirement.

Policy	Objective	Implementation
	development permit approved pursuant to the applicable policies and standards of the certified LCP. Ensure that development is constructed in a manner consistent with the Citywide Design Guidelines.	
CD-2.1 (Inland)	Adaptive Reuse: Facilitate the adaptive reuse of existing older buildings in the Central Business District.	Vacation Rentals are allowed with minor use permit approval, on the second and third floor above commercial uses in the CBD to encourage the renovation of older buildings in the downtown.
CD-2.2 (Coastal)	Large Commercial Development: Ensure that large commercial development, such as shopping centers, big box retail, and mixed use development, fits harmoniously with the scale and design of existing buildings and streetscape of the City.	Development in the Coastal Zone continues to require a CDP to determine consistency with this policy.
CD-2.2 (Inland)	Pedestrian Activity: Encourage increased pedestrian movement and activity in the Central Business District.	<p>The ILUDC allows only pedestrian-oriented uses in the CBD. Projects are reviewed for consistency with this policy.</p> <p>The City also initiated a program to ease the barriers for street furniture to contribute to the walkability of downtown.</p>
CD-2.3 (Coastal)	Second Dwelling Units and Manufactured Units and Single-Family Residential Development: Ensure that second dwelling units, manufactured units, and single-family residences are sited and constructed in a manner harmonious with surrounding development.	Changes in State law have made the development of ADUs more permissible. The City reviews development applications for consistency with the updated laws. A CLUDC Amendment is forthcoming to update these regulations.
CD-2.3 (Inland)	Economic Vitality: Continue to support the economic diversity and vitality of downtown businesses.	The City reviews development applications for consistency with this policy.
CD-2.4 (Coastal)	Discourage Sameness and Repetitive Residential Designs.	The City reviews development applications for consistency with this policy.
CD-2.4 (Inland)	Parking: Improve the availability of public parking facilities in the Central Business District and other commercial areas.	Currently, the City waives all parking requirements in the CBD.
CD-2.5	Scenic Views and Resource Areas: Ensure that development does not adversely impact	Development in the Coastal Zone is subject to

Policy	Objective	Implementation
(Coastal)	scenic views and resources as seen from a road and other public rights-of-way.	CDP approval, and visual analysis review ensures ongoing consistency with this policy.
CD-2.5 (Inland)	Strengthen the Distinctive Identity of the Central Business District: Strengthen the distinctive identity and unique sense of place of the Central Business District.	The City of Fort Bragg passed a formula business ordinance in 2021 with the intent of keeping Fort Bragg’s unique character.
CD-2.6 (Coastal)	Property Maintenance and Nuisances: Ensure that properties are well maintained and nuisances are abated.	The City has an active code enforcement program that responds to all complaints related to nuisances.
CD-2.7 (Coastal)	Landscaping: Encourage attractive native and drought-tolerant landscaping in residential and commercial developments.	The CLUDC and ILUDC includes vegetation requirements mandating native landscaping near ESHA and/or drought tolerant landscaping outside of ESHA pertaining to new development.
CD-2.8 (Coastal)	Strip Development: Discourage further strip development along Main Street. Strip development is typically characterized by street frontage parking lots serving individual or strips of stores or restaurants, with no provisions for pedestrian access between individual uses and buildings arranged linearly.	The City reviews development proposals for consistency with this policy.
<p>Goal CD-3 (Coastal): Preserve the Central Business District as the commercial, civic, historic, and cultural center of the community.</p> <p>Goal CD-3 (Inland): Create attractive entryways to the City.</p>		
CD-3.1 (Coastal)	Adaptive Reuse: Facilitate the adaptive reuse of existing older buildings in the Central Business District.	The City allows a broad mix of uses in the CBD, allowing for flexibility in the reuse of older buildings.
CD-3.1 (Inland)	Entryways: Clearly define the points of entry to the City through the use of distinctive signs, lighting, and landscaping.	The City continues to work with prospective applicants and developers to design projects that significantly comply with the Citywide Design Guidelines, as well as development standards of zoning district.
CD-3.2	Pedestrian Activity: Encourage increased pedestrian movement and activity in the Central	On-going – the CBD is already a walkable

Policy	Objective	Implementation
(Coastal)	Business District.	space, and the City continues to work to allow a wide range of tenants to support this.
CD-3.2 (Inland)	Gateway Development: Encourage a higher quality of development at the City’s gateways.	The City continues to work with prospective applicants and developers to design projects that significantly comply with the Citywide Design Guidelines, as well as development standards of zoning district.
CD-3.3 (Coastal)	Economic Vitality: Continue to support the economic diversity and vitality of downtown businesses.	The City Council adopted an ordinance regulating formula business in the downtown to ensure that economic diversity and vitality is maintained.
CD-3.4 (Coastal)	Parking: Improve the availability of public parking facilities in the Central Business District and other commercial areas.	The City has installed electric vehicle charging stations in the downtown, and employees a parking enforcement officer to ensure spaces are not capitalized throughout the day.
CD-3.5 (Coastal)	Strengthen the Distinctive Identity of the Central Business District: Strengthen the distinctive identity and unique sense of place of the Central Business District.	City staff is actively working on a strategy to present to City Council and Planning Commission in order to strengthen the CBD.
<p>Goal CD-4 (Coastal): Create attractive entryways to the City.</p>		
<p>Goal CD-4 (Inland): Improve the appearance and effectiveness of parking facilities.</p>		
CD-4.1 (Coastal)	Entryways: Clearly define the points of entry to the City through the use of distinctive signs, lighting, and landscaping.	Implementation ongoing.
CD-4.1 (Inland)	Parking Location: Wherever feasible, locate parking facilities to the rear of the development so that the building facade is contiguous with the street frontage, and parking areas are hidden from the street.	The City continues to work with prospective applicants and developers to design projects that significantly comply with the Citywide Design Guidelines, as well as development standards of zoning district.
<p>Goal CD-5 (Coastal): Improve the appearance and effectiveness of parking facilities.</p>		
<p>Goal CD-5 (Inland): Use lighting to create a sense of security and to provide cohesion to the physical structure of the community.</p>		

Policy	Objective	Implementation
CD-5.1 (Coastal)	Parking Location: Wherever feasible, locate parking facilities to the rear of the development so that the building facade is contiguous with the street frontage, and parking areas are hidden from the street.	Development proposals are reviewed for consistency with this policy. The City maintains a partnership with private parking west of Main Street (not on the frontage) to provide public parking consistent with this policy.
CD-5.1 (Inland)	Security: Establish standards to ensure that on-site lighting is adequate to provide security while not producing excessive glare.	The City continues to work with prospective applicants and developers to design projects that significantly comply with the Citywide Design Guidelines, as well as development standards of zoning district.
CD-5.2 (Inland)	Lighting Design Review Guidelines: Apply lighting design guidelines in the Citywide Design Guidelines and the City's Zoning Ordinance.	The City continues to work with prospective applicants and developers to design projects that significantly comply with the Citywide Design Guidelines, as well as development standards of zoning district.
CD-5.3 (Inland)	Exterior lighting (except traffic lights, navigational lights, and other similar safety lighting) shall be minimized, restricted to low intensity fixtures, and shielded so that no light shines beyond the boundary of the property.	The City continues to work with prospective applicants and developers to design projects that significantly comply with the Citywide Design Guidelines, as well as development standards of zoning district.
<p>Goal CD-6 (Coastal): Use lighting to create a sense of security and to provide cohesion to the physical structure of the community.</p> <p>Goal CD-6 (Inland): Preserve cultural and historic resources.</p>		
CD-6.1 (Coastal)	Security: Establish standards to ensure that on-site lighting is adequate to provide security while not producing excessive glare.	The City reviews permit applications for consistency with this policy.
CD-6.1 (Inland)	Protect and Preserve Buildings and Sites with Historic and Cultural Significance to the Community:	The City reviews permit applications for consistency with this policy.
CD-6.2 (Coastal)	Lighting Design Guidelines: Apply lighting design guidelines contained in the Citywide Design Guidelines.	Projects requiring Design Review are subject to the Citywide Design Guidelines for compliance with this policy.

Policy	Objective	Implementation
CD-6.2 (Inland)	Discourage Demolitions: Discourage the demolition of historic buildings.	The City seeks to reuse buildings where feasible.
CD-6.3 (Inland)	Public Awareness: Increase public awareness and appreciation of the City’s cultural and historic resources.	Ongoing effort.
Goal CD-7 (Coastal): Preserve cultural and historic resources.		
Goal CD-7 (Inland): Support Public Art and Open Space.		
CD-7.1 (Coastal)	Protect and Preserve Buildings and Sites with Historic and Cultural Significance to the Community.	The City reviews permit applications for consistency with this policy.
CD-7.1 (Inland)	Public Art: Encourage the provision of murals, fountains, sculptures, and other forms of public art in public spaces and parks.	Ongoing, City Council provided City resources to Lia Wilson and Alleyway Art Project to bring more murals to the CBD.
CD-7.2 (Coastal)	Discourage Demolitions: Discourage the demolition of historic buildings.	The City reviews permit applications for consistency with this policy.
CD-7.2 (Inland)	Provide Public Open Spaces: Encourage the development of public open spaces for gatherings and fairs in commercial areas of the City.	Examples include: the use of large meadow adjacent to Coastal Trail off Cypress Street with additional parking on Jere Melo Way; use of 400 block of Franklin Street for weekly Farmers Market; and additional street closures as requested for variety of public events. The current LCP amendment effort includes Open Space/Parks zoning tin order to provide additional and much needed public open space.
CD-7.3 (Coastal)	Public Awareness: Increase public awareness and appreciation of the City’s cultural and historic resources.	Ongoing effort. The City continues to work with businesses to promote the City culture through restaurant week. As well, has continued support of the alleyway art project.
Goal CD-8 (Coastal): Support Public Art and Open Space.		
CD-8.1	Public Art: Encourage the provision of murals, fountains, sculptures, and other forms of	The City encourages programs that assist with

Policy	Objective	Implementation
(Coastal)	public art in public spaces and parks.	the placement of art and murals in the downtown.
CD-8.2 (Coastal)	Provide Public Open Spaces: Encourage the development of public open spaces for gatherings and fairs in commercial areas of the City.	The City has numerous public events in the public parks throughout the City. The City's draft LCP amendment currently includes expanded open spaces on the Mill Site that could help accommodate these events.

Safety

Policy	Objective	Implementation
<p>Goal S-1 (Coastal): Reduce and minimize impacts of development on bluff tops and shoreline features.</p>		
<p>Goal S-1 (Inland): Reduce seismic and geologic-related hazards.</p>		
<p>SF-1.1 (Coastal)</p>	<p>Minimize Hazards: New development shall: (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard; and (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.</p>	<p>No new significant development proposed in high geologic flood and/or fire hazard zones in 2020.</p>
<p>SF-1.1 (Inland)</p>	<p>Minimize Hazards: New development shall: (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard; and (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.</p>	<p>No significant development permits issued this calendar year in areas of high geologic, flood, or fire hazard zones.</p>
<p>SF-1.2 (Coastal)</p>	<p>All ocean-front and bluff top development shall be sized, sited and designed to minimize risk from wave run-up, flooding, and beach and bluff erosion hazards, and avoid the need for a shoreline protective structure at any time during the life of the development.</p>	<p>No significant development permits issued this calendar year for development sited ocean-front or bluff top.</p>
<p>SF-1.2 (Inland)</p>	<p>Geotechnical report required: Applications for development located in or near an area subject to geologic hazards, including but not limited to areas of geologic hazard shown on Map SF-1, shall be required to submit a geologic/soils/geotechnical study that identifies all potential geologic hazards affecting the proposed project site, all necessary mitigation measures, and demonstrates that the project site is suitable for the proposed development and that the development will be safe from geologic hazard. Such study shall be conducted by a licensed Certified Engineering Geologist (CEG) or Geotechnical Engineer (GE). Refer to Map SF-1: Geologic Hazards. Refer to the General Plan Glossary for definitions of these terms.</p>	<p>No development permit applications submitted this calendar year for development in areas of geologic hazard shown on Map SF-1.</p>
<p>SF-1.3 (Coastal)</p>	<p>Geotechnical report required. Applications for development located in or near an area subject to geologic hazards, including but not limited to areas of geologic hazard shown on Map SF-1, shall be required to submit a geologic/soils/geotechnical study that identifies all potential geologic hazards affecting the proposed project site, all necessary mitigation measures, and demonstrates that the project site is suitable for the proposed development and that the development will be safe from geologic hazard. Such study shall be conducted</p>	<p>No development permit applications submitted this calendar year for development in areas of geologic hazard shown on Map SF-1.</p>

Policy	Objective	Implementation
	by a licensed Certified Engineering Geologist (CEG) or Geotechnical Engineer (GE) and shall be prepared consistent with the requirements of Section 18.54.040(C) of the Coastal Land Use and Development Code. Refer to Map SF-1: Geologic Hazards. Refer to the General Plan Glossary for definitions of these terms.	
SF-1.3 (Inland)	Alterations to Landforms: Minimize, to the maximum feasible extent, alterations to cliffs, bluff tops, faces or bases, and other natural land forms. Permit alteration in landforms only if erosion/runoff is controlled and either there exists no other feasible environmentally superior alternative or where such alterations re-establish natural landforms and drainage patterns that have been eliminated by previous development activities.	Any developments which alter natural landforms in any substantial way require submission, review and approval of a grading permit. One primary function of the grading permit is to prevent erosion and ensure re-establishment of natural landforms and drainage patterns.
SF-1.4 (Coastal)	Bluff top Setback. All development located on a bluff top shall be setback from the bluff edge a sufficient distance to ensure that it will be stable for a projected 100-year economic life. Stability shall be defined as maintaining a minimum factor of safety against sliding of 1.5 (static) or 1.1 (pseudostatic), as described in Section 18.54.040(F) of the Coastal Land Use and Development Code. This requirement shall apply to the principal structure and accessory or ancillary structures. Slope stability analyses and erosion rate estimates shall be performed by a licensed Certified Engineering Geologist or Geotechnical Engineer.	Both the City's Coastal Trail and the Waste Water Treatment Facility Upgrade projects have required a blufftop analysis to be performed by a licensed certified professionals. Both projects met minimum factors of safety for slope stability.
SF-1.4 (Inland)	Identify Potential Hazards: Identify potential hazards relating to geologic and soils conditions during review of development applications.	No development applications submitted this calendar year necessitate review of potential hazards related to geologic or soils conditions.
SF-1.5 (Coastal)	Siting and design of new blufftop development and shoreline protective devices shall take into account anticipated future changes in sea level. In particular, an acceleration of the historic rate of sea level rise shall be considered. Development shall be set back a sufficient distance landward and elevated to a sufficient foundation height to eliminate or minimize to the maximum extent feasible hazards associated with anticipated sea level rise over the expected 100-year economic life of the structure.	All development applications reviewed for consistency with set back distance and elevation in relation to blufftops to minimize exposure to sea level rise hazards.
SF-1.6 (Coastal)	Land divisions, including subdivisions, lot splits, lot line adjustments, and conditional certificates of compliance which create new shoreline or blufftop lots, shall not be permitted unless the subdivision can be shown to create lots which can be developed without requiring a current or future bluff or shoreline protection structure. No new lots shall be created that could require shoreline protection or bluff stabilization structures at any time.	No listed land use entitlement applications reviewed this year which proposed creation of shoreline or blufftop lots.

Policy	Objective	Implementation
SF-1.7 (Coastal)	Alterations to Landforms: Minimize, to the maximum feasible extent, alterations to cliffs, bluff tops, faces or bases, and other natural land forms in the Coastal Zone. Permit alteration in landforms only if erosion/runoff is controlled and either there exists no other feasible environmentally superior alternative or where such alterations re-establish natural landforms and drainage patterns that have been eliminated by previous development activities.	Any developments which alter natural landforms in any substantial way require submission, review and approval of a grading permit. One primary function of the grading permit is to prevent erosion and ensure re-establishment of natural landforms and drainage patterns.
SF-1.8 (Coastal)	Floodplain Development: Limit new development in floodplains in the Coastal Zone, including but not limited to those floodplain areas shown on Map SF-2, to those uses allowed in the Open Space land use designation consistent with all other applicable requirements of the LCP.	There were no development applications in floodplains in the City's Coastal Zone last calendar year.
SF-1.9 (Coastal)	Bluff Face and Bluff Retreat Setback: Prohibit development on the bluff face and within the bluff retreat setback because of the fragility of this environment and the potential for resultant increase in bluff and beach erosion due to poorly-sited development except that the following uses may be allowed with a conditional use permit: (1) engineered accessways or staircases to beaches, boardwalks, viewing platforms, and trail alignments for public access purposes; (2) pipelines to serve coastal dependent industry; (3) habitat restoration; (4) hazardous materials remediation; and (5) landform alterations where such alterations re-establish natural landforms and drainage patterns that have been eliminated by previous development activities. Findings shall be made that no feasible, less environmentally damaging, alternative is available and that feasible mitigation measures have been provided to minimize all adverse environmental impacts. Require as a part of the conditional use permit, a full environmental, geological, and engineering study as specified in Policy LC-6.1. Such structures shall be constructed and designed so as to neither create nor contribute to erosion of the bluff face and to be visually compatible with the surrounding area to the maximum extent feasible.	There was no development along bluff face or bluff retreat setback areas.
SF-1.10 (Coastal)	Seawalls, Breakwaters and Other Shoreline Structures: Prohibit construction of seawalls, breakwaters, revetments, groins, harbor channels, retaining walls, and other structures altering the natural shoreline processes unless a finding is made that such structures are required: (1) to serve coastal-dependent uses; or (2) to protect public beaches in danger from erosion; or (3) to protect existing structures that were legally constructed prior to the effective date of the Coastal Act; or (4) that were legally permitted prior to the effective date of this Coastal General Plan provided that the CDP did not contain a waiver of the right to a future shoreline or bluff protection structure; or (5) for a development consistent with	No shoreline structure permit applications received nor constructed during the previous calendar year.

Policy	Objective	Implementation
	<p>Section 30233(a) of the Coastal Act and only when it can be demonstrated that said existing structures are at risk from identified hazards if no feasible or less environmentally damaging alternative is available and the structure has been designed to eliminate or mitigate adverse environmental impacts, including impacts upon local shoreline sand supply. The design and construction of allowed protective structures shall respect natural landforms and provide for lateral beach access. “Existing structures” for purposes of Policy LC-6.5 shall consist only of a principle structure, e.g. residential dwelling, required garage, or second residential unit, and shall not include accessory or ancillary structures such as decks, patios, stairs, landscaping, etc.</p>	
	<p>Goal SF-2 (Coastal): Reduce seismic and geologic-related hazards.</p> <p>Goal SF-2 (Inland): Reduce the risks from flooding.</p>	
SF-2.1 (Coastal)	<p>Seismic Hazards: Reduce the risk of loss of life, personal injury, and damage to property resulting from seismic hazards.</p>	<p>All new development is required to be constructed in accordance with current building codes for seismic hazard reduction.</p>
SF-2.1 (Inland)	<p>Flood Hazards: Ensure adequate standards for development in the 100-year floodplain.</p>	<p>This is standard practice on all development applications. There are very few parcels located in FEMA 100 year floodplain in the City limits. They are limited to the Noyo River basin along the haul road and Pudding Creek Area.</p>
SF-2.2 (Coastal)	<p>Require professional inspection of foundations and excavations, earthwork, and other geotechnical aspects of site development during construction on those sites specified in soils, geologic, and geotechnical studies as being prone to moderate or high levels of seismic hazard.</p>	<p>This is ongoing practice for development in areas of seismic hazard.</p>
SF-2.2 (Inland)	<p>Storm Drainage: Continue to maintain effective flood drainage systems and regulate construction to minimize flood hazards.</p>	<p>All development permit applications which disturb more than 120 SF of ground are required to submit a stormwater control plan. The extent of the submittal required is based on the size and scope of the proposed development.</p>

Policy	Objective	Implementation
SF-2.3 (Coastal)	Development on Slopes: Require that development in areas with identified slope stability constraints as shown on Map SF-1 or other areas where City staff determines there is potential slope stability issues be supervised and certified by a geologist, geotechnical engineer, or engineering geologist.	No development permit applications submitted this calendar year for development in areas of geologic hazard shown on Map SF-1.
SF-2.3 (Inland)	Require development to pay for the costs of drainage facilities needed to drain project-generated runoff.	All new development disturbing 120 SF or more ground is required to pay drainage capacity in accordance with the current fee schedule.
SF-2.4 (Coastal)	Tsunami: Minimize development in areas subject to tsunami.	Few areas in the City limits currently identified as subject to Tsunami. No development or permits issued in such areas in previous calendar year.
SF-2.4 (Inland)	Require, where necessary, the construction of siltation/detention basins to be incorporated into the design of development projects.	All construction projects are required to install BMPs appropriate to the development necessary to prevent erosion and sedimentation.
SF-2.5 (Coastal)	Review development proposals to ensure that new development is not in an area subject to tsunami damage and if such development is otherwise allowable that it is designed to withstand tsunami damage.	Few areas in the City limits currently identified as subject to Tsunami. No development or permits issued in such areas in previous calendar year.
SF-2.5 (Inland)	Require, as determined by City staff, analysis of the cumulative effects of development upon runoff, discharge into natural watercourses, and increased volumes and velocities in watercourses and their impacts on downstream properties. Include clear and comprehensive mitigation measures as part of project approvals to ensure that new development does not cause downstream flooding of other properties.	All projects with ground disturbing activities are required to undergo a stormwater review and implement BMPS and LID measures as appropriate for extent of development as regulated by the City's MS4.
SF-2.6 (Coastal)	Avoid siting new critical facilities, including fire and police stations and hospitals in tsunami inundation zones to the maximum extent feasible. If it is necessary to site such facilities in tsunami inundation zones to provide adequate population protection, new critical	No new development of such facilities in previous calendar year.
SF-2.6 (Inland)	Analyze the impacts of and potential flooding issues resulting from Climate Change and rising sea levels on proposed projects located within the 100-year Sea-Level Rise Inundation Area (see Map SF-4).	This is standard practice on all development applications. There are very few developable parcels located in 100 year Sea Level Rise Inundation area inside the City limits. They are

Policy	Objective	Implementation
		limited to the Noyo River basin along the haul road and Pudding Creek Area.
SF-2.7 (Coastal)	Require that overnight visitor-serving facilities in susceptible areas provide tsunami information and evacuation plans.	This can be made a requirement for existing businesses if/when they request a permit from the City.
<p>Goal SF-3 (Coastal): Reduce the risks from flooding.</p> <p>Goal SF-3 (Inland): Ensure emergency preparedness.</p>		
SF-3.1 (Coastal)	Coordinate with County: Continue coordination with the Mendocino County Emergency Services Authority.	On-going effort.
SF-3.1 (Inland)	Coordinate with County: Continue coordination with the Mendocino County Emergency Services Authority	On-Going effort.
SF-3.2 (Coastal)	Maintain an Updated Emergency Plan: Update the City’s Emergency Operations Plan as needed to take into account the requirements of the California Emergency Management Systems (SEMS).	On-Going effort.
SF-3.2 (Inland)	Maintain an Updated Emergency Plan: Update the City’s Emergency Operations Plan as needed to take into account the requirements of the California Emergency Management Systems (SEMS).	The City currently utilizes the Emergency Operations Plan (EOP) 2017. This plan is due to be updated in order to address frequent Public Safety Power Shutoffs (PSPS) measures taken by PG&E due to risk of wildfires in California.
SF-3.4 (Coastal)	Require development to pay for the costs of drainage facilities needed to drain project-generated runoff. Develop a City-wide drainage policy to assist staff to identify drainage improvements or impact fees required for development.	All new development disturbing 120sf or more ground is required to pay drainage capacity in accordance with the current fee schedule. The most current stormdrain master plan was published in 2004 and is due for another update. Staff is also closely following SB231 and considering the potential for a storm water Enterprise Fund.
SF-3.5 (Coastal)	Require, where necessary, the construction of siltation/detention basins to be incorporated into the design of development projects.	All construction projects are required to install BMPs appropriate to the development necessary to prevent erosion and

Policy	Objective	Implementation
		sedimentation.
<p>Goal SF-4 (Coastal): Ensure emergency preparedness.</p> <p>Goal SF-4 (Inland): Reduce fire hazards.</p>		
SF-4.1 (Coastal)	Coordinate with County: Continue coordination with the Mendocino County Emergency Services Authority.	On-going effort, coordinating with Brent Blaser Emergency Services Coordinator, Disasters, Fires, Tsunami, etc
SF-4.1 (Inland)	Minimize Fire Risk in New Development: Review all development proposals for fire risk and require mitigation measures to reduce the probability of fire.	All new commercial, multifamily and single family units are required to provide fire sprinkler suppression. All major development triggering CEQA is further analyzed for potential risk of wildfire.
SF-4.2 (Coastal)	Maintain an Updated Emergency Plan: Update the City’s Emergency Operations Plan as needed to take into account the requirements of the California Emergency Management Systems (SEMS).	On-going effort, created City, County, Tsunami plans with County EOC
SF-4.2 (Inland)	Maintain a High Level of Fire Protection: Work with the Fire Protection Authority to ensure a continued high level of fire protection.	The City continues to work closely with the Fort Bragg Fire Marshal and Fire Chief to review all proposed development.
SF-4.3 (Inland)	Mutual Aid Agreements: Continue to maintain mutual aid agreements.	On-going effort
SF-4.4 (Inland)	Fire Protection Authority Needs: Anticipate the needs of the Fort Bragg Fire Protection Authority.	The City applied for and was awarded CDGB grant funds to design improvements to the Fire Station.
SF-4.5 (Inland)	Vegetation Management: Continue to implement an effective and environmentally sound vegetation management and weed abatement program.	Vegetation can be managed by requiring landscaping plans at the time of land use entitlement or permitting and effectively regulated through on-going code enforcement efforts if weed abatement becomes necessary.

Policy	Objective	Implementation
<p>Goal SF-5 (Coastal): Reduce fire hazards.</p>		
<p>Goal SF_5 (Inland): Maintain effective police services.</p>		
SF-5.1 (Coastal)	Minimize Fire Risk in New Development: Review all development proposals for fire risk and require mitigation measures to reduce the probability of fire.	All new commercial, multifamily and single family units are required to provide fire sprinkler suppression. All major development triggering CEQA is further analyzed for potential risk of wildfire.
SF-5.1 (Inland)	Demand for Police Services: Review development proposals for their demand for police services and implement measures to maintain adequate police services.	In 2019, the City’s Police Department became fully staffed. The City’s recruitment for Officers is usually on-going and offers many growth and training opportunities for the PD employees.
SF-5.2 (Coastal)	Maintain a High Level of Fire Protection: Work with the Fire Protection Authority to ensure a continued high level of fire protection.	The City continues to work closely with the Fort Bragg Fire Marshal and Fire Chief to review all proposed development.
SF-5.2 (Inland)	Shared Resources: Utilize shared resources to improve police response.	The Police Department works closely with City Code Enforcement, Fire Department and Sheriff’s Department to improve police response.
SF-5.3 (Coastal)	Mutual Aid Agreements: Continue to maintain mutual aid agreements.	On-going effort.
SF-5.4 (Coastal)	Fire Protection Authority Needs: Anticipate the needs of the Fort Bragg Fire Protection Authority.	The City applied for and was awarded CDGB grant funds to design improvements to the Fire Station.
SF-5.5 (Coastal)	Vegetation Management: Continue to implement an effective and environmentally sound vegetation management and weed abatement program.	Vegetation can be managed by requiring landscaping plans at the time of land use entitlement or permitting and effectively regulated through on-going code enforcement efforts if weed abatement becomes necessary.
<p>Goal SF-6 (Coastal): Maintain effective police services.</p>		
<p>Goal SF-6 (Inland): Maintain an effective medical emergency response system.</p>		

Policy	Objective	Implementation
SF-6.1 (Coastal)	Demand for Police Services: Review development proposals for their demand for police services and implement measures to maintain adequate police services.	In 2022, the City's Police Department will become fully staffed. The City's recruitment for Officers is usually on-going and offers many growth and training opportunities for the PD employees.
SF-6.1 (Inland)	Emergency Medical Response: Ensure that the Fire Protection Authority and the Mendocino Coast District Hospital continue to maintain a high level of emergency medical response.	On-going effort. 2022 FBPD fully staffed, FBPD responded to several mutual aid requests for fires in 2021.
SF-6.2 (Coastal)	Shared Resources: Utilize shared resources to improve police response.	FBPD has working relationships with all coastal agencies, MCSO, CHP, FBFD, CalFire, State Parks Fish and Wildlife.
SF-6.2 (Inland)	Support Maintenance of Mendocino Coast District Hospital's Emergency Facilities: Continue to encourage the Mendocino Coast District Hospital to maintain its emergency department and acute care facilities.	Ongoing effort.
Goal SF-7 (Coastal): Maintain an effective medical emergency response system.		
Goal SF-8 (Inland): Reduce hazards of transportation, storage, and disposal of hazardous materials and wastes.		
SF-7.1 (Coastal)	Emergency Medical Response: Ensure that the Fire Protection Authority and the Mendocino Coast District Hospital continue to maintain a high level of emergency medical response.	On-going effort, FBPD has an excellent working and training relationship with Mendocino Coast Adventist Hospital staff and administration.
SF-7.1 (Inland)	Protection from Hazardous Waste and Materials: Provide measures to protect the public health from the hazards associated with the transportation, storage, and disposal of hazardous wastes (TSD Facilities).	All development permits and/or change in use with industrial or manufacturing components are reviewed for consistency with standard Hazardous Waste Materials Business Plans. Both Stormwater Staff and Waste Water Staff regularly monitor and verify facilities inside the City's MS4 and Municipal Improvement District to detect and prevent pollution form Hazardous Waste and Materials associated

Policy	Objective	Implementation
		with transportation, storage, and disposal. City staff also works with Mendocino County CUPA and Environmental Health as necessary to mitigate any potential Hazardous Waste concerns.
SF-7.2 (Coastal)	Maintain Mendocino Coast District Hospital’s Emergency Facilities: Continue to encourage the Mendocino Coast District Hospital to maintain its emergency department and acute care facilities.	In 2019, the City Council endorsed a proposed affiliation of Mendocino Coast Hospital with Adventist Health. A proposition (Measure C) to lease Mendocino Coast Hospital to Adventist Health for the next 30 years was passed by voters in November election.
SF-7.2 (Inland)	Support Environmental Review of Hazardous Waste Transportation, Storage and Disposal Facilities: Support a thorough environmental review for Hazardous Waste Transportation, Storage and Disposal (TSD) Facilities, including waste to energy projects, proposed in the Fort Bragg area.	All development permits and/or change in use with industrial or manufacturing components are reviewed for consistency with standard Hazardous Waste Materials Business Plans. Both Stormwater Staff and Waste Water Staff regularly monitor and verify facilities inside the City’s MS4 and Municipal Improvement District to detect and prevent pollution form Hazardous Waste and Materials associated with transportation, storage, and disposal. City staff also works with Mendocino County CUPA and Environmental Health as necessary to mitigate any potential Hazardous Waste concerns.
<p>Goal SF-8 (Coastal): Reduce hazards of transportation, storage, and disposal of hazardous materials and wastes.</p> <p>Goal SF-8 (Inland): Minimize community exposure to electromagnetic fields (EMFs).</p>		
SF-8.1 (Coastal)	Protection from Hazardous Waste and Materials: Provide measures to protect the public health from the hazards associated with the transportation, storage, and disposal of hazardous wastes (TSD Facilities).	On-going monitoring and review of Businesses with Hazardous Materials is a condition of both the Municipal Improvement Districts Waste Discharge Requirement (WDR) Permit and the MS4 Permit. These National Pollution

Policy	Objective	Implementation
		<p>Discharge Elimination Permits (NPDES) require the City Staff regularly inspect or require self-certification from facilities who store, manage, or transport hazardous facilities to ensure protection of the treatment systems and waterways. Some protective measures include Hazardous Materials Business Plans, Stormwater Pollution Prevention Plans, and Waste Water Discharge Agreements, Fats Oils and Grease Program Compliance and secondary containment practices.</p>
<p>SF-8.1 (Inland)</p>	<p>Consider EMFs in Land Use Decisions: Consider information regarding EMF radiation from existing and new electrical transmission lines and substations in making land use decisions.</p>	<p>Small cell wireless Facilities proposing 5G technologies was discussed at length in 2019. City Council directed staff take thorough measures through permit review to reduce public exposure to EMF to the maximum extent allowed by the FCC.</p>
<p>SF-8.2 (Coastal)</p>	<p>Support Environmental Review of Hazardous Waste Transportation, Storage and Disposal Facilities: Support a thorough environmental review for Hazardous Waste Transportation, Storage and Disposal (TSD) Facilities, including waste to energy projects, proposed in the Fort Bragg area.</p>	<p>All development permits and/or change in use with industrial or manufacturing components are reviewed for consistency with standard Hazardous Waste Materials Business Plans. Both Stormwater Staff and Waste Water Staff regularly monitor and verify facilities inside the City’s MS4 and Municipal Improvement District to detect and prevent pollution form Hazardous Waste and Materials associated with transportation, storage, and disposal. City staff also works with Mendocino County CUPA and Environmental Health as necessary to mitigate any potential Hazardous Waste concerns.</p>
<p>SF-8.2 (Inland)</p>	<p>Siting of Schools and Other Sensitive Uses: Minimize and reduce EMF radiation levels near sensitive uses such as schools, hospitals, and playgrounds.</p>	<p>The review and permitting process for siting of small cell facilities employing 5G including the discussion and preferential protection of areas</p>

Policy	Objective	Implementation
		of sensitive populations where permitted by the FCC.
Goal SF-9 (Coastal): Minimize community exposure to electromagnetic fields (EMFs).		
SF-9.1 (Coastal)	Consider EMFs in Land Use Decisions: Consider information regarding EMF radiation from existing and new electrical transmission lines and substations in making land use decisions.	Small cell wireless Facilities proposing 5G technologies was discussed at length in 2019. City Council directed staff take thorough measures in permit review to reduce public exposure to EMF to the maximum extent allowed by the FCC.
SF-9.2 (Coastal)	Siting of Schools and Other Sensitive Uses: Minimize and reduce EMF radiation levels near sensitive uses such as schools, hospitals, and playgrounds.	The review and permitting process for siting of small cell facilities employing 5G including the discussion and preferential protection of areas of sensitive populations where permitted by the FCC.

Noise

Policy	Objective	Implementation
Goal N-1: Protect City residents from harmful and annoying effects of exposure to excessive noise.		
N-1.1	General Noise Levels: The maximum allowable noise levels are established in this Element.	The City continues to review proposed and existing development for compliance with the Noise Element.
N-1.2	Reduce Noise Impacts: Avoid or reduce noise impacts first through site planning and project design. Barriers and structural changes may be used as mitigation techniques only when planning and design prove insufficient.	The City continues to review proposed and existing development for compliance with the Noise Element.
N-1.3	Noise and Land Use Compatibility Standards: Ensure that all new noise sensitive	The City continues to review proposed and

Policy	Objective	Implementation
	development proposals be reviewed with respect to Table N-4: Noise and Land Use Compatibility Standards. Noise exposure shall be determined through actual on-site noise measurements.	existing development for compliance with the Noise Element.
N-1.4	Residential and Noise Sensitive Land Use Standards: Require a standard of 45 L _{dn} for Policy N-1.4 Residential and Noise Sensitive Land Use Standards: Require a standard of 45 L _{dn} for indoor noise level for all new residential development including hotels and motels, and a standard of 60 L _{dn} for outdoor noise at residences. These limits shall be reduced by 5 dB for senior housing and residential care facilities.	The City continues to review proposed and existing development for compliance with the Noise Element.
N-1.5	Non-Transportation Noise Generation: For new non-transportation noise generators, Table N-5 describes the maximum noise level at the nearest residential property line:	The City continues to review proposed and existing development for compliance with the Noise Element.
N-1.6	Mitigate Noise Impacts: Mitigate noise impacts to the maximum feasible extent.	The City continues to review proposed and existing development for compliance with the Noise Element, and mitigate noise impacts to maximum feasible extent.

Sustainability (Inland General Plan only)

Policy	Objective	Implementation
Goal S-1 Maximize the use of green building practices and materials in new and existing development.		
S-1.1	Building Reuse: Where existing buildings in the Plan Area are structurally sound and reuse is economically feasible, reuse of buildings in whole or part is preferred.	Ongoing; the City encourage s applicants to reuse structures.
S-1.2	Encourage Green Techniques: All green building techniques are encouraged, with preference given to techniques that address local issues, such as use of locally produced natural materials, water and energy conservation measures, and techniques that respond appropriately to Fort Bragg’s cool, rainy environment, such as passive solar design and low impact development (LID) strategies.	Ongoing; the City encourage s applicants to implement green building techniques. In 2020 CA Sate Building Code update includes provisions for solar panels.

Policy	Objective	Implementation
S-1.3	Municipal Green Building: All new construction of City-owned buildings shall incorporate sufficient green building methods and techniques to qualify for the equivalent of LEED TM Certified rating. Renovation of City-owned buildings shall seek to incorporate LEED TM prerequisites and credits, where feasible.	Upgrades to the City's Waste Water Treatment Plant will provide a more efficient, cleaner method to process septic.
Goal S-2: Encourage development that minimizes the demand for non-renewable energy and reduces Green House Gas (GHG) emissions.		
S-2.1	Passive Solar Design Strategies: All building and site design shall use passive solar design strategies for space heating and lighting to reduce energy demand to the extent feasible.	Implemented with changes to 2020 CA Building Code that requires all new construction to be solar ready.
S-2.2	Alternative Energy: Encourage the development and use of alternative sources of energy such as wind, solar, and biomass to meet Fort Bragg's energy needs.	Ongoing; the City encourages applicants to utilize alternative sources of energy. Eight (8) electric vehicle charging station are available in City public parking lots.
S-2.3	Reduce Energy Demand with a goal of Net Zero Energy in New Construction. All new construction shall minimize energy use. Net zero buildings and homes are encouraged. These homes produce as much energy (through conservation, photovoltaic panels, solar hot water, wind, and geothermal) as they consume and have a net zero impact on greenhouse gas production.	Ongoing; the City encourage s applicants to reduce energy demand.
S-2.4	Require passive solar design in new construction, where feasible, as part of Design Review.	Implemented with changes to 2020 CA Building Code that requires all new construction to be solar ready.
S-2.5	Use of Local and Renewable Energy: Buildings and infrastructure that create and/or use locally and renewably generated energy are encouraged. Photovoltaic and wind energy systems are encouraged. The installation of solar panels or other clean energy power generation sources over parking areas is preferred.	Ongoing; the City encourages applicants utilize local renewable energy.
S-2.6	Climate Action Plan: Prepare and periodically update the City's greenhouse gas inventory and Climate Action Plan in order to achieve the City's GHG emission reduction targets.	Ongoing; City Council has requested an update to the 2012 Climate Action Plan.
S-2.7	Energy Conservation Measures in existing Buildings: Encourage owners of existing dwellings to retrofit with energy-saving features.	Ongoing; the City encourages applicants to utilize local renewable energy sources/

Policy	Objective	Implementation
Goal S-3: Minimize the use of potable water in new and existing development.		
S-3.1	Reduce Water Use: Minimize the use of potable water in new and existing development.	Ongoing. The City implements the California Building Code which has measures to reduce water usage in new development.
S-3.2	Rainwater Capture: The installation of cisterns is encouraged to capture rainwater from roofs for all water needs and for flood control during heavy storms. Cisterns may be located above or below ground.	Ongoing. The Public Works reviews building permit applications and works with applicants seeking to provide alternative water collection means, such as cisterns, as allowable by the Building Code.
S-3.3	Water Conservation Education: Business/property owners shall incorporate educational programs that promote water conservation habits and practices in all hotel, restaurant, and multi-family residential development.	Ongoing. The City has initiated a Zero Waste program to educate the community on conservation and reuse of nonrenewable materials.
S-3.4	Drought Tolerant Landscaping: New development shall include drought tolerant landscaping for landscaped areas in commercial and multi-family residential uses.	Ongoing. The ILUDC requires drought tolerant, native landscaping as part of new development projects.
Goal S-4: Reduce, recycle, and reuse solid waste generated in the City.		
S-4.1	Recycling: All commercial, office, and multi-family residential developments shall provide a centralized drop-off location for recyclables and compostable materials.	2019 Housing Element update includes State mandated program (Program H-7.1.1) to provide a centralized drop-off location for recyclables and compost at multifamily developments.
S-4.2	Recycling and Reuse of Solid Waste: Comply with State requirements to reduce the volume of solid waste through recycling and reduction of solid waste.	2019 examples include Zero Waste community outreach and education through public workshops and site visits with local businesses.

Housing Element

Fort Bragg's 6th Cycle Housing Element was adopted by City Council on September 9, 2019 and addresses the planning period from 2019 to 2027. Section 65400 of the Government Code also requires the City to submit an annual report on the status and progress of implementing the Housing Element of the General Plan, which was submitted electronically to the California Department of Housing and Community Development (HCD) on March 29, 2021 and as Appendix B.

Jurisdiction	Fort Bragg	
Reporting Year	2021	(Jan. 1 - Dec. 31)
Planning Period	6th Cycle	08/15/2019 - 08/15/2027

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
 (CCR Title 25 §6202)

This table is auto-populated once you enter your jurisdiction name and current year data. Past year information comes from previous APRs.
 Please contact HCD if your data is different than the material supplied here

Table B													
Regional Housing Needs Allocation Progress													
Permitted Units Issued by Affordability													
		1	2								3	4	
Income Level		RHNA Allocation by Income Level	2019	2020	2021	2022	2023	2024	2025	2026	2027	Total Units to Date (all years)	Total Remaining RHNA by Income Level
Very Low	Deed Restricted	60	-	27	-	-	-	-	-	-	-	27	33
	Non-Deed Restricted		-	-	-	-	-	-	-	-	-		
Low	Deed Restricted	31	-	43	-	-	-	-	-	-	-	43	-
	Non-Deed Restricted		-	-	-	-	-	-	-	-	-		
Moderate	Deed Restricted	23	-	-	-	-	-	-	-	-	-	10	13
	Non-Deed Restricted		7	2	1	-	-	-	-	-	-		
Above Moderate		23	5	3	1	-	-	-	-	-	-	9	14
Total RHNA		137											
Total Units			12	75	2	-	-	-	-	-	-	89	60

Note: units serving extremely low-income households are included in the very low-income permitted units totals and must be reported as very low-income units.

Please note: For the last year of the 5th cycle, Table B will only include units that were permitted during the portion of the year that was in the 5th cycle. For the first year of the 6th cycle, Table B will include units that were permitted since the start of the planning period.

Please note: The APR form can only display data for one planning period. To view progress for a different planning period, you may login to HCD's online APR system, or contact HCD staff at apr@hcd.ca.gov.

ANNUAL ELEMENT PROGRESS REPORT

Housing Element Implementation

(CCR Title 25 §6202)

Jurisdiction	Fort Bragg		
Reporting Year	2021	(Jan. 1 - Dec. 31)	
Table D			
Program Implementation Status pursuant to GC Section 65583			
Housing Programs Progress Report			
Describe progress of all programs including local efforts to remove governmental constraints to the maintenance, improvement, and development of housing as identified in the housing element.			
1	2	3	4
Name of Program	Objective	Timeframe in H.E	Status of Program Implementation
Program H-1.1.1 Inventory of Infill Sites	Maintain the inventory of vacant and underdeveloped residentially designated land in the City's GIS system. Provide copies of the inventory for public distribution on the City website.	Ongoing, as vacant sites are developed the GIS system is updated and a map and list of vacant sites is posted on the City's website	Updated in 2019.
Program H-1.3.1 Secondary Dwelling Unit Design	Continue to implement the City's free secondary unit program to provide affordable and aesthetically pleasing second unit designs for the development of secondary units in Fort Bragg.	Ongoing	City utilized SB-2 grant funds to develop designs and engineering for two sets of construction plans for Fort Bragg's Pre-Approved ADU Program: 1) 720 SF one-bedroom; and 2) 960 SF two-bedroom. Currently available to all residents.
Program H-1.3.2 No Development Impact Fees for Secondary Units	Free secondary unit program to provide affordable and aesthetically pleasing second unit desgns.	Ongoing	The City currently does not charge water or sewer capacity fees for ADUs and JADUs.
Program H-1.3.3 Develop Amnesty/Legalization Program for Illegal Second Units	Continue to provide a legalization program for illegal residential units, especially second units, that includes requiring property owners to undertake improvements to meet the requirements of the current building code.	2020-2021	Implemented in 2015. The City charges no penatly fees or back payment for illegal units that submit building permit to be legalized.

<p>Program H-1.3.4 Junior Accessory Dwelling Units</p>	<p>Consider revising the zoning ordinance to allow junior accessory dwelling units (units no more than 500 SF and contained entirely within an existing single-family structure) in single-family residential and multifamily zoning. The Junior Accessory units would be in addition to a second unit, allowing up to 3 units per parcel by right.</p>	<p>2021</p>	<p>Implemented in 2020.</p>
<p>Program H-1.3.5 Allow Tiny Homes as Second Units</p>	<p>Consider revising the zoning ordinance so that people can park mobile residencies (residences built under the vehicle code) as a second unit, so long as the residence looks like a house (e.g. external siding that is compatible with the residential neighborhood, skirted if the wheels would otherwise be visible from the public right of way, etc.).</p>	<p>2022</p>	<p>Received SB-2 Grant funding. As of March 23, 2022 the City is bringing a tiny home ordinance to Planning Commission for review which would allow these types of residences..</p>
<p>Program H-1.3.6 Alternative Designs for Second Units</p>	<p>Explore options for allowing cutting edge construction techniques for second units including but not limited to: straw bale, rammed earth, prefabricated second units, etc.</p>	<p>2021</p>	<p>To be considered</p>
<p>Program H-1.6.1 List of Vacant Parcels</p>	<p>Continue to update the vacant parcels map and provide information to potential developers about infill development opportunities in Fort Bragg.</p>	<p>Ongoing. As vacant sites are developed, the GIS system is updated and a map and list of vacant sites is posted on the City's website.</p>	<p>Updated in 2019 and will be revised in 2020-2022</p>

<p>Program H-1.6.2 Planning Incentives</p>	<p>Consider adopting planning incentives for new residential development on infill sites</p>	<p>Consider updating the LUDC to provide a mechanism for market rate housing projects to request up to one planning incentive for development of market rate housing on infill sites (as defined by CEQA).</p>	<p>Presented to Council 2020 as part of an Economic Policy Manual. Received direction to move forward. Plans to implement 2020-2025</p>
<p>Program H-1.6.3 Redevelopment of Non-Vacant Sites</p>	<p>Require the replacement of housing units subject to the requirements of Government Code, section 65915, subdivision (c)(3) on sites identified in the site inventory when any new development (residential, mixed-use or non-residential) occurs on a site that has been occupied by or restricted for the use of lower-income households at any time during the previous five years. This requirement applies to: 1) non-vacant sites and 2) vacant sites with previous residential uses that have been vacated or demolished.</p>	<p>The replacement requirement will be implemented by 2020/21 and applied as applications on identified sites are received and processed.</p>	<p>To be implemented</p>
<p>Program H-1.7.1 Permit Steamlining</p>	<p>Develop a streamline permitting process for local and out of area developers to permit affordable and market-rate multi-unit housing projects. Project streamlining for larger vacant parcels (2 to 10 acres) could consist of: 1) completion of all resource studies (botanical, traffic, cultural resources, etc.); 2) completion of the CEQA analysis; and/or 3) completion of the site plan, elevations, and all permitting for a vacant parcel.</p>	<p>2020-2025</p>	<p>To be considered</p>

Program H-1.7.2 Site Improvements	Obtain grant funding for off-site improvements in support of affordable multi-unit housing projects	Ongoing	Partnered with developer, Danco, to apply for Infill Infrastructure Grant funds and was awarded nearly \$3.1 million for "The Plateau" project. The project is expected to be completed throughout 2022 and into 2023
Program H-1.7.3 Market Study	Complete a housing market study for market rate multi-family housing development in Fort Bragg and use it to market Fort Bragg to housing developers.	Ongoing	To be implemented
Program H-1.7.4 Attract Multi-Unit Developers	Work to attract multi-unit housing developers to the Fort Bragg Market place.	Ongoing	Currently working with multi-unit developer, DANCO.
Program H-1.7.5 Allow Higher Density by Right	Consider revising the zoning ordinance to allow for one or more of the following: 1) allow multi-family development in Medium Density and High Density zoning districts (by right) without Use Permit approval; 2) allow multi-family development (by right) without use permit approval in all zoning districts if the project includes 20 percent or more of its units affordable to lower income household; and/or 3) allow multi-family projects of 5 units or less without use permit approval in Medium and High density zoning districts.	2020-2022	To be considered
Program H-1.7.6 Allow Higher Densities in Single Family Residential Districts with Use Permit Approval	Consider revising the zoning ordinance to allow three or four unit developments on larger parcels within Single Family Residential Zoning districts with a Use Permit. Consider revisions to the Lot Coverage Ratio and Floor Area Ratio to control building size and massing.	2020-2021	2020 JADUs now allowed by right. City will consider allowing more than ADU and JADU. Received SB-2 Grant funding. Deliverable 2022.

<p>Program H-1.7.7 Simplify Design Review for Small Residential Projects</p>	<p>Continue the process of revising the Design Review Guidelines to make them more effective. Consider exempting 3 and/or 4 unit projects from the need to obtain a Design Review permit and/or consider simplifying the Design Review requirements for 3 and 4 unit projects.</p> <p>Continue the process of revising the Design Review Guidelines to make them more effective. Consider exempting 3 and/or 4 unit projects from the need to obtain a Design Review permit and/or consider simplifying the Design Review requirements for 3 and 4 unit projects.</p>	<p>Ongoing.</p>	<p>To be considered. In relation to the Design Guidelines update, the Ad-Hoc team decided to remove single family residences from design guideline requirements.</p>
<p>Program H-1.7.8 Workforce Housing in Mixed-Use Zoning</p>	<p>Continue to allow workforce housing in all zoning districts that allow mixed-use development.</p>	<p>Ongoing</p>	<p>Implemented</p>
<p>Program H-1.7.9 Live-Work Housing in Industrial Zoning Districts</p>	<p>Continue to allow live-work housing in all industrial zoning districts.</p>	<p>Ongoing</p>	<p>Implemented</p>
<p>Program H-1.7.10 Tiny Home Communities</p>	<p>Consider adopting new zoning regulations to allow for small home subdivisions, with small individual parcel ownership, in all residential zoning districts. Consider changing the minimum lot size and minimum parcel dimensions of the LUDC to accommodate tiny home communities as part of a planned unit development.</p>	<p>2020-2021</p>	<p>Received SB-2 Grant funding. As part of a tiny home ordinance, these types of small homes are now allowed in mobile home parks.</p>

<p>Program H-1.7.11 Public Private Partnership for Major Subdivisions</p>	<p>Consider establishing a partnership between the City and existing property owners to complete subdivisions of 4+ lots for resale of parcels. This program could consist of the City taking the role of agent for the subdivision of underutilized parcels into smaller lots in Fort Bragg in order to facilitate utilization of these parcels for residential development. For example, the City could complete all the studies and the subdivision to divide the main lot into smaller lots, which the property owner could then sell. The City could be repaid by the property owner upon sale of the parcels or receive a dedication of one parcel for affordable housing.</p>	<p>2020-2025</p>	<p>To be considered</p>
<p>Program H-1.7.12 Mitigation Banks</p>	<p>Consider establishing a habitat and/or wetland mitigation bank with a non-profit Land Trust to establish an offsite mitigation bank for impacts to wetlands and ESHA communities.</p>	<p>2020-2021</p>	<p>To be considered</p>
<p>Program H-1.7.13 Rezone a Portion of the GP Mill Site for Housing</p>	<p>Continue the community-based planning process and consider rezoning a portion of the Mill Site for workforce and affordable housing. Consider submitting a Local Coastal Program to the Coastal Commission for the approval of at least 25 acres of residential zoning on the Mill Site.</p>	<p>2020-2025</p>	<p>In process.</p>

<p>Program H-1.8.1 Repair and Replace</p>	<p>Give preference to the repair or replacement of residential structures whenever it is economically feasible (repair of less than 75% of structure) over replacement with non-housing structures.</p>	<p>Ongoing</p>	<p>Implementation is ongoing</p>
<p>Program H-1.8.2 Substandard Housing Program</p>	<p>Participate in the Franchise Tax Board (FTB) Substandard Housing Program, which assists the state and local agencies responsible for addressing unsafe living conditions that violate health and safety codes. Property owners in violation of health and safety code standards are not allowed to make certain deductions on their personal tax returns pursuant to California Revenue & Taxation Code (CR&TC) Sections 17274 and 24436.5. That additional revenue collected by FTB is transferred to the Local Code Enforcement Rehabilitation fund. These funds are then disbursed to the cities and counties that generated the notification of substandard housing to the FTB. The City will use funds collected from Franchise Tax Board (FTB) Substandard Housing Program for code enforcement for residential properties and to address health and safety issues in residential properties that would otherwise be red-tagged.</p>	<p>Ongoing</p>	<p>To be implemented. The City received CDBG grant funds to develop and implement a code enforcement program, focused on strengthening residential neighborhoods and will fold this program into efforts.</p>
<p>Program H-1.9.1 Building Permits</p>	<p>Consider hiring a contract building inspector to bring building inspection services into the City in order to improve timeliness and inspection certainty.</p>	<p>2020-2025</p>	<p>To be considered</p>

Program H-1.9.2 Reduce Cost of Construction	Explore the feasibility of adopting a modified version of the Uniform Building Code and consider not adopting some of the costly new 2020 UBC requirements.	2020	To be considered
Program H-2.1.1 Available Funding	Seek available State and Federal assistance to develop affordable housing for seniors, the disabled, persons with developmental disabilities, lower-income large households, and households with special housing needs. Work with non-profit and for-profit affordable housing developers to apply for State and Federal funding. Seek funding for affordable housing from all sources.	Apply for funding as funding cycles occur	Implementation is ongoing.
Program H-2.2.1 Affordable Senior Housing	Maintain an inventory which identifies properties which are potentially well-suited for senior housing. Work with developers to facilitate funding and construction of senior housing.	Periodically update inventory of properties suitable for senior housing.	Implementation is ongoing.
Program H-2.2.2 House Sharing	Work with area non-profits to explore the feasibility of establishing house sharing programs for seniors by creating a matching and vetting process.	2020-2025	To be implemented
Program H-2.2.3 Encourage Housing for Seniors with Pets	Consider methods to encourage developers of senior housing to include pet friendly units and/or accommodations for pets, especially service animals for seniors.	2020-2025	To be considered

<p>Program H-2.2.4 Encourage Housing with Dementia Care and Assisted Living for Seniors</p>	<p>Work to attract a business that provides dementia care and assisted living facilities to Fort Bragg to serve our aging senior population. Identify vacant parcels that would be suitable for an Assisted Living facility. Consider if the zoning ordinance should be revised to make it easier to develop an assisted living facility in Fort Bragg.</p>	<p>2020-2025</p>	<p>As of April 2021, an Assisted Living Facility at 350 Cypress received entitlements. The project is currently going through building permit approvals but construction is expected to start spring 2022.</p>
<p>Program H-2.4.1 Inclusionary Housing Ordinance</p>	<p>Continue to implement the City's Inclusionary Housing Ordinance. Monitor the Inclusionary Housing Ordinance to determine if it constrains new housing development and if it does, take action to mitigate the constraint on new housing development.</p>	<p>Monitoring 2020-2023 & take action 2023-2025</p>	<p>To be implemented.</p>
<p>Program H-2.4.2 Support Self Help Housing</p>	<p>Continue to provide one or two planning incentives for self-help affordable housing.</p>	<p>Ongoing</p>	<p>Ongoing</p>
<p>Program H-2.4.3 Support SRO Housing</p>	<p>Continue to encourage and facilitate Single- Room Occupancy Units by allowing rooming and boarding with a Minor Use Permit in the RM and RH zones. Consider allowing SRO housing in RVH zones by right (without Use Permit approval).</p>	<p>Changes to the zoning code have been completed. Implementation</p>	<p>Ongoing Permitted by right in RVH zoning to be considered.</p>
<p>Program H-2.4.4 Consider Community Land Trust</p>	<p>Complete research regarding Community Land Trust and consider working with community partners to establish a Community Land Trust that serves Fort Bragg.</p>	<p>2020-2025</p>	<p>In process. Obtained SB-2 Grant funds for implementation.</p>
<p>Program H-2.4.5 Prioritize City Services for Housing Developments</p>	<p>Continue to implement procedures to grant priority service for sewer and water services to residential developments.</p>	<p>Ongoing</p>	<p>Ongoing</p>

<p>Program H-2.4.6 Support Effective Use of Housing Vouchers</p>	<p>Work with non-profit partners to develop a program that may include one or more of the following: assist landlords to bring units up to minimum requirements for voucher program; complete a new study on the cost of living to increase the voucher payment rate; develop an 10 - Housing Element 2019 10-14 education program for landlords about the benefits of the voucher program; and/or provide case work services for voucher tenants.</p>	<p>2020-2025</p>	<p>In process. Successively worked with the Strategic Committee of Mendocino Continuum of Care to place an incentive/education program for landlords in the Strategic Plan. The CDC is organization implementing benefit program.</p>
<p>Program H-2.4.7 Supportive Housing</p>	<p>Revise the City's zoning ordinance so that it complies with AB 2162, which requires the City to allow supportive housing by right in all multi-family zoning districts and in all mixed-use zoning districts.</p>	<p>2022-2023</p>	<p>Annually (include with the annual review of the Capital Improvement Program (CIP) by the Planning Commission)</p>

<p>Program H-2.4.8 Maximize Housing Density by Right for Projects with 20%+ Affordable Units</p>	<p>Revise the LUDC to allow the maximum density permissible within a zoning district by right (no Use Permit) for all residential projects that include at least 20% of units deed restricted at rents affordable to low income households and that have been listed in the last two Housing Elements as an eligible site in the Vacant Parcel Inventory for the RHNA, these parcels are listed on the Vacant Parcel Inventory and include: 008-172-09, 251 So Franklin St; 018-440-58, 1151 So Main St; 018-150-61, 1190 So Main St; 018-090-02, 700 River Dr.; 018-090-16, 700 River Dr.; 008-010-31, 1020 Glass Beach Dr.; 018-113-03, 970 Chestnut St; 008-010-33, 1080 Glass Beach Dr.; 008-290-73, 1329 Cedar St; 008-302-28, 1328 Cedar St; 008-290-34, 1325 Cedar St; 018-100-42, 485 So Lincoln St; 018-210-29, 860 Hazelwood St; 020-520-22, 1600 Oak St; 018-440-50, 200 We Ocean View Dr.; 018-113-01, 552 S Lincoln St; 018-440-38, 350 Ocean View Dr.; 018-440-49, 250 We Ocean View Dr.; 018-340-04, 441 South St; 018-340-03, 601 Cypress St; 008-350-60, 920 Stewart St; 018-150-58, No Street Address; 018-150-56, No Street Address;</p>	<p>Ongoing.</p>	<p>To be considered and implemented.</p>
<p>Program H-2.4.9 Encourage and Support Land Divisions to Support Affordable Housing</p>	<p>The City shall encourage lot line adjustments and land divisions resulting in parcels sizes that facilitate multifamily developments affordable to lower income households on all sites in the Vacant Land Inventory.</p>	<p>2019-2027</p>	<p>To be considered and implemented.</p>

<p>Program H-2.6.1 Seek Funding to Develop or Rehabilitate Housing for Large Low-Income Families</p>	<p>Continue to work with affordable housing developers to identify a potential new construction or rehabilitation project that will serve large lower-income families and obtain and administer a grants specifically to accommodate large families.</p>	<p>Ongoing</p>	<p>Ongoing.</p>
<p>Program H-2.7.1 Expedited Permit Processing and Reasonable Accommodation Program</p>	<p>Continue to provide expedited permit processing and reasonable accommodation program to projects targeted for persons with disabilities, including those with developmental disabilities. Encourage developers of supportive housing to develop projects targeted for persons with disabilities, including those with developmental disabilities. Place info about the reasonable accommodation program on the City's website.</p>	<p>Ongoing</p>	<p>Ongoing. Received SB-2 Grant funding for implementation of software to expedite permitting.</p>
<p>Program H-2.8.1 Ongoing Estimates of the Demand for Emergency Housing</p>	<p>Continue to work with the Fort Bragg Police Department and homeless service providers in the community to maintain ongoing estimates of the demand for emergency housing in Fort Bragg and to develop strategies to meet that demand.</p>	<p>Annual Update</p>	<p>City participation in county point in time counts for unsheltered.</p>
<p>Program H-2.8.2 Inter-Agency Cooperation</p>	<p>Continue to work with private, non-profit, County, and State agencies to provide transitional housing, supportive services and emergency housing for the homeless.</p>	<p>Ongoing</p>	<p>Ongoing. In 2019, City staff joined Mendocino County Homeless Services Continuum of Care Strategic Planning Committee, and attends board meetings.</p>

Program H-2.8.3 Transitional and Supportive Housing	Continue to regulate transitional and supportive housing as a residential use subject to the same restrictions that apply to other residential use types and dwellings of the same type in the same zone.	Changes to the zoning code have been completed. Implementation is ongoing.	Ongoing.
Program H-2.8.4 Transitional and Supportive Housing	Consider working with area non-profits to establish a tiny home (small cottage) community for Transitional Housing.	2020-2025	With grant funding from SB2, a tiny home ordinance is expected to be passed in spring 2022 which would allow tiny homes in mobile home parks.
Program H-2.8.5 Emergency Shelters	Continue to allow emergency shelters as a permitted use in the General Commercial (CG) zoning district.	Changes to the zoning code have been completed. Implementation is ongoing.	Implemented.
Program H-2.8.6 Emergency Shelter for Families	Work with area non-profits to establish an emergency shelter for families.	2020-2025	To be considered and implemented.
Program H-2.8.7 Emergency Shelters Regulatory Changes	Consider revising the LUDC to ensure that emergency shelters are subject only to the following requirements (per State law): 1) maximum number of beds; 2) off-street parking based upon demonstrated need; 3) size and location of onsite waiting and intake areas; 4) provision of onsite management; 5) proximity to other shelters; 6) length of stay; 7) lighting; and 8) security during hours when the shelter is open.	Changes to the zoning code will take place in 2020/21.	To be considered and implemented.
Program H-2.8.8 Evidence-Based Homeless Services	Consider the key findings of research and evidence-based approaches when considering funding solutions for homelessness.	Ongoing	Ongoing. In 2019, City staff joined Mendocino County Homeless Services Continuum of Care Strategic Planning Committee, and attends regular monthly board meetings.

<p>Program H-2.8.9 Safe Pilot Parking Program</p>	<p>The City Council will consider 10 - Housing Element 2019 10-17 developing a safe parking program that may consist of one or more of the following actions: 1) analyze the issue to determine how best to address the issue of homeless people sleeping in their cars; 2) identify and engage local stakeholder; 3) develop and implement a plan of action.</p>	<p>2020-2022</p>	<p>To be considered and implemented.</p>
<p>Program H-2.8.10 Define Group Home</p>	<p>Revise the ILUDC and CLUDC to define group homes that serve 6 or fewer as a permitted use in all zones in which a singlefamily home is permitted, and to define group homes with 7 or more residents as an organizational house.</p>	<p>2020-2022</p>	<p>To be implemented</p>
<p>Program H-2.9.1 First Time Home Buyers</p>	<p>Consider whether to require, through the inclusionary housing ordinance, the provision of housing units affordable to first time home buyers who qualify for affordable housing.</p>	<p>2020-2025</p>	<p>To be considered.</p>
<p>Program H-2.9.2 Funding Sources for First Time Home Buyers</p>	<p>Continue applying for funding sources for first time home buyers, if the housing market and funding requirements will result in a successful program, and provide referrals to FHA programs offered by local lenders and sweat-equity programs operated by non-profit housing organizations.</p>	<p>Ongoing</p>	<p>Ongoing.</p>

<p>Program H-2.9.3 Revise Annexation Rules</p>	<p>Consider revising the regulations regarding annexations to increase the amount of land zoned for residential development within City limits, especially as water storage and wastewater treatment are less of a limit to the expansion of the City limits, and as some areas adjacent to the City do not have the correct soils for septic systems and/or do not have an onsite water source.</p>	<p>2019-2025</p>	<p>To be considered.</p>
<p>Program H-3.1.1 Housing Discrimination Complaints</p>	<p>Continue to facilitate equal housing opportunity by referring housing discrimination complaints to the Fair Housing Division of HUD. Continue to distribute information regarding equal housing opportunity laws and the equal housing opportunities for Fair Housing at City Hall.</p>	<p>Ongoing</p>	<p>Ongoing.</p>
<p>Program H-3.1.2 Non-discrimination Clauses</p>	<p>Include non-discrimination clauses in rental agreements and deed restrictions for housing constructed with City assistance.</p>	<p>Ongoing</p>	<p>Ongoing.</p>
<p>Program H-3.2.1 Use Housing Funds</p>	<p>Use housing funds as available, to support renovations and improvements to accessibility in affordable housing for qualified seniors, persons with disabilities and persons with developmental disabilities.</p>	<p>Ongoing</p>	<p>Ongoing.</p>

<p>Program H-3.2.2 Reasonable Accommodation for Persons with Disabilities and Developmental Disabilities</p>	<p>Continue to review the City’s land use and building regulations to identify constraints that may exist for the provision of housing for persons with disabilities and developmental disabilities, and continue to implement the City’s policy and programs to provide reasonable accommodations for persons with disabilities and developmental disabilities. Publicize revisions to land use regulations and the City’s policy and programs for providing reasonable accommodation for persons with disabilities.</p>	<p>Implemented and Ongoing</p>	<p>Ongoing.</p>
<p>Program H-3.2.3 Reasonable Accommodation</p>	<p>Ensure all new, multi-family construction meets the accessibility requirements of the federal and State Fair Housing Acts through local permitting and approval processes.</p>	<p>Ongoing</p>	<p>Ongoing.</p>
<p>Program H-4.1.1 Continue to Pursue Strategies to Address Water Pressure Issues</p>	<p>Continue to pursue strategies to address water pressure issues that impact development potentials.</p>	<p>Ongoing</p>	<p>The City completed multiple water projects to help mitigate water pressure issues and potential impact on development. These include a water treatment plant upgrade, raw water line replacement, and a desalination system.</p>
<p>Program H-4.1.2 Reduce Capacity Fess for Smaller Units</p>	<p>Consider charging water and sewer capacity fees based on the size of the unit (either square feet or number of bedrooms) in order to ensure that each unit pays its fair share for capacity costs.</p>	<p>2020-2022</p>	<p>To be considered and implemented.</p>

<p>Program H-5.1.1 Housing Rehabilitation Projects</p>	<p>Seek funding to assist in the rehabilitation and conservation of multi-family residential projects. Work with non-profit and for-profit affordable housing developers to achieve successful rehabilitation of multi-family housing. Utilize rehabilitation funds to add bedrooms to overcrowded units, as feasible.</p>	<p>Annually as an ongoing program</p>	<p>Ongoing.</p>
<p>Program H-5.1.2 Target Areas</p>	<p>Continue to identify target areas and specific properties where housing rehabilitation is most needed through a periodic update of the housing conditions survey which identifies the neighborhoods and areas requiring rehabilitation assistance.</p>	<p>Update in 2021</p>	<p>To be updated.</p>
<p>Program H-5.1.3 Housing Rehabilitation/Preservation Program</p>	<p>Continue the City's housing rehabilitation program which provides low interest loans for the rehabilitation of homes owned or occupied by very low to moderate income households. Continue to seek funding for the housing rehabilitation loan program. Facilitate citizen awareness of the City's rehabilitation loan program.</p>	<p>In place and Ongoing</p>	<p>Ongoing.</p>
<p>Program H-5.1.4 Capital Improvement Program</p>	<p>Consider capital improvement projects necessary to maintain the community's older neighborhoods as part of the City Council's annual review of the Capital Improvement Program.</p>	<p>Annually as an ongoing program</p>	<p>Completed each year.</p>

<p>Program H-5.2.1 Discourage Vacation Rentals</p>	<p>Continue to prohibit vacation rentals in all zoning districts except for the CBD. Undertake proactive undercover code enforcement activity on a regular basis against all illegal vacation rentals in Fort Bragg. Work with the County of Mendocino at all levels to reduce or eliminate further conversions of residential units into vacation rentals as this practice has greatly increased the magnitude of the housing crisis on the Mendocino coast and in the City of Fort Bragg.</p>	<p>Ongoing.</p>	<p>Vacation rentals continue to be restricted to the CBD and with an active code enforcement officer, vacation rentals are continuously checked for compliance.</p>
<p>Program H-2.2.2 Single-Family Homes</p>	<p>Continue to allow the reuse of existing singlefamily residences, in commercial zones, as single-family residences. Consider allowing second units on commercially zoned parcels with existing single family homes.</p>	<p>2020-2021</p>	<p>Implemented.</p>
<p>Program H-5.2.3 Housing Rehabilitation in Non-Residential Areas</p>	<p>Continue to permit substantial rehabilitation of, and additions to, existing housing located in zones where it is a legal nonconforming use.</p>	<p>Ongoing.</p>	<p>Ongoing.</p>
<p>Program H-5.3.1 Develop At-Risk Units Program</p>	<p>Maintain an inventory of at-risk affordable housing units and work with property owners and non-profit affordable housing organizations to preserve these units by identifying and seeking funds from Federal, State and local agencies to preserve the units.</p>	<p>Ongoing</p>	<p>Ongoing.</p>
<p>Program H-5.3.2 Require At-Risk Education Program</p>	<p>Work with property owners and non-profit affordable housing organizations to ensure that tenants receive required education and notifications regarding at-risk units.</p>	<p>Ongoing</p>	<p>Ongoing.</p>

<p>Program H-5.3.3 Monitor At-Risk Units</p>	<p>No units are currently at risk in the City of Fort Bragg. All units are guaranteed to remain affordable through 2031. The City will monitor the units that are at risk in the 2030 decade to ensure that they remain affordable.</p>	<p>2025-2030</p>	<p>Ongoing.</p>
<p>Program H-5.3.4 Replacement Program for Units Demolished for New Development</p>	<p>Consider modification of the Land use and Development Code to require replacement of low and moderate income residential units, when such units are demolished to accommodate new development.</p>	<p>2025-2030</p>	<p>To be considered.</p>
<p>Program H-5.3.5 Work with Potential Purchasers of At-Risk Units</p>	<p>Establish contact with public and nonprofit agencies interested in purchasing and/or managing units atrisk in the 2030 decade to inform them of the status of these projects. Where feasible, provide technical assistance and support to these organizations with respect to acquisition. Consider reducing or waiving development fees associated with preservation or replacement of at-risk units. Assist property owners with grant applications for funding for mortgage refinancing, acquisition, rehabilitation, and gap funding for affordable development. Access funding resources such as tax-exempt bonds, housing tax credits, Community Development Block Grants, HOME funds for the preservation of affordable housing units.</p>	<p>Ongoing</p>	<p>Ongoing. To be reconsidered and improved.</p>

<p>Program H-5.3.6 Maintain List of At-Risk Projects</p>	<p>Actively pursue affordable housing opportunities and maintain a list of interested and qualified affordable housing developers.</p>	<p>Ongoing</p>	<p>Ongoing. To be reconsidered and improved.</p>
<p>Program H-5.3.7 Provide Tenant Education and Assistance Tenants of At-Risk Projects</p>	<p>Require property owners to give a 3-year, 12-month and 6-month notice of their intent to opt out of low-income use restrictions. Work with tenants of at-risk units 10 - Housing Element 2019 10-22 and provide them with education regarding tenant rights and conversion procedures. Assist tenants of existing rent restricted units to obtain priority status on housing choice voucher waiting list.</p>	<p>Ongoing</p>	<p>Ongoing. To be reconsidered and improved.</p>
<p>Program H-6.1.1 Workshops</p>	<p>Continue to hold workshops and public hearings to discuss proposed revisions to the City's Housing Element.</p>	<p>Annually</p>	<p>In 2019 the City undertook a comprehensive update to the Housing Element, adding 38 new City initiated programs/policies and 14 State mandated programs/policies. Implementation of Housing Element is a City priority and is ongoing.</p>
<p>Program H-6.2.1 Annual Report</p>	<p>Prepare an annual report that describes the amount and type of housing constructed, the stock of affordable housing units, demolition permits, and conversion of residential units to other uses, and other housing-related activities for review by the EDAC, Planning Commission, and City Council.</p>	<p>Annually (include with the annual review of the Capital Improvement Program (CIP) by the Planning Commission)</p>	<p>Ongoing.</p>
<p>Program H-7.1.1 Recycling</p>	<p>Consider revising the zoning ordinance so that all multifamily residential developments provide a centralized drop-off location for recyclables and compostable materials.</p>	<p>Changes to the zoning code will take place in 2022.</p>	<p>To be considered or implemented.</p>

<p>Program H-7.1.2 Rainwater Capture and Drought Tolerant Landscaping</p>	<p>Consider revising the zoning ordinance to incentivize the installation of cisterns to capture rainwater from roofs for all water needs. Consider revising the zoning ordinance to require drought tolerant landscaping for landscaped areas in commercial and multifamily residential uses.</p>	<p>2020-2021</p>	<p>To be considered.</p>
<p>Program H-7.1.3 Sustainable Building Techniques</p>	<p>Encourage housing that includes environmental benefits such as energy conservation, green building, water conservation, and recycling.</p>	<p>2020-2022</p>	<p>Informational brochures have been developed. The proposed revisions to the Citywide Design Guidelines promote these methods.</p>
<p>Program H-7.1.4 Passive Solar Design Strategies</p>	<p>Consider revising the zoning ordinance to incentivize or require passive solar design strategies for space heating and lighting to reduce energy demand to the extent feasible in all residential and mixeduse buildings and in site design. Alternatively, revise the Citywide Design Guidelines to require passive solar and prefer active solar installations for all projects of more than 5,000 SF.</p>	<p>Ongoing.</p>	<p>2020 CA Building Code includes provisions for solar on all new construction. The revised Citywide Design Guidelines recommends passive solar design strategies.</p>
<p>Program H-7.1.5 Energy Retrofit Program</p>	<p>Continue to apply for and administer funds to assist residents with energy conservation retrofits and weatherization resources. Continue to partner with community services agencies to provide financial assistance for low-income persons to offset the cost of weatherization and heating and cooling homes.</p>	<p>Ongoing</p>	<p>Ongoing.</p>

Jurisdiction	Fort Bragg	
Reporting Period	2021	(Jan. 1 - Dec. 31)
Planning Period	6th Cycle	08/15/2019 - 08/15/2027

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
(CCR Title 25 §6202)

Note: "+" indicates an optional field
Cells in grey contain auto-calculation formulas

Table F

Units Rehabilitated, Preserved and Acquired for Alternative Adequate Sites pursuant to Government Code section 65583.1(c)

Please note this table is optional: The jurisdiction can use this table to report units that have been substantially rehabilitated, converted from non-affordable to affordable by acquisition, and preserved, including mobilehome park preservation, consistent with the standards set forth in Government Code section 65583.1, subdivision (c). Please note, motel, hotel, hostel rooms or other structures that are converted from non-residential to residential units pursuant to Government Code section 65583.1(c)(1)(D) are considered net-new housing units and must be reported in Table A2 and not reported in Table F.

Activity Type	Units that Do Not Count Towards RHNA ⁺ Listed for Informational Purposes Only				Units that Count Towards RHNA ⁺ Note - Because the statutory requirements severely limit what can be counted, please contact HCD to receive the password that will enable you to populate these fields.				The description should adequately document how each unit complies with subsection (c) of Government Code Section 65583.1 ⁺
	Extremely Low-Income ⁺	Very Low-Income ⁺	Low-Income ⁺	TOTAL UNITS ⁺	Extremely Low-Income ⁺	Very Low-Income ⁺	Low-Income ⁺	TOTAL UNITS ⁺	
Rehabilitation Activity									
Preservation of Units At-Risk									
Acquisition of Units									
Mobilehome Park Preservation									
Total Units by Income									

Jurisdiction	Fort Bragg	
Reporting Year	2021	(Jan. 1 - Dec. 31)
Planning Period	6th Cycle	08/15/2019 - 08/15/2027

Building Permits Issued by Affordability Summary		
Income Level		Current Year
Very Low	Deed Restricted	0
	Non-Deed Restricted	0
Low	Deed Restricted	0
	Non-Deed Restricted	0
Moderate	Deed Restricted	0
	Non-Deed Restricted	1
Above Moderate		1
Total Units		2

Note: Units serving extremely low-income households are included in the very low-income permitted units totals

Units by Structure Type	Entitled	Permitted	Completed
SFA	0	0	0
SFD	0	1	0
2 to 4	0	0	0
5+	0	0	0
ADU	0	1	0
MH	0	0	0
Total	0	2	0

Housing Applications Summary	
Total Housing Applications Submitted:	5
Number of Proposed Units in All Applications Received:	5
Total Housing Units Approved:	5
Total Housing Units Disapproved:	0

Use of SB 35 Streamlining Provisions	
Number of Applications for Streamlining	0
Number of Streamlining Applications Approved	0
Total Developments Approved with Streamlining	0
Total Units Constructed with Streamlining	0

Units Constructed - SB 35 Streamlining Permits			
Income	Rental	Ownership	Total
Very Low	0	0	0
Low	0	0	0
Moderate	0	0	0
Above Moderate	0	0	0
Total	0	0	0

Cells in grey contain auto-calculation formulas

Jurisdiction	Fort Bragg
Reporting Year	2021 (Jan. 1 - Dec. 31)

ANNUAL ELEMENT PROGRESS REPORT
Local Early Action Planning (LEAP) Reporting
 (CCR Title 25 §6202)

Please update the status of the proposed uses listed in the entity's application for funding and the corresponding impact on housing within the region or jurisdiction, as applicable, categorized based on the eligible uses specified in Section 50515.02 or 50515.03, as applicable.

Total Award Amount	\$	64,951.00	<i>Total award amount is auto-populated based on amounts entered in rows 15-26.</i>
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Task	\$ Amount Awarded	\$ Cumulative Reimbursement Requested	Task Status	Other Funding	Notes
Community Land Trust Model	\$35,161.00	\$0.00	In Progress	Other	in conjunction with SB-2 funds
Tiny Homes as ADU	\$8,009.00	\$0.00	In Progress	Other	in conjunction with SB-2 funds
Housing Vouchers	\$10,722.00	\$0.00	In Progress	None	
Certified LCP Housing Element	\$9,849.00	\$0.00	In Progress	None	
Project Management	\$1,210.00	\$0.00	In Progress	None	

Summary of entitlements, building permits, and certificates of occupancy (auto-populated from Table A2)

Completed Entitlement Issued by Affordability Summary		
Income Level		Current Year
Very Low	Deed Restricted	0
	Non-Deed Restricted	0
Low	Deed Restricted	0
	Non-Deed Restricted	0
Moderate	Deed Restricted	0
	Non-Deed Restricted	0
Above Moderate		0
Total Units		0

Building Permits Issued by Affordability Summary		
Income Level		Current Year
Very Low	Deed Restricted	0
	Non-Deed Restricted	0
Low	Deed Restricted	0
	Non-Deed Restricted	0
Moderate	Deed Restricted	0
	Non-Deed Restricted	1
Above Moderate		1
Total Units		2

Certificate of Occupancy Issued by Affordability Summary		
Income Level		Current Year
Very Low	Deed Restricted	0
	Non-Deed Restricted	0
Low	Deed Restricted	0
	Non-Deed Restricted	0
Moderate	Deed Restricted	0
	Non-Deed Restricted	0
Above Moderate		0
Total Units		0

Fort Bragg City Council Priority Areas and Goals

Updated 8-14-2019

Priority Area 1: Jobs/Industry	Council Ideas	Initial Progress/Results
Goal 1 - Become more business and customer service friendly	Ombudsman support for developers and new businesses; provide for more decisions to be reviewed by the Planning Commission; look at fee collection structure; ensure fees are fair and reasonable; prioritize restorative businesses; proactively invite businesses to Fort Bragg; and market Fort Bragg as a place to locate your business.	<ol style="list-style-type: none"> 1. Staff and Council reviewed and updated fees that were adopted by City Council effective August 1, 2019. The lesser of an inflationary increase or actual cost of staff and supplies was used. Staff recommended a revised structure for building permit fees that was based on staff time instead of a flat 1% of permit valuation. Council further revised the building permit fees to subsidize the cost of lower valued projects. 2. With the support and direction from Council, an ordinance to allow retail cannabis businesses to open within the City will be considered by the Planning Commission on August 28, 2019. The ordinance allows cannabis businesses that are primarily retail to also have small scale manufacturing, cultivation and distribution at the same location.
Goal 2 - Partner with educational institutions	Education and developing a qualified workforce.	<ol style="list-style-type: none"> 1. City Council is pursuing opportunities to assist in providing a higher education facility by seeking land on the southern portion of the Mill Site that could be used for such a purpose.
Goal 3 - Foster and help sustain Local businesses	Public/private partnerships; overcome barriers to industry such as broadband, housing, and transportation; work with West Company and Economic Development Financing Corp. (EDFC); and support businesses that "keep money here".	<ol style="list-style-type: none"> 1. Staff and Council are exploring ways to encourage local businesses and potentially discourage chain or formula box stores. The City Attorney has been directed to provide guidance on this topic. 2. The City continues to partner with the EDFC and on April 22, 2019, the Council adopted the EDFC Mendocino County Digital Infrastructure Plan 2019-2025. 3. The City Manager along with the Executive Director from the Mendocino Coast Chamber of Commerce and the Executive Director of West Company started a walk about program to check in with local businesses on an informal basis. 4. The City's Visit Fort Bragg Committee has sponsored a walking map of the historic downtown, which highlights local businesses, purchased 2,000 totes to promote Fort Bragg and started a First Friday Block Party to create more traffic in the CBD. 5. The City has offered local businesses an outdoor display encroachment permit, without cost or the insurance requirement, so that a business may display merchandise or other temporary enticements for customers to enter the businesses.

Fort Bragg City Council Priority Areas and Goals

Updated 8-14-2019

Priority Area 2: Quality of Life	Council Ideas	Initial Progress/Results
Goal 1 - Beautification of streets/sidewalks	Adopt a street program; sponsor volunteer clean-up days; and explore in-house maintenance options.	<ol style="list-style-type: none"> 1. Council appointed a City Prosecutor to enforce the City's Municipal Code. This will provide better results on code enforcement matters and allow for recouping costs associated with the enforcement and cleanup corrective actions taken by the City. 2. Visit Fort Bragg Committee is replacing the decorative banners displayed on street lights in the CBD with new artwork that continues to support the City's brand.
Goal 2 - Assist with façade improvements for businesses	Matching funds/grants; Main St. Program; EDFC; and Mills Act - property tax.	<ol style="list-style-type: none"> 1. Staff is developing a façade improvement grant program, which would award a 50% match of up to \$2,000 for local businesses to improve their facades.
Goal 3 - Pursue partnerships to maintain open space	Example: Pudding Creek 80 acres; and Mill Site Open Space.	<ol style="list-style-type: none"> 1. City Council and staff are actively pursuing both the Pudding Creek restoration project and preserving property for public facilities on the Mill Site. 2. Staff with Council approval submitted a \$1.6M grant application for Prop 68 funds to complete phase two of the Bainbridge Park and improve the functionality of the park for the community.
Goal 4 - Maintain a fully-staffed police force	A more community-involved police force.	<ol style="list-style-type: none"> 1. Police Department will be fully staffed in September, when a police officer and community services officer, who have conditionally accepted positions are scheduled to start work. 2. The Police Department is actively reaching out to the community for assistance with gang related activity. Additionally, the School District and PD are pursuing a grant that would help fund a School Resource Officer (SRO) for up to 5 years. The City has pledged financial support for a portion of the SRO.

Fort Bragg City Council Priority Areas and Goals

Updated 8-14-2019

Priority Area 3: Housing	Council Ideas	Initial Progress/Results
Goal 1 - 200 Units of housing in the next 5 years	Pursue public/private partnerships; funding for developers; updating local plan to make more attractive; pursue tax credits and grants; and look at density.	<ol style="list-style-type: none"> 1. Council is in the process of adopting the 2019 Housing Element to expand housing units within the City of Fort Bragg. 2. Staff has applied for grant funding of \$160,000 in order to pursue and implement programs set forth in the 2019 Housing Element.
Goal 2 - Pursue Community Land Trust/JPA/Housing Authority	Joint Power Authority (JPA) with other cities or county; incubator program for nonprofit land trust; and research funding mechanisms.	<ol style="list-style-type: none"> 1. Staff and City Council are reviewing opportunities for a community land trust or other community housing partnerships.
Goal 3 - Streamline permitting process and pursue creative approaches to fees	Pay fees over time or delay collection until permit final; and review barriers to building.	<ol style="list-style-type: none"> 1. Staff is developing an Economic Development Incentives Policy and Programs to encourage economic growth, business expansion and local retention. Proposed programs include capacity fee deferrals, financing/taxing districts, Mills Act incentives, TOT sharing agreements, facade improvement programs, and housing and jobs planning incentives.

Fort Bragg City Council Priority Areas and Goals

Updated 8-14-2019

Priority Area 4: Infrastructure	Council Ideas	Initial Progress/Results
Goal 1 - Develop Water Security	Modular de-salinization; construction of additional water tanks; seek out other water sources.	<ol style="list-style-type: none"> 1. Staff has updated and thoroughly reviewed the City's water model in order to more accurately measure and predict the impact of growth and other factors on future water needs. The model provides a tool going forward to evaluate the adequacy of City sources under other circumstances. 2. Staff is working with Georgia Pacific in order to transfer their water rights associated with the Mill Site to the City. 3. Staff is actively seeking to negotiate the two remaining Lake and Streambed Alteration (LSA) agreements with CA Fish and Wildlife in order to confirm/establish the City's ongoing water resources.
Goal 2 - Renewable Energy	Develop and encourage: Solar Power; Wind Power; micro-grids. Focus on City Facilities first as a demonstration of possibilities.	
Goal 3 - Emphasize Grants for City	Focus Community Development Block Grants (CDBG) funds on City infrastructure projects. Actively pursue all grant and other funding options and possibilities.	<ol style="list-style-type: none"> 1. Staff has developed a list of shovel ready projects, so that grant and funding opportunities can be easily matched. 2. As mentioned in other Goals, the City has applied for the \$1.6M Prop 68 grant for Bainbridge Park Phase 2, the HCD housing funds \$160k and \$80k for continued work on the Mill Site LCP.



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 22-129

Agenda Date: 3/28/2022

Version: 1

Status: Passed

In Control: City Council

File Type: Resolution

Agenda Number: 5D.

Adopt City Council Resolution Approving Contract with Cash Carpet Service, Inc. for the C.V. Starr Center Women's Locker Room Floor Rehabilitation Project and Authorizing City Manager to Execute Same (Amount Not To Exceed \$31,926.00 Account 810-4812-0751)

In September 2021, C.V. Starr Community Center staff sought proposals from three potential contractors and received one responsive bid from Cash Carpet Service, Inc., to demolish the existing floor and apply non-skid sealant over the remaining concrete in the C.V. Starr Center's men's and women's locker room floor. The men's locker room floor rehabilitation has been completed in Phase I. Phase II is the women's locker room floor rehabilitation for a total cost of services of \$31,926.00. Sufficient funds are budgeted to cover these costs.

RESOLUTION NO. ID _____ - 2022

RESOLUTION OF THE FORT BRAGG CITY COUNCIL APPROVING A CONTRACT WITH CASH CARPET SERVICE, INC. FOR THE CV STARR COMMUNITY CENTER WOMEN’S LOCKER ROOM FLOOR REHABILITATION PROJECT AND AUTHORIZING CITY MANAGER TO EXECUTE CONTRACT (AMOUNT NOT TO EXCEED \$31,926.00; ACCOUNT NO. 810-4812-0751)

WHEREAS, the CV Starr Community Center must replace the women’s locker room flooring (“the Project”), as the current floor is worn and damaged; and

WHEREAS, staff has determined that Cash Carpet Service, Inc. is competent to provide this service, and only one informal bid, from Cash Carpet Service, Inc. could be obtained; and

WHEREAS, staff has confirmed that Cash Carpet Service, Inc. has the proper license, experience and meets the necessary requirements to complete the Services; and

WHEREAS, the Services are funded by the Capital Assets Fund for the needed CV Starr Center women’s locker room floor rehabilitation, with appropriations included in the FY 2021/22 budget, Account No. 810-4812-0751; and

WHEREAS, based on all the evidence presented, the City Council finds as follows:

1. The Cash Carpet Service, Inc. proposal, as a sought service provider, meets the requirements of the Project and is considered responsive.
2. Sufficient funds are available through the appropriations made in the Capital Assets Fund for the labor and materials for the CV Starr Center Women’s Locker Room Floor Rehabilitation to fully complete the project.
3. Cash Carpet Service, Inc. has the proper licenses to complete the Project and based upon previous experience in completing similar projects, is a responsible bidder.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby accept the proposal of Cash Carpet Service, Inc. as the only responsive bid, awarding the contract for the CV Starr Center Women’s Locker Room Floor Rehabilitation Project to Cash Carpet Service, Inc. and authorizes the City Manager to execute the same (Amount Not to Exceed \$31,926.00; Account No. 810-4812-0751).

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 28th day of March, 2022, by the following vote:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**
- RECUSED:**

BERNIE NORVELL
Mayor

ATTEST:

June Lemos, MMC
City Clerk



CITY OF FORT BRAGG
416 N. Franklin Street Fort Bragg, CA 95437

CONSTRUCTION SERVICES AGREEMENT
FOR PROJECTS \$5,000-\$45,000
INFORMAL BIDS

WOMEN'S LOCKER ROOM FLOOR REHABILITATION
AT THE C.V. STARR COMMUNITY CENTER

DATE: March 29, 2022

1. IDENTIFICATION OF CONTRACTOR.

CASH CARPET SERVICE, INC.
2231 East Hill Road
Willits, CA 95490
cashcarpets@gmail.com
(707) 459-1957

LICENSE NO: 1047151 DIR REGISTRATION NO: 1000062729

2. SCOPE OF WORK. Contractor is to perform the work as set forth in the Scope of Work attached as **Exhibit A** (the "Work"), the terms of which are incorporated herein except to the extent they are inconsistent with the terms of this Agreement.

3. COMPENSATION FOR WORK. Contractor's total compensation for the Work performed under this Agreement is **Thirty-one Thousand Nine Hundred Twenty-six Dollars (\$31,926.00)**, to be paid as **(check one)** (1) lump sum; (2) lump sum with progress payments; (3) per attached schedule of rates and charges, up to a guaranteed not-to-exceed amount of \$_____. All payments (check one): shall shall not be subject to a five percent (5%) retention.

4. SCHEDULE OF PERFORMANCE FOR THE WORK. Contractor shall commence the Work upon notification from the City to proceed. The Work will be completed by **August 30, 2022**.

4.01 Liquidated Damage Amounts.

As liquidated damages for delay Contractor shall pay City Five Hundred dollars (\$500.00) for each Day that expires after the time specified herein for Contractor to achieve Substantial Completion of the entire Work, until achieved.

As liquidated damages for delay Contractor shall pay City Five Hundred dollars (\$500.00) for each Day that expires after the time specified herein for Contractor to achieve Final Completion of the entire Work, until achieved.

4.02 Scope of Liquidated Damages

Contractor and City agree that because of the nature of the Project, it would be impractical or extremely difficult to fix the amount of such actual damages incurred by City because of a delay in completion of all or any part of the Work. Contractor and City agree that specified measures of liquidated damages shall be presumed to be the amount of such damages actually sustained by City, and that because of the nature of the Project, it would be impracticable or extremely difficult to fix the actual damages.

Liquidated damages for delay shall cover administrative, overhead, interest on bonds, and general loss of public use damages suffered by City as a result of delay. Liquidated damages shall not cover the cost of completion of the Work, damages resulting from Defective Work, lost revenues or costs of substitute facilities, or damages

suffered by others who then seek to recover their damages from City (for example, delay claims of other contractors, subcontractors, tenants, or other third-parties), and defense costs thereof. City may deduct from any money due or to become due to Contractor subsequent to time for completion of entire Work and extensions of time allowed pursuant to provisions hereof, a sum representing then-accrued liquidated damages.

5. TERMS AND CONDITIONS.

- 5.01** Contractor shall perform the Work in accordance with the terms and conditions of this Agreement and the following attachments. Contractor has read, negotiated and expressly accepts all terms on the attached.
 - A. Exhibit A – Scope of Work and Price
 - B. Exhibit B – General Terms and Conditions
 - C. Exhibit C – Insurance
 - D. Exhibit D – Claims Procedure
 - E. Exhibit E – Construction Performance Bond
 - F. Exhibit F – Construction Labor and Materials Payment Bond
- 5.02** Changes made to printed Terms and Conditions on this Agreement are null and void unless approved in writing by City’s counsel and the undersigned representative of the City of Fort Bragg. Any subsequent modifications to this Agreement must be approved in writing by all parties.
- 5.03** Contractor will send invoices to **City of Fort Bragg, 416 N. Franklin Street Fort Bragg, CA 95437, Attention: Sandy Arellano, Public Works Project Analyst**, immediately upon performance of Work agreed to herein.

CONTRACTOR: CASH CARPET SERVICE, INC.

CITY: City of Fort Bragg

Signature

Lanae R. Cash, Treasurer
Print Name & Title

Date

Signature

David Spaur, City Manager
Print Name & Title

Date

Exhibit A

Cash Carpet Service, Inc
 2231 East Hill Rd.
 CA 95490
 (707)459-1957
 license # 1047151
 dir # 1000062729

Estimate

Date	Estimate #
2/23/2022	54

Name / Address
City of Fortbragg CV Starr Aquatic Facility 300 S. Lincoln Fort Bragg, CA 95437

Project
Womens Locker Room

Description	Qty	Rate	Total
Demo Existing epoxy and shot blast concrete to prepare for vapor emission control and new epoxy flooring. Apply Ardex MC Rapid Vapor Emission Control system with new concrete topping and non skid epoxy finish	1	31926.00	31,926.00
	sqft		

	Total	\$31,926.00
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EXHIBIT B

GENERAL TERMS AND CONDITIONS

1. TERMS OF PERFORMANCE

- 1.01 Force and Effect.** This Agreement shall control over all inconsistent provisions in any proposal. The provisions of this Agreement (and any attachments) constitute the entire agreement between the Contractor and City regarding the Work described herein. No representation, term or covenant not expressly specified in this Agreement shall, whether oral or written, be a part of this Agreement. No modification of this Agreement shall be effective unless it is in writing. This Agreement shall govern the Work described herein (whenever performed), and shall supersede all other prior Agreements between Contractor and City with respect to the Work described herein. This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved by fully authorized representatives of City and Contractor. The headings in this Agreement are for convenience only and do not affect the construction of this Agreement.
- 1.02 No Modification or Waiver.** The Contract Documents may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved by fully authorized representatives of City and Contractor. Contract Documents headings are for convenience only and do not affect the construction of the Contract Documents.
- 1.03 Performance of Work/No Assignment.** Time is of the essence in the performance of the Work. Contractor will perform the Work in a skillful and workmanlike manner; comply fully with criteria established by City, and with applicable laws, codes, and all applicable industry standards. Contractor shall maintain its work area in a clean and sanitary condition, clear debris and trash at the end of each work day, and shall not damage or disrupt any property unless specifically part of the scope of this Agreement. Contractor shall not contract any portion of the Work or otherwise assign this Agreement without prior written approval of City. (Contractor shall remain responsible for compliance with all terms of this Agreement, regardless of the terms of any such assignment.) The Contractor shall permit City (or its designees) access to the work area, Contractor's shop, or any other facility, to permit inspection of the Work at all times during construction and/or manufacture and fabrication. The granting of any progress payment, and any inspections, reviews, approvals or oral statements by any City representative, or certification by any governmental entity, shall in no way limit Contractor's obligations under this Agreement. Either party's waiver of any breach, or the omission or failure of either party, at any time, to enforce any right reserved to it, or to require strict performance of any provision of this Agreement, shall not be a waiver of any other right to which any party is entitled, and shall not in any way affect, limit, modify or waive that party's right thereafter to enforce or compel strict compliance with every provision hereof. City shall have, at all times, set-off rights with respect to any payment and Contractor's failure to perform the terms of this Agreement.

2. LEGAL AND MISCELLANEOUS

- 2.01 Business License and Other Licenses/Permits.** Before the City will issue a notice to proceed with the Services, Contractor and any subcontractors must acquire, at their expense, a business license from City in accordance with Chapter 5.04 of the Fort Bragg Municipal Code. Such licenses must be kept valid throughout the Agreement term. Contractor represents and warrants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions.
- 2.02 Records and Payment Requests.** Contractor shall submit all billings to City with all necessary invoices or other appropriate evidence of proper performance. Contractor shall permit City to audit, examine and make copies, excerpts and transcripts from such records. The State of California or any federal agency having an interest in the subject of this Agreement shall have the same rights conferred to City by this section. Such rights shall be specifically enforceable.
- 2.03 Independent Contractor.** Contractor is an independent Contractor and does not act as City's agent in any capacity, whatsoever. Contractor is not entitled to any benefits that City provides to City employees, including, without limitation, insurance, worker's compensation benefits or payments, pension benefits, health benefits or insurance benefits. Terms within this Agreement regarding direction apply to and concern the result of the Contractor's provision of Work, not the means, methods, or scheduling of the Contractor's work. Contractor shall be solely responsible for the means, methods, techniques, sequences and procedures with respect to its provision of Work under this Agreement. Contractor shall pay all payroll taxes imposed by any governmental entity and will pay all other taxes not specifically identified in this Agreement as City's responsibility.
- 2.04 Indemnity/Liability.** Contractor shall defend (with counsel reasonably acceptable to City), indemnify and save harmless, to the fullest extent permitted by law, the City and all of its officers, directors, representatives, agents and employees, against all loss, cost, damage expense and liability arising from or related to bodily injury to or death of any person or damage to any property, or resulting from any breach and/or Contractor's negligence in performing this

Agreement. Notwithstanding any provision of this Agreement, City shall not be liable to Contractor or anyone claiming under it, in contract or tort, for any special, consequential, indirect or incidental damages arising out of or in connection with this Agreement or the Work. City's rights and remedies, whether under this Agreement or other applicable law, shall be cumulative and not subject to limitation.

- 2.05 Defective Work; Warranties.** Contractor warrants that all construction services shall be performed in accordance with generally accepted professional standards of good and sound construction practices, all requirements of this Agreement, and all laws, codes, standards, licenses, and permits. Contractor warrants that all materials and equipment shall be new, of suitable grade of their respective kinds for their intended uses, and free from defects. Contractor hereby grants to City for a period of one year following the date of completion its unconditional warranty of the quality and adequacy of all of the Work including, without limitation, all labor, materials and equipment provided by Contractor and its Subcontractors of all tiers. If either prior to completion of the Work, or within one year after completion, any Work (completed or incomplete) is found to violate any of the foregoing warranties (**Defective Work**), Contractor shall promptly, without cost to City and in accordance with City's written instructions, correct, remove and replace the Defective Work with conforming Work, and correct, remove and replace any damage to other Work or other property resulting therefrom. If Contractor fails to do so, Contractor shall pay all of the City's resulting claims, costs, losses and damages. Where Contractor fails to correct Defective Work, or defects are discovered outside the correction period, City shall have all rights and remedies granted by law.
- 2.06 Compliance with Laws; Conflict of Interests; Confidentiality.** Contractor agrees to comply with all applicable federal and state laws, regulations and policies, as amended, including those regarding discrimination, unfair labor practices, anti-kick-back, collusion, and the provisions of the Americans with Disability Act. Contractor, its officer, partners, associates, agents, and employees, shall not make, participate in making, or in any way attempt to use the position afforded them by this Agreement to influence any governmental decision in which he or she knows or has reason to know that he or she has a financial interest under applicable state, federal and local conflict of interest regulations. Contractor warrants that no person or agency has been employed or retained to solicit or obtain this Agreement upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. Any information, whether proprietary or not, made known to or discovered by Contractor during the performance of or in connection with this Agreement, will be kept confidential and not be disclosed to any other person (except as necessary to perform the Work). Contractor will immediately notify City in writing if it is requested to disclose any such information. These confidentiality provisions and limitations shall remain fully effective indefinitely after completion of the Work or termination of this Agreement.
- 2.07 Labor Compliance Monitoring and Enforcement.** The project is subject to compliance monitoring and enforcement by the Department of Industrial Relations pursuant to Labor Code Section 1771.4. Contractor shall furnish the records specified in Labor Code Section 1776 directly to the Labor Commissioner, in the following manner: 1) at least monthly; or 2) in a format prescribed by the Labor Commissioner. [Does not apply to projects of \$1000 or less, see Lab. Code 1771.]
- 2.08 Job Site Notices.** Contractor shall post job site notices as prescribed by regulation.
- 2.09 Contractor Registration Program.** Contractor acknowledges that it shall at all times remain registered and qualified to perform public work pursuant to Labor Code Section 1725.5.
- 2.10 Termination; Suspension; Disputes.** City may direct Contractor to terminate, suspend, delay, interrupt or accelerate Work, in whole or in part, for such periods of time as City may determine in its sole discretion. City will issue such directives in writing, and may do so, in whole or in part, for its convenience or due to Contractor's fault. City will compensate Contractor for extra costs resulting from such directives only to the extent that City issues such directives for its convenience and not due to Contractor's fault (but City shall not compensate Contractor for costs, profit or overhead anticipated to be earned or incurred on Work terminated for City's convenience.) Contractor shall continue its work throughout the course of any dispute, and Contractor's failure to continue work during a dispute shall be a material breach of this Agreement. All claims by Contractor against City shall be submitted in writing to City, and shall be governed by Public Contract Code Sections 20104 – 20104.6, after which time the one year time period in Government Code Section 911.2 shall be, pursuant to Government Code Section 930.2, reduced to 90 days.
- 2.11 Execution; Venue; Limitations.** This Agreement shall be deemed to have been executed in the City of Fort Bragg, California. Enforcement of this Agreement shall be governed by the laws of the State of California, excluding its conflict of laws rules. The exclusive venue for all litigation arising from or relating to this Agreement shall be in Fort Bragg, California. Except as expressly provided in this Agreement, nothing in this Agreement shall operate to confer rights or benefits on persons or entities not party to this Agreement. As between the parties to this Agreement, any applicable statute of limitations for any act or failure to act shall commence to run on the date of City's issuance of the final Certificate for Payment, or termination of this Agreement, whichever is earlier, except for latent defects, for which the statute of limitation shall begin running upon discovery of the defect and its cause.
- 2.12 Employee Wages; Records; Apprentices.** Contractor shall pay prevailing wages to its employees on any Agreement in excess of \$1,000.00 (one thousand dollars). Copies of the prevailing rate of per diem wages are on file

at City's principal office. Contractor shall comply with the 8-hours per day/40 hours per week/overtime/working hours restrictions for all employees, pursuant to the California Labor Code. Contractor and all subcontractors shall keep and maintain accurate payroll records of employees working in relation to this Agreement, and certify these records upon request, pursuant to Labor Code Section 1776. Contractor shall comply fully with Labor Code Section 1777.5 in the hiring of apprentices for work relating to this Agreement. If this contract exceeds \$2,000.00 (two thousand dollars) and is funded with federal funds, then Contractor shall pay federal Davis Bacon wages and comply with applicable federal requirements.

- 2.13 Mandatory Contractor and Subcontractor Registration.** Pursuant to Labor Code Section 1771(a), Contractor represents that it and all of its Subcontractors are currently registered with the Department of Industrial Relations and qualified to perform public work pursuant to Labor Code Section 1725.5. Contractor covenants that any additional or substitute Subcontractors will be similarly registered and qualified.
- 2.14 Worker's Compensation.** Pursuant to Labor Code Sections 1860 and 1861, in accordance with the provisions of Section 3700 of the Labor Code, every contractor will be required to secure the payment of compensation to his employees. Contractor represents that it is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and Contractor shall comply with such provisions before commencing the performance of the Work of this Agreement.
- 2.15 Construction Performance Bond; Construction Labor and Materials Payment Bond; Securities in Lieu of Retention Escrow Account.**
- A. If Contract Sum under the Agreement exceeds (or is expected to exceed) \$25,000, Contractor shall provide a construction performance bond in form attached hereto as Exhibit E – Construction Performance Bond, and a construction labor and material payment bond, in accordance with Civil Code Section 9550 and in form attached hereto Exhibit F – Construction Labor and Materials Payment Bond. Contractor may not substitute cash in lieu of the required bond(s).
 - B. If the Agreement specifies performance retention, Contractor may elect to substitute securities or direct payment to an escrow account, pursuant to Public Contract Code Section 22300 (incorporated herein by this reference).
- 2.16 [Section Removed.]**
- 2.17 Skilled and Trained Workforce.** Contractor acknowledges and agrees that it shall comply with the requirements of California Public Contracts Code sections 2600 et seq., in its entirety and, in particular, those sections related to Skilled and Trained Workforce. By its execution of this agreement Contractor certifies and warrants that it is aware of the requirement of California Public Contracts Code section 2600 et seq. and its requirements as to a Skilled and Trained Workforce.

EXHIBIT C

INSURANCE

1. Commercial General Liability Insurance, written on an “occurrence” basis, which shall provide coverage for bodily injury, death and property damage resulting from operations, liability for slander, false arrest and invasion of privacy, blanket contractual liability, broad form endorsement, and completed operations, personal and advertising liability, with limits of not less than **\$4,000,000** general aggregate and **\$2,000,000** each occurrence, subject to a deductible of not more than **\$1,000** payable by Contractor.
2. Business Automobile Liability Insurance with limits not less than **\$1,000,000** each occurrence including coverage for owned, non-owned and hired vehicles, subject to a deductible of not more than **\$1,000** payable by Contractor.
3. Workers’ Compensation Employers’ Liability limits not less than **\$1,000,000** each accident, **\$1,000,000** per disease and **\$1,000,000** aggregate. Contractor’s Workers’ Compensation Insurance policy shall contain a Waiver of Subrogation against the City of Fort Bragg, its officers, directors, officials, agents, employees and volunteers. In the event Contractor is self-insured, it shall furnish Certificate of Permission to Self-Insure signed by Department of Industrial Relations Administration of Self-Insurance, State of California.
4. [SECTION REMOVED.]
5. [SECTION REMOVED.]
6. Insurance policies shall contain an endorsement containing the following terms:
 - 6.01 The City of Fort Bragg, its officers, directors, officials, agents, employees, and volunteers, shall be named as additional insureds, but only with respect to liability arising out of the activities of the named insured, and there shall be a waiver of subrogation as to each named and additional insured.
 - 6.02 The policies shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the company’s liability.
 - 6.03 Insurance shall be primary insurance and no other insurance or self-insured retention carried or held by any named or additional insureds other than Contractor shall be called upon to contribute to a loss covered by insurance for the named insured.
7. Certificates of Insurance and Endorsements shall have clearly typed thereon the Project Name, shall clearly describe the coverage and shall contain a provision requiring the mailing of written notices of cancellation.
8. All policies of insurance shall be placed with insurers acceptable to City. The insurance underwriter(s) must be duly licensed to do business in the State of California and (other than for workers’ compensation) must have an A. M. Best Company rating of **A-,VII** or better. Required minimum amounts of insurance may be increased should conditions of Work, in opinion of City, warrant such increase. Contractor shall increase required insurance amounts upon direction by City.

EXHIBIT D

CLAIMS PROCEDURE

SUMMARY OF PUBLIC CONTRACT CODE § 9204

The following procedure will apply to any claims by the Contractor on the City:

A “claim” is a separate demand on the City by a contractor on a public works project and sent by registered mail or certified mail with return receipt requested, for one or more of the following:

- A time extension, including relief from penalties for delay
- Payment by the City of money damages under the terms of the contract
- Payment of an amount that is disputed by the City

Initial Review

The claim must be supported by appropriate documentation. The City has 45 days within which to review the claim and provide the contractor with a written statement identifying the disputed and undisputed portions of the claim. If the City does not issue a written statement, the claim is deemed rejected in its entirety. The City will pay any undisputed portion of the claim within 60 days of issuing the statement.

Meet & Confer

If the contractor disputes the City's written response, or if the City does not issue one, the contractor may request in writing an informal conference to meet and confer for possible settlement of the claim. The City will schedule the meet and confer conference within 30 days of this request and provide a written statement identifying the remaining disputed and undisputed portions of the claim within 10 business days of the meet and confer. The City will pay the undisputed portion within 60 days of issuing this statement.

Mediation

With respect to any disputed portion remaining after the meet and confer, the City and contractor will submit the matter to nonbinding mediation, agree to a mediator within 10 business days after issuing the written statement, and share mediation costs equally. If mediation is unsuccessful, then the terms of the public works agreement and applicable law will govern resolution of the dispute.

Miscellaneous Provisions

Amounts not paid by the City in a timely manner bear interest at 7% per annum. Subcontractors may submit claims via this procedure through the general contractor. The City and contractor may waive the requirement to mediate, but cannot otherwise waive these claim procedures.

EXHIBIT E

CONSTRUCTION PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS:

1. THAT WHEREAS, **City of Fort Bragg**, a municipal corporation of the State of California (**City**) has awarded to **Cash Carpet Service, Inc.** as Principal a Project Agreement dated the 29th day of March, 2022 (**Agreement**), titled **WOMEN'S LOCKER ROOM FLOOR REHABILITATION PROJECT AT THE C.V. STARR COMMUNITY CENTER** in the amount of **Thirty-one Thousand Nine Hundred Twenty-six Dollars (\$31,926.00)**, which Agreement is by this reference made a part hereof, for the work described as follows:
(Describe Agreement Work): Demo existing epoxy and shot blast concrete; apply Ardex MC Rapid Vapor Emission Control system with new concrete topping and non-skid epoxy finish.
2. AND WHEREAS, Principal is required to furnish a bond in connection with the Agreement, guaranteeing the faithful performance thereof;
3. NOW, THEREFORE, we, the undersigned Principal and _____ as Surety are held and firmly bound unto City in the sum of 100% OF THE CONTRACT SUM, **Thirty-one Thousand Nine Hundred Twenty-six Dollars (\$31,926.00)**, to be paid to City or its successors and assigns; for which payment, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.
4. THE CONDITION OF THIS OBLIGATION IS SUCH, that if Principal, or its heirs, executors, administrators, successors, or assigns approved by City, shall promptly and faithfully perform the covenants, conditions, and agreements of the Agreement during the original term and any extensions thereof as may be granted by City, with or without notice to Surety, and during the period of any guarantees or warranties required under the Agreement, and shall also promptly and faithfully perform all the covenants, conditions, and agreements of any alteration of the Agreement made as therein provided, notice of which alterations to Surety being hereby waived, on Principal's part to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify, defend, protect, and hold harmless City as stipulated in the Agreement, then this obligation shall become and be null and void; otherwise it shall be and remain in full force and effect.
5. No extension of time, change, alteration, modification, or addition to the Agreement, or of the work required thereunder, shall release or exonerate Surety on this bond or in any way affect the obligation of this bond; and Surety does hereby waive notice of any such extension of time, change, alteration, modification, or addition.
6. Whenever Principal shall be and declared by City in default under the Agreement, Surety shall promptly remedy the default, or shall promptly:
 - 6.01 Undertake through its agents or independent contractors, reasonably acceptable to City, to complete the Agreement in accordance with its terms and conditions and to pay and perform all obligations of Principal under the Agreement including, without limitation, all obligations with respect to warranties, guarantees, indemnities, and the payment of liquidated damages; or
 - 6.02 Obtain a bid or bids for completing the Agreement in accordance with its terms and conditions, and, upon determination by City of the lowest responsible bidder, reasonably acceptable to City, arrange for a contract between such bidder and City and make available as work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract Sum, and to pay and perform all obligations of Principal under the Agreement including, without limitation, all obligations with respect to warranties, guarantees, and the payment of liquidated damages; but, in any event, Surety's total obligations hereunder shall not exceed the amount set forth in the third paragraph hereof. The term "balance of the Contract Sum," as used in this paragraph, shall mean the total amount payable by City to the Principal under the Agreement and any amendments thereto, less the amount City paid to Principal.
7. Surety's obligations hereunder are independent of the obligations of any other surety for the performance of the Agreement, and suit may be brought against Surety and such other sureties, jointly and severally, or

against any one or more of them, or against less than all of them without impairing City's rights against the others. Surety may not use Contractor to complete the Agreement absent City's written consent.

- 8. No right of action shall accrue on this bond to or for the use of any person or corporation other than City or its successors or assigns.
- 9. Surety may join in any proceedings brought under the Agreement and shall be bound by any judgment.
- 10. Correspondence or claims relating to this bond shall be sent to Surety at the address set forth below.

IN WITNESS WHEREOF, we have hereunto set our hands this _____ day of _____, 2022.

CONTRACTOR AS PRINCIPAL

SURETY

Company: (Corp. Seal)

Company: (Corp. Seal)

Signature

Signature

Name

Name

Title

Title

Street Address

Street Address

City, State, Zip Code

City, State, Zip Code

EXHIBIT F

CONSTRUCTION LABOR AND MATERIAL PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS:

- 1. THAT WHEREAS, **City of Fort Bragg**, a municipal corporation of the State of California (**City**) has awarded to **Cash Carpet Service, Inc.** as Principal a Project Agreement dated the 29th day of March, 2022 (**Agreement**), titled **WOMEN’S LOCKER ROOM FLOOR REHABILITATION PROJECT AT THE C.V. STARR COMMUNITY CENTER** in the amount of **Thirty-one Thousand Nine Hundred Twenty-six Dollars (\$31,926.00)**, which Agreement is by this reference made a part hereof, for the work described as follows:

(Describe Agreement Work): Demo existing epoxy and shot blast concrete; apply Ardex MC Rapid Vapor Emission Control system with new concrete topping and non-skid epoxy finish.

- 1. AND WHEREAS, Principal is required to furnish a bond in connection with the Agreement to secure the payment of claims of laborers, mechanics, material suppliers, and other persons as provided by law;
- 2. NOW, THEREFORE, we, the undersigned Principal and _____ as Surety, are held and firmly bound unto City in the sum of 100% OF THE CONTRACT SUM **Thirty-one Thousand Nine Hundred Twenty-six Dollars (\$31,926.00)**, for which payment well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.
- 3. THE CONDITION OF THIS OBLIGATION IS SUCH, that if Principal, or its heirs, executors, administrators, successors, or assigns approved by City, or its subcontractors shall fail to pay any of the persons named in California Civil Code Section 9100, or amounts due under the State of California Unemployment Insurance Code with respect to work or labor performed under the Agreement, or for any amounts required to be deducted, withheld, and paid over to the State of California Employment Development Department from the wages of employees of Principal and subcontractors pursuant to California Unemployment Insurance Code Section 13020 with respect to such work and labor, that Surety will pay for the same in an amount not exceeding the sum specified in this bond, plus reasonable attorneys’ fees, otherwise the above obligation shall become and be null and void.
- 4. This bond shall inure to the benefit of any of the persons named in California Civil Code Section 9100, as to give a right of action to such persons or their assigns in any suit brought upon this bond. The intent of this bond is to comply with the California Mechanic’s Lien Law.
- 5. Surety, for value received, hereby expressly agrees that no extension of time, change, modification, alteration, or addition to the undertakings, covenants, terms, conditions, and agreements of the Agreement, or to the work to be performed thereunder, shall in any way affect the obligation of this bond; and it does hereby waive notice of any such extension of time, change, modification, alteration, or addition to the undertakings, covenants, terms, conditions, and agreements of the Agreement, or to the work to be performed thereunder.
- 6. Surety’s obligations hereunder are independent of the obligations of any other surety for the payment of claims of laborers, mechanics, material suppliers, and other persons in connection with Agreement; and suit may be brought against Surety and such other sureties, jointly and severally, or against any one or more of them, or against less than all of them without impairing City’s rights against the other.
- 7. Correspondence or claims relating to this bond shall be sent to Surety at the address set forth below.

IN WITNESS WHEREOF, we have hereunto set our hands this _____ day of _____, 2022.

[SIGNATURES ON NEXT PAGE]

CONTRACTOR AS PRINCIPAL

Company: (Corp. Seal)

Signature

Name

Title

Street Address

City, State, Zip Code

SURETY

Company: (Corp. Seal)

Signature

Name

Title

Street Address

City, State, Zip Code



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

2/24/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Orr & Associates Insurance Services 28780 Single Oak Dr Ste 255 Temecula CA 92590	CONTACT NAME: Certificates PHONE (A/C, No, Ext): 951-506-5859 E-MAIL ADDRESS: certs@orrassociates.com	FAX (A/C, No): 800-474-3003
	INSURER(S) AFFORDING COVERAGE	
License#: 0E63493 CASHCAR-03	INSURER A: U.S. Specialty Insurance Compa INSURER B: Nationwide Mutual Insurance Co INSURER C: Falls Lake Fire & Casualty Co. INSURER D: INSURER E: INSURER F:	NAIC # 29599 23787 15884

COVERAGES **CERTIFICATE NUMBER:** 189357444 **REVISION NUMBER:** 2

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:	Y	Y	U21AC109727-03	12/12/2021	12/12/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
B	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			ACPBA3038926141	8/26/2021	8/26/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			U21AC109727-03	12/12/2021	12/12/2022	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	FLA010297-03	11/5/2021	11/5/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Certificate is subject to policy limits, conditions and exclusions.

City of Fort Bragg is named as Additional Insured as per attached endorsement form(s).

RE: CV Starr Aquatic Center
 300 S. Lincoln St.
 Fort Bragg, CA 95437

CERTIFICATE HOLDER **CANCELLATION**

City of Fort Bragg 416 N. Franklin St. Fort Bragg CA 95437	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
--	---

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
<p>Any person or organization for whom you are performing operations during the policy period when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy.</p>	
<p>Information required to complete this Schedule, if not shown above, will be shown in the Declarations.</p>	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location And Description Of Completed Operations
<p>Any person or organization, when you and such parties have agreed in writing in a contract or agreement pertaining to "your work" performed during the policy period. This additional insured coverage does not apply to "excluded residential construction". "Excluded residential construction" means:</p> <ul style="list-style-type: none"> a) the ground-up construction of any building whose units will be individually owned and titled; and, b) "your work" performed on the conversion of any building into a condominium or townhome. 	
<p>Information required to complete this Schedule, if not shown above, will be shown in the Declarations.</p>	

Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**PRIMARY AND NONCONTRIBUTORY AND BLANKET
WAIVER OF SUBROGATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

**A. PRIMARY AND NON-CONTRIBUTORY TO
OTHER INSURANCE**

With respect to any person or organization that is an additional insured under this Coverage Part, the following is added to paragraph 4. of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

If you have agreed in writing in a contract or agreement that this insurance is primary and non-contributory relative to an additional insured’s own insurance, then this insurance is primary and we will not seek contribution from that other insurance. For the purpose of this endorsement, the additional insured’s own insurance means insurance on which the additional insured is a Named Insured.

When this endorsement is attached to the policy it supersedes all other insurance conditions within.

B. WAIVER OF SUBROGATION – BLANKET

Under **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**, The **Transfer Of Rights Of Recovery Against Others To Us Condition** is amended by the addition of the following:

We waive any right of recovery we may have against any person or organization because of payments we make for injury or damage arising out of:

- a. Your ongoing operations; or
- b. “Your work” included in the “products-completed operations hazard”.

However, this waiver applies only when you have agreed in writing to waive such rights of recovery in a contract or agreement, and only if the contract or agreement:

- a. Is in effect or becomes effective during the term of this policy; and
- b. Was executed prior to loss.



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 22-143

Agenda Date: 3/28/2022

Version: 1

Status: Passed

In Control: City Council

File Type: Scope of Work

Agenda Number: 5E.

Approve Scope of Work for Request for Proposals from Qualified Firms Who Offer Internal Revenue Service (IRS) Code Section 115 Trust Services

For several years the City has been discussing and exploring ways to reduce the City's unfunded accrued liability (UAL) or pension liability. In November 2021, the City issued Lease Revenue Bonds to restructure the City's Pension Debt of \$11.4M at 3.5% relative to the 7% discount rate that CalPERS charges the City on outstanding UAL and adopted a Pension Funding Policy which sets the City's goal to achieve and maintain a 90% to 100% funded status and provide a more robust funding plan.

Previously, the City's only option for reducing the unfunded actuarial accrued liability was to commit additional funds to CalPERS. Unfortunately, these funds would be subject to the same market volatility as the CalPERS investment policy, and the funds are not accessible to the City for other pension expenses. In the last couple of years, a private letter ruling was received from the IRS that establishes that under Section 115 of the Internal Revenue Code, public agencies or municipalities could create a separate trust to "pre-fund" its CalPERS unfunded liability. This will provide an alternative to sending the funds to CalPERS and provide greater local control over the assets and investment portfolio management. Establishing and funding a local Section 115 Trust Fund can help offset unanticipated spikes in employer contributions or increases in UAL.

The attached RFP seeks proposals from qualified professional firms who offer Internal Revenue Service Code Section 115 Retirement Trust services. The Scope of Work begins on Page 2.



CITY OF FORT BRAGG

REQUEST FOR PROPOSALS FOR SECTION 115 TRUST

The City of Fort Bragg is seeking proposals from qualified firms who offer Internal Revenue Service (IRS) Code Section 115 Retirement Trust (hereinafter referred to as "Trust") services to California local government agencies. The firm's services anticipated to be provided include the establishment and ongoing fiduciary investment advice for a Trust(s) for pension and potentially other eligible expenses.

AGENCY DESCRIPTION

The City of Fort Bragg is located approximately 165 miles north of San Francisco and 188 miles west of Sacramento, with a population of about 7,500. Fort Bragg is a general law city with a five-member City Council and operates under the Council-Manager form of government. The Council appoints the City Manager, appoints other City Officials, and oversees the City's daily operations.

The City provides a wide range of services to its residents, including public protection through the Police Department, the construction and maintenance of streets and infrastructure, water service, community development, financial management, and administrative services. Special Districts and Joint Powers Authorities (JPAs) under the jurisdiction of the City provide emergency services, fire protection, wastewater treatment, and redevelopment services throughout the City. The City employs approximately 60 employees consisting of 4 part-time and 56 regular full-time employees. During the busy tourist season, the City traditionally hires four temporary employees for parking enforcement and to help maintain city streets and parks.

SERVICES REQUIRED

A. General. The City of Fort Bragg is exploring various options for managing its long-term pension liabilities. One of the strategies being considered is the City establishing an Internal Revenue Service Code Section 115 trust to hold assets set aside to fund future pension obligations and expenditures. The objectives of the proposed Trust are to provide reasonable returns and maximum flexibility in terms of beneficiaries of trust assets. The yield objective recognizes the need to protect the principal value of assets in the Trust while also acknowledging that yields cannot be obtained without some measure of prudent risk. The primary purpose of this RFP is to obtain Information to evaluate prospective firms that provide this type of trust service.

B. Advice and Consultation. Throughout the contract period, the firm must be available during regular business hours to provide the City with informal advice and consultation on matters relating to the Trust, including but not limited to the analysis of funding options, asset allocation strategies, and trust design. The firm will be expected to keep the City updated on Trust related issues and developments pertaining to Federal and State tax code requirements and changes in financial reporting pronouncements issued by the Governmental Accounting

Standards Board. At the manager, director, or partner level, a senior staff member will be responsible for responding to City communications within one business day.

C. City Requirements. The firm must comply with all relevant City requirements, such as obtaining a City of Fort Bragg business license, providing proof of insurance for at least the minimum required amounts, and executing a contract for consulting services. Information about the City of Fort Bragg business licenses is available on the City's website <https://www.city.fortbragg.com/>. Information about current insurance requirements is available from June Lemos, MMC, City Clerk (707) 961-2825 ext. 104.

D. City Council Meetings. The firm shall make available up to three times per fiscal year a senior staff member at the manager, director, or partner level to attend City Council meetings and Finance & Administration meetings to discuss the Trust's performance and strategies.

SCOPE OF WORK

- **Trust Objectives.** Based on the firm's specific prior knowledge and experience as a Trust services provider, advise City staff in establishing a comprehensive trust program, including the establishment of IRS Section 115 Trusts (both pension and other eligible expenditures) and recommended annual funding strategies.
- **Trust Administration.** Based on the firm's specific prior knowledge and experience as a Trust services provider, offer trust structure, administration, and related trustee services, including coordinating all City contributions to the Trust and processing requests for distributions.
- **Fiduciary Investment Advisory Services.** Based on the firm's specific prior knowledge and experience as a Trust services provider, offer a full scope of fiduciary investment management services, including but not limited to developing a written investment policy for the trust assets, developing a recommended asset allocation strategy based on the Trust's funding and investment objectives and the City's risk tolerance.
- **Reporting.** Provide monthly, quarterly, and annual comparative performance analyses and evaluation reports of the Trust's investments.

PROPOSAL SUBMITTAL REQUIREMENTS

1. Proposers should send a complete digital proposal, collated into one PDF document so that it is received by the City no later than **2:00 p.m. on April 22, 2022**, to:

City of Fort Bragg
Attention: June Lemos, MMC, City Clerk
416 North Franklin Street
Fort Bragg, CA 95437
jlemos@fortbragg.com

Electronic proposals are to be emailed to jlemos@fortbragg.com. Email subject line: RFP Section 115 Trust. The City reserves the right to reject any or all proposals submitted without prejudice. Late proposals will not be considered.

2. Contents: The proposal aims to demonstrate the firm's qualifications, competence, and capacity and of the particular staff to be assigned, in conformity with this RFP. The proposal should address all the points outlined in this RFP. The proposal shall contain the following Information:

- **Title Page.** Showing the RFP subject; the firm's name; the name, address, telephone number, and email address of the contact person; and the date of the proposal.
- **Table of Contents.** Including a clear and complete identification of the materials submitted by section and page number. Cross-referencing to section and page number in this RFP is preferred.
- **Transmittal letter.** Briefly stating the proposer's understanding of the work to be done, the commitment to perform the work within the timeline in this RFP, a statement addressing why the firm believes itself to be the best qualified to complete the work, and a statement that the proposal is a firm and irrevocable offer for 120 days. Certify that the person signing the proposal is entitled to represent the firm, empowered to submit the bid, and authorized to sign a contract with the City.
- **Experience.** Describe your firm's experience serving California local government clients in establishing IRS Section 115 Trusts and related investment services. Comment on the key program advantages which make your firm different from your competitors. Please disclose the total volume of all Section 115 trusts under management with your firm.
- **Program Team and Relationship Services.** Provide the person's resume (executive assigned to the City's Trust account) who will be the key contact point to coordinate services to the City. Please identify your firm's service team members, including their tenure with the firm, their background, and their role in managing the City's proposed Trust account.
- **Proposals should also:**
 - Describe the entity or entities proposed to serve as the trustee/custodian of the Section 115 Trust and as a trust administrator, including a description of their background and experience with these types of trusts.
 - Describe the entity or entities proposed to serve as the investment manager of the Section 115 Trust and as a trust administrator, including a description of their background and experience with these types of trusts. Specify the number of years your organization or subcontractor has been providing investment advisory services.
 - Disclose if your firm's proposal includes use of any subcontractors for the servicing of the Trust plan and if so, please describe the nature of these services.
 - Provide the City with sample copies of contract documents you would expect to require the City to sign and approve to enter into an agreement.
 - Explain if your firm or subcontractor is a registered investment advisor under the Investment Advisor's Act of 1940. Please attach Part 2A of your most current Form ADV as an appendix.
 - Describe any SEC, FINRA, or regulatory censure or litigation involving your firm, subcontractor, or its employees within the past three years.
- **Private Letter Ruling.** Explain the legal basis for your Section 115 Trust and how your program meets the requirements for compliance with federal and state law and any applicable requirements related to pronouncements issued by the Governmental Accounting Standards Board (GASB).
 - Disclose if your pension Section 115 Trust program has received approval from the IRS in the form of a Private Letter Ruling.
 - Describe safeguards built into your Section 115 Trust program to limit the liability exposure to the City.

- **Trustee and Trust Administration Services.** Please provide a comprehensive list of trustee services and Section 115 trust administration services you will provide.
 - Please note if there are any additional costs for any of the above-mentioned services.
 - Describe how City contributions to and distributions from the Section 115 Trust are now handled.
 - Define any termination restrictions for the Section 115 Trust.

- **Investment Requirements and Investment Performance.** Is there an initial minimum balance requirement for the 115 Trust? Please describe the investment services your firm offers with respect to the 115 Trust, including:
 - Does your firm offer assistance with investment strategy selection and investment policy development? Does this service typically include specific asset allocations recommendations? If so, please explain.
 - Please provide the firm's recommended comparative yield benchmarks for trust assets held in this type of Trust. Please provide annual, five-year, ten-year, fifteen-year, and twenty-year return history and expense ratios for each fund/portfolio option available. Would the firm be able to benchmark against yields obtained from similar 115 Trusts such as the California Employee Retirement Benefit Trust? If so, please provide this data.
 - Describe the investment and risk options available for the 115 Trust.
 - Explain your firm's views on passive versus active management. What is your typical recommendation regarding the allocation of the Section 115 Trust assets between active and passive management?
 - What are the typical approaches made to rebalancing or reallocating asset classes, styles, and sectors for or on behalf of the fund/trust?
 - Are there minimums requirements for periodic contributions to the Section 115 Trust?

- **Fees.** Please provide all fees for the proposed services in a separate schedule, including administration, trustee, and investment management services.
 - Detail any initial balance or start-up fees.
 - Are fees scalable dependent upon the amount of assets placed into the Section 115 Trust? If so, provide a schedule of the fees.
 - Identify fees for consulting, trustee, and investment services separately.
 - Provide historical fees for each of the prior five years (2012 through 2016).
 - Identify the expense structure of the Section 115 Trust investment platforms. Detail the expenses (i.e., no-load, low-load, proprietary funds, institutional shares, etc.).
 - Describe in detail the revenue-sharing agreement that the firm has with investment managers and/or subcontractors, insurance providers, and any remuneration that the firm derives from investment managers and/or sub-advisors. Include any 12b-1, service, distributor, or platform fees that the firm derives from investment managers and/or sub-advisors.
 - Describe any additional fees or potential hidden costs to be netted from investment performance.
 - Describe in detail any and all surrender, withdrawal, transfer, or deferred sales charges within your investment products.
 - Describe any fee related to the transfer of assets and restrictions or costs related to the termination of the agreement with your firm.

- **References.** Please list the name, address, contact name, telephone number, and email address of at least five public agency client references, emphasizing clients served by the Section 115 Trust pension program proposed in response to this RFP.

EVALUATION CRITERIA

Proposals will be evaluated by an evaluation committee comprised of City Staff based on the following criteria:

- 1) Qualifications as they relate to this project (40%) in the order shown.
 - a. Firm’s experience with the planning & implementation of a Pension Trust.
 - b. Firm’s experience with Fiduciary investment advisory services.
 - c. Qualifications of proposed key personnel.
 - d. Communication skills.
- 2) Firm’s reputation for integrity and competence (20%).
- 3) Price (20%).
- 4) Apparent ability to provide the required services in a timely matter (10%).
 - a. Accessibility of staff.
 - b. Flexibility and readiness in completing specified work.
- 5) Responses to a supplemental questionnaire (10%).

The above selection criteria are provided to assist proposers and are not meant to limit other considerations that may become apparent during the selection process. Proposals will be reviewed, and a recommendation for the award of contract will be presented to the Fort Bragg City Council.

OTHER CONSIDERATIONS

The City of Fort Bragg reserves the right to reject any and all proposals. This Request for Proposals does not commit the City to award the contract, pay any costs incurred in preparing proposals or procure or contract for supplies or services.

The City of Fort Bragg reserves the right to negotiate with any qualified respondents or to cancel, in part or its entirety, this Request for Proposals if it is in the best interest of the City to do so. The City may require the selected consultant to participate in negotiations and submit such price, technical or other revisions of the proposal that may result from negotiations.

RFP SCHEDULE RFP

Release Date:	April 1, 2022
Deadline for Written Questions:	April 18, 2022
Proposals Due:	April 29, 2022 (2:00 p.m.)
Interviews:	TBD
Selection:	May 23, 2022

QUESTIONS

Questions should be directed to:
Isaac Whippy
Assistant Finance Director
City of Fort Bragg
416 North Franklin Street Fort Bragg, CA 95437
Email: iwhippy@fortbragg.com



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 22-141

Agenda Date: 3/28/2022

Version: 1

Status: Passed

In Control: City Council

File Type: Resolution

Agenda Number: 5F.

Adopt City Council Resolution Making the Legally Required Findings to Continue to Authorize the Conduct of Remote "Telephonic" Meetings During the State of Emergency

RESOLUTION NO. ____-2022

**RESOLUTION OF THE FORT BRAGG CITY COUNCIL
MAKING THE LEGALLY REQUIRED FINDINGS TO CONTINUE TO
AUTHORIZE THE CONDUCT OF REMOTE “TELEPHONIC”
MEETINGS DURING THE STATE OF EMERGENCY**

WHEREAS, on March 4, 2020, pursuant to California Gov. Code Section 8625, the Governor declared a state of emergency; and

WHEREAS, on September 17, 2021, Governor Newsom signed AB 361, which bill went into immediate effect as urgency legislation; and

WHEREAS, AB 361 added subsection (e) to Gov. Code Section 54953 to authorize legislative bodies to conduct remote meetings provided the legislative body makes specified findings; and

WHEREAS, as of March 23, 2022, the COVID-19 pandemic has killed more than 88,424 Californians; and

WHEREAS, social distancing measures decrease the chance of spread of COVID-19; and

WHEREAS, this legislative body previously adopted a resolution to authorize this legislative body to conduct remote “telephonic” meetings; and

WHEREAS, Government Code 54953(e)(3) authorizes this legislative body to continue to conduct remote “telephonic” meetings provided that it has timely made the findings specified therein;

NOW, THEREFORE, IT IS RESOLVED by the City Council of the City of Fort Bragg as follows:

1. This legislative body declares that it has reconsidered the circumstances of the state of emergency declared by the Governor and at least one of the following is true: (a) the state of emergency continues to directly impact the ability of the members of this legislative body to meet safely in person; and/or (2) state or local officials continue to impose or recommend measures to promote social distancing.

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 28th day of March 2022, by the following vote:

**AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:**

BERNIE NORVELL
Mayor

ATTEST:

June Lemos, MMC
City Clerk



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 22-142

Agenda Date: 3/28/2022

Version: 1

Status: Passed

In Control: City Council

File Type: Resolution

Agenda Number: 5G.

Adopt City Council Resolution Confirming the Continued Existence of a Local Emergency in the City of Fort Bragg

At a special meeting on March 24, 2020, the Fort Bragg City Council ratified the City Manager's Proclamation declaring a local emergency due to COVID-19 in its Resolution No. 4242-2020. Since that date, the Council has adopted 45 resolutions reconfirming the existence of a local emergency. The City is required to reconfirm the existence of a local emergency every 21 days pursuant to Fort Bragg Municipal Code Section 2.24.040.

RESOLUTION NO. ____-2022

**RESOLUTION OF THE FORT BRAGG CITY COUNCIL
CONFIRMING THE CONTINUED EXISTENCE OF A LOCAL
EMERGENCY IN THE CITY OF FORT BRAGG**

WHEREAS, California Government Code section 8630 empowers the Fort Bragg City Council to proclaim the existence of a local emergency when the City is threatened or likely to be threatened by the conditions of extreme peril to the safety of persons and property that are or are likely to be beyond the control of the services, personnel, equipment, and facilities of this City; and

WHEREAS, California Government Code section 8558(c) states that a “local emergency” means the duly proclaimed existence of conditions of disaster or extreme peril to the safety of persons and property within the territorial limits of a city; and

WHEREAS, COVID-19, a novel coronavirus causing infectious disease, was first detected in China in December 2019 and has spread across the world and to the United States. Symptoms of COVID-19 include fever, cough, and shortness of breath; outcomes have ranged from mild to severe illness, and, in some cases, death. The Center for Disease Control and Prevention (CDC) has indicated the virus is a tremendous public health threat; and

WHEREAS, on March 13, 2020, the President of the United States issued a proclamation declaring the COVID-19 outbreak in the United States as a national emergency, beginning March 1, 2020; and

WHEREAS, the Governor of the State of California and the Public Health Officer of the County of Mendocino have both issued Shelter-in-Place orders to combat the spread of COVID-19; and

WHEREAS, on March 17, 2020 the City Manager, as the City’s Director of Emergency Services, issued Proclamation No. CM-2020-01 declaring a local emergency as authorized by Government Code section 8630 and Fort Bragg Municipal Code section 2.24.040(B); and

WHEREAS, at a special meeting on March 24, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4242-2020, ratifying the City Manager’s Proclamation declaring the existence of a local emergency; and

WHEREAS, at a special meeting on April 6, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4245-2020 by which it continued the local emergency; and

WHEREAS, at a special meeting on April 20, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4247-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on May 11, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4250-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on May 26, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4253-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on June 8, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4266-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on June 22, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4270-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on July 13, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4284-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on July 27, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4289-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on August 10, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4294-2020 by which it continued the local emergency; and

WHEREAS, at a special meeting on August 31, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4300-2020 by which it continued the local emergency; and

WHEREAS, at a special meeting on September 21, 2020, the City Council of the City of Fort Bragg adopted Resolution 4304-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on October 13, 2020, the City Council of the City of Fort Bragg adopted Resolution 4317-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on October 26, 2020, the City Council of the City of Fort Bragg adopted Resolution 4319-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on November 9, 2020, the City Council of the City of Fort Bragg adopted Resolution 4323-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on November 23, 2020, the City Council of the City of Fort Bragg adopted Resolution 4329-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on December 14, 2020, the City Council of the City of Fort Bragg adopted Resolution 4333-2020 by which it continued the local emergency; and

WHEREAS, at a special meeting on December 22, 2020, the City Council of the City of Fort Bragg adopted Resolution 4340-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on January 11, 2021, the City Council of the City of Fort Bragg adopted Resolution 4343-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on January 25, 2021, the City Council of the City of Fort Bragg adopted Resolution 4347-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on February 8, 2021, the City Council of the City of Fort Bragg adopted Resolution 4351-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on February 22, 2021, the City Council of the City of Fort Bragg adopted Resolution 4358-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on March 8, 2021, the City Council of the City of Fort Bragg adopted Resolution 4363-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on March 22, 2021, the City Council of the City of Fort Bragg adopted Resolution 4366-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on April 12, 2021, the City Council of the City of Fort Bragg adopted Resolution 4376-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on April 26, 2021, the City Council of the City of Fort Bragg adopted Resolution 4381-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on May 10, 2021, the City Council of the City of Fort Bragg adopted Resolution 4385-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on May 24, 2021, the City Council of the City of Fort Bragg adopted Resolution 4391-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on June 14, 2021, the City Council of the City of Fort Bragg adopted Resolution 4396-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on June 28, 2021, the City Council of the City of Fort Bragg adopted Resolution 4405-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on July 12, 2021, the City Council of the City of Fort Bragg adopted Resolution 4418-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on July 26, 2021, the City Council of the City of Fort Bragg adopted Resolution 4422-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on August 9, 2021, the City Council of the City of Fort Bragg adopted Resolution 4427-2021 by which it continued the local emergency; and

WHEREAS, at a special meeting on August 30, 2021, the City Council of the City of Fort Bragg adopted Resolution 4434-2021 by which it continued the local emergency; and

WHEREAS, at a special meeting on September 20, 2021, the City Council of the City of Fort Bragg adopted Resolution 4447-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on October 12, 2021, the City Council of the City of Fort Bragg adopted Resolution 4451-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on October 25, 2021, the City Council of the City of Fort Bragg adopted Resolution 4460-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on November 8, 2021, the City Council of the City of Fort Bragg adopted Resolution 4463-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on November 22, 2021, the City Council of the City of Fort Bragg adopted Resolution 4473-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on December 13, 2021, the City Council of the City of Fort Bragg adopted Resolution 4480-2021 by which it continued the local emergency; and

WHEREAS, at a special meeting on December 27, 2021, the City Council of the City of Fort Bragg adopted Resolution 4491-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on January 10, 2022, the City Council of the City of Fort Bragg adopted Resolution 4497-2022 by which it continued the local emergency; and

WHEREAS, at a regular meeting on January 24, 2022, the City Council of the City of Fort Bragg adopted Resolution 4504-2022 by which it continued the local emergency; and

WHEREAS, at a regular meeting on February 14, 2022, the City Council of the City of Fort Bragg adopted Resolution 4509-2022 by which it continued the local emergency; and

WHEREAS, at a regular meeting on February 28, 2022, the City Council of the City of Fort Bragg adopted Resolution 4513-2022 by which it continued the local emergency; and

WHEREAS, at a regular meeting on March 14, 2022, the City Council of the City of Fort Bragg adopted Resolution 4518-2022 by which it continued the local emergency;

NOW, THEREFORE, BE IT RESOLVED AND PROCLAIMED by the City Council of the City of Fort Bragg that for reasons set forth herein, said local emergency shall be deemed to continue to exist until the City Council of the City of Fort Bragg, State of California, proclaims its termination; and

BE IT FURTHER RESOLVED that the City Council of the City of Fort Bragg will review the need for continuing the local emergency at least once every 21 days until the City Council terminates the local emergency; and

BE IT FURTHER RESOLVED that this resolution confirming the continued existence of a local emergency shall be forwarded to the Director of the Governor's Office of Emergency Services and the Governor of the State of California, as well as the Mendocino County Office of Emergency Services.

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 28th day of March, 2022 by the following vote:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**
- RECUSED:**

BERNIE NORVELL
Mayor

ATTEST:

June Lemos, MMC
City Clerk



City of Fort Bragg

416 N Franklin Street
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Text File

File Number: 22-148

Agenda Date: 3/28/2022

Version: 1

Status: Filed

In Control: City Council

File Type: Council Letter

Agenda Number: 5H.

Approve City Council Letter to the Bureau of Land Management in Support of the Lost Coast Redwoods Project



CITY OF FORT BRAGG

Incorporated August 5, 1889

416 N. Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
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March 28, 2022

Ms. Karen Mouritsen, Director
Bureau of Land Management
California State Office
2800 Cottage Way Suite W1623
Sacramento, CA 95825
Via email - kmourits@blm.gov

Dear State Director Mouritsen:

The City of Fort Bragg strongly supports the Land and Water Conservation Fund requests submitted by BLM's Arcata Field Office for FY 2023 Recreation Access and FY 2024 Core Program funding, which together total \$14,700,000. These appropriations will protect the first two phases of the 4,539-acre Lost Coast Redwoods project, a once-in-a-generation conservation opportunity to permanently protect thousands of acres of coast redwoods and other important lands for multiple benefits, including climate change resilience, collaboration with Tribes and enhanced outdoor recreation.

Lost Coast Redwoods is adjacent to portions of the California Coastal National Monument and if permanently protected by the BLM would significantly enhance the natural resource protection purposes set forth in the Presidential proclamation creating the monument. Using other public funds and private dollars to leverage LWCF funds, the BLM can acquire Lost Coast Redwoods at a discount – further enhancing the project's public benefits. The project has broad support from local elected officials, California state agencies, nonprofits, and private/individual donors.

As you know, Save the Redwoods League acquired the 3,181-acre DeVilbiss Ranch property in December 2021—seizing a rare opportunity to protect five miles of wild, spectacular California coastline and over 2,250 acres of mature second growth redwood forest. When combined with property the League already owns at Shady Dell to the north and Cape Vizcaino to the south, these lands create a nearly contiguous eight miles of protected coastline and 4,539 acres in the heart of the redwood range. They offer existing and enhanced recreation access opportunities as well as, wildfire, watershed, and wildlife species management efficiencies.

Lost Coast Redwoods is the longest privately-owned stretch of California coastline in the coast redwood range, composed of a stunning landscape of contiguous redwood forest, as well as Douglas-fir and grand fir forest. Since the 1840s, 95% of California's original old-growth redwood forests have been logged. Lost Coast Redwoods' mature, second-growth redwood forest provides high-quality habitat, significant carbon storage, and is well on the path to becoming the old-growth redwood forest that once dominated the rugged Lost Coast. The property also contains grassland meadows, coastal bluffs, extensive beaches, and abundant wildlife habitat for Northern spotted owl, marbled murrelet, coho salmon, steelhead trout, Roosevelt elk, and much more.

Ms. Karen Mouritsen
March 28, 2022
Page 2

The Lost Coast Redwoods project will extend a 45-mile stretch of protected Lost Coast coastline by eight miles and is adjacent to Sinkyone Wilderness State Park, the California Coastal National Monument and the Double Cone Rock State Marine Reserve Conservation Area. Permanent protection of the Lost Coast Redwoods properties will help buffer this sensitive rocky reef coastline, rich with marine wildlife, and protect this ocean ecosystem’s resilience, biodiversity, and cultural resources. Further, the permanent protection of Lost Coast Redwoods offers the potential to extend the famed Lost Coast Trail and the California Coastal Trail—potentially opening five miles of scenic trail along a once privately-held coast.

Located at a convergence of the traditional territories of the Sinkyone, Cahto, and Coast Yuki peoples, Lost Coast Redwoods is a landscape of great cultural, ecological, and recreational significance. A substantial allocation of LWCF funding for Phases I and II of Lost Coast Redwoods is critically important to begin its permanent public protection. Thank you for considering the request from BLM’s Arcata Field Office for FY 2023 Recreation Access and FY 2024 Core Program funding from the Land & Water Conservation Fund for this important conservation and recreation land acquisition opportunity.

Sincerely,

Bernie Norvell
Mayor

Jessica Morsell-Haye
Vice Mayor

Teresa K. Albin-Smith
Councilmember

Lindy Peters
Councilmember

Marcia Rafanan
Councilmember

cc: Dan Ryan, BLM, dryan@blm.gov
Becky Bremser, Save the Redwoods League, bbremser@savetheredwoods.org



City of Fort Bragg

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Text File

File Number: 22-150

Agenda Date: 3/28/2022

Version: 1

Status: Passed

In Control: City Council

File Type: Resolution

Agenda Number: 5I.

Adopt City Council Resolution Approving Federal Earmark Fund Request to Establish Municipal Ocean Water Infrastructure to Support Aquariums, Research, and Aquaculture Blue Economy Innovation Hub

The Environmental Defense Fund (EDF) has been engaged in aquaculture policy on a national level, as aquaculture enhances the quality, safety, and sustainability of seafood. Entrepreneurs who wish to start aquaculture businesses face numerous barriers, the most obvious being the complexity, expense and lengthy process of permitting ocean water intake/discharge. EDF is supporting a request for federal earmark funds to San Jose State University and Moss Landing Marine Laboratory to administer to the City of Fort Bragg, Kashia Band of Pomo, and the Port of San Diego's Aquaculture & Blue Technology Program. If awarded, the City would use these funds for the environmental review associated with establishing a municipal ocean water infrastructure to serve aquariums, research, and aquaculture.

RESOLUTION NO. ____-2022

**RESOLUTION OF THE FORT BRAGG CITY COUNCIL
APPROVING FEDERAL EARMARK FUND REQUEST TO ESTABLISH
MUNICIPAL OCEAN WATER INFRASTRUCTURE TO SUPPORT
AQUARIUMS, RESEARCH, AND AQUACULTURE INNOVATION HUB**

WHEREAS, the City received funding from the U.S. Department of Economic Development Administration (EDA) to develop a strategy to diversify Fort Bragg's economy; and

WHEREAS, this project identified the Pacific Ocean, Noyo Harbor, and Noyo Center for Marine Science as strong community assets that are central to Fort Bragg's identity; and

WHEREAS, the City is leading a regional conversation to consider how a strategic focus on the development of ocean resources and emerging Blue Economy opportunities could improve livelihoods, while nurturing healthy marine ecosystems; and

WHEREAS, access to ocean water intake and discharge infrastructure is a crucial component to many emerging blue economy opportunities related to aquaculture, research, climate change, tourism, and more; and

WHEREAS, permitting processes for ocean water intake/discharge infrastructure are prohibitively expensive and complex, taking several years to secure and therefore out of reach for small operators; and

WHEREAS, the City is well positioned to take on the permitting and construction of ocean water infrastructure to support the Noyo Center for Marine Science and Blue Economy Innovation Hub; and

WHEREAS, the City identified Community Development Block Grant (CDBG) funds to secure engineering services in order to develop concept designs and cost estimates to establish municipal ocean water infrastructure for this purpose; and

WHEREAS, these concept designs will be presented to decision makers and the public as part of the Blue Economy Symposium & Learning Festival scheduled for May 19-22, 2022; and

WHEREAS, this event is presented by Noyo Ocean Collective – a regional collaboration including the City of Fort Bragg, Noyo Harbor District, Noyo Center for Marine Science, Sherwood Valley Band of Pomo, Mendocino College, and West Business Development Center with the generous support of California Sea Grant for the purpose of exploring the needs and potential for developing a resilient and vibrant blue economy in and around Fort Bragg; and

WHEREAS, Day One of the symposium will focus on potentials for municipal ocean water infrastructure and harbor infrastructure improvements, discussions with commercial/recreational fishers and associated businesses about sustainable blue economies, followed by education, entrepreneurship and job force training considerations to support growing a blue economy; and

WHEREAS, Day Two of the symposium will explore the potential for developing an aquaculture park in the region where speakers will present information on different aspects of aquaculture activities that are restorative and commercial in nature; and

WHEREAS, the Environmental Defense Fund (EDF) supports the use of federal earmark funds to establish aquaculture hubs and is working with San Jose State University and Moss Landing Marine Laboratory to administer funds to the City of Fort Bragg, Kashia Band of Pomo Indians, and the Port of San Diego's Aquaculture and Blue Technology Program to support establishment of aquaculture hubs in order to reduce barriers to small operators; and

WHEREAS, based on all the evidence presented, the City Council finds as follows:

1. The Blue Economy offers opportunities for our region to diversify its economy, while improving livelihoods and supporting healthy marine ecosystems; and
2. Permitting for ocean water intake/discharge infrastructure is costly and complex; and
3. The City is well positioned to navigate the permitting process.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby approve the City's participation in a request for federal earmark funding to support the establishment of municipal ocean intake/discharge water infrastructure to support aquariums, research and aquaculture.

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 28th day of March, 2022, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:

BERNIE NORVELL
Mayor

ATTEST:

June Lemos, MMC
City Clerk



City of Fort Bragg

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Text File

File Number: 22-131

Agenda Date: 3/28/2022

Version: 1

Status: Filed

In Control: City Council

File Type: Minutes

Agenda Number: 5J.

Approve Minutes of Special Meeting of March 9, 2022



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
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Meeting Minutes Special City Council

*THE FORT BRAGG CITY COUNCIL MEETS CONCURRENTLY
AS THE FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT
NO. 1 AND THE FORT BRAGG REDEVELOPMENT
SUCCESSOR AGENCY*

Wednesday, March 9, 2022

9:00 AM

Via Video Conference

Mid-Year Budget Workshop

CALL TO ORDER

Mayor Norvell called the meeting to order at 9:00 AM, all Councilmembers appearing via video conference.

ROLL CALL

- Present:** 4 - Mayor Bernie Norvell, Vice Mayor Jessica Morsell-Haye, Councilmember Tess Albin-Smith and Councilmember Lindy Peters
- Absent:** 1 - Councilmember Marcia Rafanan

1. CONDUCT OF BUSINESS

1A. [22-115](#) Conduct FY 2021/22 Mid-Year Budget Review - City Council Work Session

1. INTRODUCTION & OVERVIEW

City Manager Spaur gave a brief introduction to this budget workshop, talking about the need for workforce housing and infrastructure projects.

2. PUBLIC COMMENTS

None.

3. PROJECT PROGRESS REPORTS

Assistant Finance Director Whippy noted that the report is provided to keep the City financially sound and to report on the City's budget condition, assessment of revenues and expenditures for the first half of the year. A budget workshop for the next fiscal year is planned for May 11, 2022 at 9AM.

a. City Manager. Spaur gave a brief update on transient occupancy tax and the hopes that it will continue to ramp up as the pandemic winds down.

b. Administrative Services. City Clerk Lemos provided an update on the upcoming election, the City's new website, digital kiosk and other Clerk's Department matters, and provided a status update on the IT Department. Assistant to the City Manager McCormick gave a report on Visit Fort Bragg events, Human Resources, and retiring employees.

c. Finance. Government Accountant Bianchi recapped Finance Department accomplishments, including migration of finance data to the cloud, utility billing, and business license successes. Assistant Director Whippy spoke on department priorities, including installation of new water meters, fee schedule development, the hiring of a grants coordinator, and water shutoffs for nonpayment.

d. Police. Chief Naulty reported on Police Department staffing and noted that the three officers

currently attending the Police Academy will be on the streets in August or September. It is a department priority that the department be maintained at full staff, which he projected will occur at the end of this budget year. He spoke about grants available to assist with mental health calls and the need for new patrol cars.

e. Community Development. Assistant Director Engineering O'Neal briefed the Council on the status of personnel in the Community Development Department (CDD). Code enforcement cases more than doubled last year. Permit processing is up in every category. CDD is now using Springbrook to track building and planning permits and will add a code enforcement tracking module soon. Updates to the Citywide Design Guidelines are underway, along with updates to the Coastal Land Use and Development Code to make the code consistent with inland policies. It is anticipated that the changes will go to the Coastal Commission for review by the end of spring or early summer.

f. Public Works. Public Works Director Smith spoke about staffing challenges during the pandemic, but reported that Public Works is now fully staffed with 23 full-time, 2 part-time, and 1 open position. Maintenance crews are working on a backlog of projects including water lines, valves, water main breaks and leaks, sink holes, etc. Upcoming projects include the new water meter installation and cure-in-place pipe projects.

g. Water. Smith provided current data on the water situation and flow rates for Newman Gulch, Waterfall Gulch and the Noyo River. He noted that the City is currently experiencing drought conditions similar to last year, but Public Works is developing a plan for getting out ahead of the drought. Drought kits are being ordered now to give out to customers. He gave an update on the treatment of fluorine at the water plant and noted that the City is working with the US EPA on a small project to help remote communities become self-reliant.

h. Wastewater. Smith stated that the new Wastewater Treatment Plant is performing exceptionally well and that a new biosolids dryer has been installed and will be operational in the next couple of months.

i. Capital Improvement Projects (CIP). O'Neal provided an update on the street projects, storm drain master plan, upgrades to improve hydraulic deficiencies. Smith briefly reported on the water tank rehabilitation project, the water treatment plant overhaul project, raw water line replacement project, distribution system replacement, cure-in-place pipe project, rehab of sewer system, and water meter replacement project.

j. Internal Service Fund. Smith reported that the City will be researching more fuel efficient cars for the fleet in the future. He noted that stained glass windows have been installed at the Guest House. He reported on small facilities projects.

Mayor Norvell recessed the meeting at 10:42 AM. The meeting reconvened at 10:53 AM.

PUBLIC COMMENTS

None.

4. FY 2021/22 MID-YEAR PERFORMANCE REPORT

a. Whippy presented a PowerPoint on the General Fund, enterprise (water/wastewater), and internal service funds. A utility rate study will be brought back to the Finance and Administration Committee and City Council with results. He spoke about the vehicle replacement plan for the fleet.

b. Whippy noted that staff is requesting approval to proceed with the following budget amendment requests: 3 from Police Department, 1 from Community Development, 1 from Public Works, 1 from City Council and 2 from Administrative Services. Wastewater is asking for \$70K, Fleet is asking for \$15K for increased fuel costs.

Direction: After receiving no objections, Councilmembers unanimously agreed to direct Whippy

to proceed with the budget amendments as presented, with a resolution for adoption on the next Consent Calendar.

5. LONG TERM FINANCIAL PLANNING

Whippy provided a five-year forecast and summary of potential new revenue sources.

Direction: After discussion of various ways to increase revenue, Council directed staff to proceed with a measure to increase sales tax by 3/8 cent dedicated to housing.

Whippy recapped the three options regarding the \$3.5M bond proceeds: (1) return the funds; (2) contribute to a Section 115 pension fund; or (3) use a portion for land acquisition and pay the rest back.

Direction: Council discussed the three options and requested that staff bring back further information on all three options for discussion by Council and input from the public.

Whippy and McCormick outlined the American Rescue Plan Act for citywide broadband infrastructure.

Council Budget Goals and Priorities for FY 2022/23 were discussed.

Direction: Council directed that the Budget Goals and Priorities be rearranged as follows:

1. Adopt a balanced budget
2. Maintain current level of service (no staff layoffs, program cuts)
3. Maintain operating reserve and litigation reserve
4. Provide funding for emergency reserves
5. Provide cost of living adjustment to staff in years to come
6. Provide for additional contributions to CALPERS

Spaur summarized a list of goals, priorities and passions for each Councilmember. The Council expressed that these priorities were on point.

PUBLIC COMMENT was received from Jacob Patterson.

ADJOURNMENT

Mayor Norvell adjourned the meeting at 12:31 PM.

BERNIE NORVELL, MAYOR

June Lemos, MMC, City Clerk

IMAGED (_____)



City of Fort Bragg

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Text File

File Number: 22-135

Agenda Date: 3/28/2022

Version: 1

Status: Filed

In Control: City Council

File Type: Minutes

Agenda Number: 5K.

Approve Minutes of March 14, 2022



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
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Meeting Minutes City Council

*THE FORT BRAGG CITY COUNCIL MEETS CONCURRENTLY
AS THE FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT
NO. 1 AND THE FORT BRAGG REDEVELOPMENT
SUCCESSOR AGENCY*

Monday, March 14, 2022

6:00 PM

Via Video Conference

CALL TO ORDER

Mayor Norvell called the meeting to order at 6:00 PM, all Councilmembers appearing via video conference.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: 5 - Mayor Bernie Norvell, Vice Mayor Jessica Morsell-Haye, Councilmember Tess Albin-Smith, Councilmember Lindy Peters and Councilmember Marcia Rafanan

AGENDA REVIEW

1. MAYOR'S RECOGNITIONS AND ANNOUNCEMENTS

- 1A. [22-106](#) Presentation of Proclamation Recognizing March 2022 as "Women's History Month"

Vice Mayor Morsell-Haye read the Proclamation recognizing March 2022 as Women's History Month.

2. PUBLIC COMMENTS ON: (1) NON-AGENDA, (2) CONSENT CALENDAR & (3) CLOSED SESSION ITEMS

(1) Public Comments on non-agenda items were received from Jay McMartin-Rosenquist and Jacob Patterson.

(2) Public Comments on Consent Calendar items were received from Jade Tippet, Jacob Patterson, Mike Hart, Annemarie Weibel, Steve Antler, George Reinhardt, Jay McMartin-Rosenquist and Andrew Jordan.

(3) Public Comments on Closed Session items were received from George Reinhardt and Jade Tippet.

3. STAFF COMMENTS

None.

4. MATTERS FROM COUNCILMEMBERS

Councilmember Peters reported that ferns in the Bee City garden at the Guest House would be transplanted on March 15 at 2PM. Councilmember Albin-Smith announced that Restaurant

Week is March 14-20. Vice Mayor Morsell-Haye noted that the schools have removed the mask mandate and School Superintendent Becky Walker asks that people treat each other with respect regarding masks, as everyone makes a personal decision on their comfort level regarding mask wearing. Morsell-Haye also reported that she and Councilmember Albin-Smith will be attending a policymakers conference in Yosemite at the end of this week.

5. CONSENT CALENDAR

Councilmember Peters requested that Item 5E be removed from Consent Calendar so he could abstain, as his wife is an employee of the City. Councilmember Albin-Smith requested that Items 5D and 5F be removed from Consent for further discussion. Councilmember Rafanan requested that Item 5B be taken off Consent for discussion.

Approval of the Consent Calendar

A motion was made by Councilmember Peters, seconded by Councilmember Albin-Smith, to approve the Consent Calendar with the exception of Items 5B, 5D, 5E and 5F. The motion carried by the following vote:

Aye: 5 - Mayor Norvell, Vice Mayor Morsell-Haye, Councilmember Albin-Smith, Councilmember Peters and Councilmember Rafanan

- 5A. [22-102](#)** Adopt by Title Only and Waive the Second Reading of Ordinance No. 977-2022 Adding Chapter 2.02 (Electronic Filing of Campaign Disclosure Statements and Statements of Economic Interest) to Title 2 (Administration and Personnel) of the Fort Bragg Municipal Code to Mandate Electronic and Paperless Filing of Fair Political Practices Commission Campaign Disclosure Statements and Statements of Economic Interest
- This Ordinance was adopted on the Consent Calendar.**
- Enactment No: ORD 977-2022
- 5C. [22-104](#)** Adopt City Council Resolution Confirming the Continued Existence of a Local Emergency in the City of Fort Bragg
- This Resolution was adopted on the Consent Calendar.**
- Enactment No: RES 4518-2022
- 5G. [22-123](#)** Adopt Joint City Council/Municipal Improvement District Resolution Amending the FY 2021/2022 Budget for Mid-Year Budget Adjustments
- This Resolution was adopted on the Consent Calendar.**
- Enactment No: RES 4519-2022 / RES ID 463-2022
- 5H. [22-119](#)** Approve City Council Letter to California Coastal Commission
- This Council Letter was approved on the Consent Calendar.**
- 5I. [22-111](#)** Receive and File Minutes of the Public Works and Facilities Committee Meeting of December 9, 2021

These Committee Minutes were received and filed on the Consent Calendar.

- 5J. [22-100](#) Receive and File Minutes of the Community Development Committee Meeting of January 25, 2022

These Committee Minutes were received and filed on the Consent Calendar.

- 5K. [22-101](#) Approve Minutes of February 28, 2022

These Minutes were approved on the Consent Calendar.

- 5L. [22-126](#) Approve Minutes of Joint City Council/Mendocino Coast Recreation and Park District Special Meeting of March 9, 2022

These Minutes were approved on the Consent Calendar.

ITEMS REMOVED FROM CONSENT CALENDAR

- 5E. [22-118](#) Adopt City Council Resolution Establishing a City of Fort Bragg Master Salary Rate Compensation Plan Confirming the Pay Rates/Ranges for All City of Fort Bragg Established Classifications

A motion was made by Councilmember Peters, seconded by Councilmember Albin-Smith, that this Resolution be adopted. The motion carried by the following vote:

Aye: 4 - Mayor Norvell, Vice Mayor Morsell-Haye, Councilmember Albin-Smith and Councilmember Rafanan

Abstain: 1 - Councilmember Peters

Enactment No: RES 4520-2022

- 5B. [22-103](#) Adopt City Council Resolution Making the Legally Required Findings to Continue to Authorize the Conduct of Remote "Telephonic" Meetings During the State of Emergency

Councilmember Rafanan asked that more discussion be given to this agenda item. Mayor Norvell noted that this matter is to be discussed under Item 8A.

Public Comment was received from Annemarie Weibel.

A motion was made by Councilmember Albin-Smith, seconded by Councilmember Peters, that this Resolution be adopted. The motion carried by the following vote:

Aye: 5 - Mayor Norvell, Vice Mayor Morsell-Haye, Councilmember Albin-Smith, Councilmember Peters and Councilmember Rafanan

Enactment No: RES 4521-2022

- 5D. [22-114](#) Adopt City Council Resolution Approving Professional Services Agreement with Helix Environmental Planning, Inc. for the Environmental Review and CEQA Document Preparation for Use Permit Application UP 3-21 for 1280 N. Main Street Waste Transfer Station and Authorizing the City Manager to Execute Contract (Amount not to Exceed \$41,500, Account No.

119-0000-2702)

Councilmember Albin-Smith related concerns about Helix Environmental, who she believed prepared the Grocery Outlet mitigated negative declaration (MND), stating that they did not do a good job. She asked if other companies had bid on the project. She said that a full EIR should be required. Assistant Director Engineering O'Neal confirmed that the company who prepared the MND for Grocery Outlet was LACO, not Helix. In light of this information, Councilmember Albin-Smith withdrew her objection.

Public Comment was received from Jacob Patterson and Annemarie Weibel.

A motion was made by Vice Mayor Morsell-Haye, seconded by Councilmember Peters, that this Resolution be adopted. The motion carried by the following vote:

Aye: 5 - Mayor Norvell, Vice Mayor Morsell-Haye, Councilmember Albin-Smith, Councilmember Peters and Councilmember Rafanan

Enactment No: RES 4522-2022

5F. [22-120](#) Approve Scope of Work for Request for Proposals for Environmental Impact Report for Proposed Grocery Outlet Project at 825, 845 and 851 S. Franklin Street

Mayor Norvell recused himself from voting on this matter, as he lives across the street from the project. He appointed Vice Mayor Morsell-Haye as Acting Mayor and left the meeting at 6:56 PM.

Councilmember Albin-Smith said she pulled this item because it is entitled Scope of Work when it should be Scope of Services. She requested that this be adopted as a Scope of Services.

Public Comment was received from Jacob Patterson and Annemarie Weibel.

Discussion: Councilmember Peters noted that all the items under Scope of Services are actually work/tasks.

A motion was made by Councilmember Albin-Smith, seconded by Councilmember Rafanan, that this Scope of Services be approved. The motion carried by the following vote:

Aye: 4 - Vice Mayor Morsell-Haye, Councilmember Albin-Smith, Councilmember Peters and Councilmember Rafanan

Recuse: 1 - Mayor Norvell

6. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS

Mayor Norvell returned to the meeting at 7:10 PM.

There were no disclosed ex-parte communications.

7. PUBLIC HEARING

8. CONDUCT OF BUSINESS

8A. [22-107](#) Conduct City Council Discussion and Provide Direction to Staff Regarding the Manner of Holding Public Meetings for City Council, Planning Commission and Council Committees

City Manager Spaur summarized the staff report and said the Council can provide direction to

staff on whether to hold meetings in person, virtually, or a hybrid of the two.

Public Comment was received from Jacob Patterson, Annemarie Weibel, Andrew Jordan and Jay McMartin-Rosenquist.

Discussion/Direction: After discussing the matter, Council directed staff to use a hybrid in-person/virtual format for City Council and Planning Commission meetings beginning in April, with a two-month transition period through the end of May, when meetings will return to in-person only. All standing committees will continue to be held virtually only via Zoom. Closed captioning will continue to be provided for all meetings.

Direction to staff regarding the conduct of public meetings was provided as outlined above.

9. CLOSED SESSION

Mayor Norvell recessed the meeting at 7:48 PM; the meeting reconvened to Closed Session at 7:55 PM.

9A. [22-121](#)

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION, Pursuant to Paragraph (1) of Subdivision (d) of Government Code Section 54956.9; Name of Case: City of Fort Bragg vs. Mendocino Railway and Does 1-10, Case No.: 21CV00850, Superior Court of the State of California, County of Mendocino

Mayor Norvell reconvened the meeting to Open Session at 8:35 PM and reported that no reportable action had been taken on the Closed Session item.

ADJOURNMENT

Mayor Norvell adjourned the meeting at 8:35 PM.

BERNIE NORVELL, MAYOR

June Lemos, MMC, City Clerk

IMAGED (_____)



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 22-136

Agenda Date: 3/28/2022

Version: 1

Status: Passed

In Control: City Council

File Type: Resolution

Agenda Number: 8A.

Receive Report and Consider Adoption of City Council Resolution Approving Budget Amendment No. 2022-20 to Appropriate Funds from the Transient Occupancy Tax Special Projects (Account No. 110-4390-0619), Funds from Asset Forfeiture Funds (Account No. 167-7999-0799), Funds from the State Department of Parks and Recreation Grant (Account No. 329-7999-0799), and Funds from Facilities- Internal Service Funds (Account No. 520-7999-0799) for the Implementation of Two Soccer Fields at Bainbridge Park



AGENCY: City Council
MEETING DATE: March 28, 2022
DEPARTMENT: Public Works
PRESENTED BY: Chantell O'Neal
EMAIL ADDRESS: coneal@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

Receive Report and Consider Adoption of City Council Resolution Approving Budget Amendment No. 2022-20 to Appropriate Funds from the Transient Occupancy Tax Special Projects (Account No. 110-4390-0619), Funds from Asset Forfeiture Funds (Account No. 167-7999-0799), Funds from the State Department of Parks and Recreation Grant (Account No. 329-7999-0799), and Funds from Facilities-Internal Service Funds (Account No. 520-7999-0799) for the Implementation of Two Soccer Fields at Bainbridge Park

ISSUE:

On December 13, 2021, the City Council adopted Resolution No. 4483-2021 approving an Application for Per Capita Grant funds from the State Department of Parks and Recreation in the amount of \$177,952 for continued implementation of the Bainbridge Park Master Plan to upgrade and add soccer field facilities to Bainbridge Park. The total estimated cost of construction for the soccer fields is \$330,000, leaving a budget shortfall of \$152,048. On February 22, 2022, Community Development Committee (CDC) made recommendations for fund sources to cover the full costs of construction of the fields by appropriating funds from the Transient Occupancy Tax (TOT) set-aside for school fields, from Asset Forfeiture, and from Facilities budget. Staff is seeking Council approval on the budget amendment to proceed with construction of the park development portion of the City's grant application for Phase II Bainbridge Park improvements.

ANALYSIS:

The soccer field work includes the installation of two 50 ft. x 80 ft. artificial surface soccer fields on the southwest side of the park abutting the basketball court. A to-scale concept level site plan is shown below in Figure 1. The cost of construction includes site preparation, field surfacing, electrical, permitting and other miscellaneous items to complete the project. A sample image of the soccer court is shown in Figure 2 below.

The Per Capita Grant has been awarded and staff is ready to proceed with putting this project out to bid for construction. In order to proceed, the remaining funding necessary to complete the project needs to be allocated. During the Community Development Committee meeting, recommendations for appropriations from the TOT set-aside for school fields, Asset Forfeiture, and Facilities budget were recommended to cover the shortfall. The proposed budget amendment is included as Attachment 2.



Figure 1: Concept Level Site Plan with Soccer Fields



Figure 2: Sample Soccer Court Image

RECOMMENDED ACTION:

Adopt Resolution authorizing Budget Amendment No. 2022-20 for the allocation of funds to construct two soccer fields at Bainbridge Park.

ALTERNATIVE ACTION(S):

1. Identify alternate fund sources for the project budget deficit; or
2. Direct staff not to apply the Per Capita Funds for this project and identify other projects appropriate for implementation of grant money.

FISCAL IMPACT:

The City has been awarded \$177,952 from the State Department of Parks and Recreation. The total estimated cost of construction for the soccer fields is \$330,000, leaving a budget shortfall of \$152,048. Per CDC direction, below is a table calculating the total requested apportionments from the various funds. These details are also shown in Attachment 2, Budget Amendment.

<u>Proposed Funding Sources</u>	
Per Capita	\$ 177,952
TOT	\$ 74,728
Asset Forfeiture	\$ 40,000
Facilities-ISF	\$ 37,320
Total	\$ 330,000

GREENHOUSE GAS EMISSIONS IMPACT:

There will be a short-lived increase of greenhouse gas emissions during the construction phase due to the equipment necessary for the performance of the work. Increases in greenhouse gases will only occur during actual construction. All Air Quality Management District best management practices for minimizing greenhouse gas emissions during construction, like reducing idling vehicles will be incorporated into the daily activities during construction of this project.

CONSISTENCY:

Continued improvements to Bainbridge Park would carry out the vision of the Bainbridge Park Master Plan. Additionally, these proposed park improvements would be consistent with the following General Plan policies:

- **Policy OS-9.3:** Recreational Facilities: Provide recreational facilities to meet the needs of all Fort Bragg citizens, especially children and teenagers.
- **Program OS-9.3.1:** Consider teen recreation needs when planning new or redesigned parks.
- **Goal OS-10:** Develop park and recreation facilities with the coordination of other agencies and the public.

- **Policy OS-10.4:** Public Participation: Actively solicit public participation in the selection, design, and facilities planning for existing and future park sites.

IMPLEMENTATION/TIMEFRAMES:

If the budget amendment is approved, staff will program the project and put together a bid package for construction this summer.

ATTACHMENTS:

1. Resolution
2. Exhibit A: Budget Amendment
3. Letter of Support from Fort Bragg Unified School District

NOTIFICATION:

Bainbridge Park Notify Me Subscribers

RESOLUTION NO. ____-2022

RESOLUTION OF THE FORT BRAGG CITY COUNCIL APPROVING BUDGET AMENDMENT NO. 2022-20 TO APPROPRIATE FUNDS FROM THE TRANSIENT OCCUPANCY TAX SPECIAL PROJECTS (ACCOUNT NO. 110-4390-0619), FUNDS FROM ASSET FORFEITURE (ACCOUNT NO. 167-7999-0799), FUNDS FROM STATE DEPARTMENT OF PARKS AND RECREATION GRANT (ACCOUNT NO. 329-7999-0799), AND FUNDS FROM FACILITIES-INTERNAL SERVICE FUND (ACCOUNT NO. 520-7999-0799) FOR THE IMPLEMENTATION OF TWO SOCCER FIELDS AT BAINBRIDGE PARK

WHEREAS, in December of 2021, State Department of Parks and Recreation awarded the City \$177,952 under the Per Capita Grant Program; and

WHEREAS, on February 22, 2022, the Community Development Committee gave direction to staff to utilize the funds for construction of two artificial surface soccer fields at Bainbridge Park; and

WHEREAS, the engineer's estimate of costs exceeds the allocated grant funds by \$152,048; and

WHEREAS, the Community Development Committee made recommendations this budget shortfall be covered by appropriating funds from the Transient Occupancy Tax (TOT) set-aside for school fields, from Asset Forfeiture, and from Facilities budget; and

WHEREAS, based on all the evidence presented, the City Council finds as follows:

1. The adjustments to the FY 2021-22 Budget as shown in Exhibit A, are necessary to cover the costs of construction of the improvement.
2. There are sufficient funds to fund the allocations.
3. The proposed project will be consistent with the parks and recreation element of the City of Fort Bragg's General Plan (PRC §80063(a)).

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby amend the previously adopted FY 2021-22 Budget to incorporate the changes enumerated in Exhibit A.

The above and foregoing Resolution was introduced by _____ seconded by _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 28th day of March, 2022, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:

BERNIE NORVELL
Mayor

ATTEST:

June Lemos, MMC
City Clerk

Exhibit A

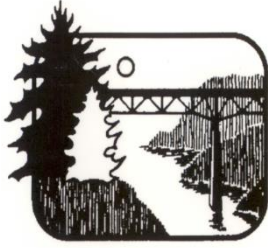
BUDGET AMENDMENT

Budget Adjustment #: 2022-20

Budget FY: FY 2021/22

Account Description	Account #	FY 21/22 Current Budget	Increase (+) Budget Amt	Decrease (-) Budget Amt	Revised Total Budget Amt	Description
Expenditures						
Grant: State Dept of Parks & Recreation	329 7999 0799	\$ -	\$ 177,952		\$ 177,952	Grant: State Dept of Parks & Recreation
Measure AB Prior year allocation balance	110 4390 0619	\$ 60,000	\$ 51,228		\$ 111,228	\$23,500 Remaining Budget FY 21/22, \$51,228 from Unassigned Balance
Asset Forfeiture Fund: (Transfers)	167 7999 0799	\$ -	\$ 40,000		\$ 40,000	Asset F- Miscellaneous Exp
Internal Service Funds: Facilities(Transfers)	520 7999 0799	\$ -	\$ 37,320		\$ 37,320	Facilities- Transfers
CIP: Bainbridge Park Soccer Fields (Exp)	425 4874 0731	\$ -	\$ 330,000		\$ 330,000	CIP- Soccer Fields
					\$ -	
Total Expenditures		\$ 60,000	\$ 458,548	\$ -	\$ 518,548	
Revenue						
CIP- Bainbridge Park soccer fields (Transfe	425 7999 7999	\$ -	\$ 330,000		\$ 330,000	
Grant: State Dept of Parks & Recreation	329 6133 3336		\$ 177,952		\$ 177,952	
Total Revenue		\$ -	\$ 507,952	\$ -	\$ 507,952	

Reason for Amendment:	RESOLUTION # : 	
	Budget amendment for 2 Soccer fields at Bainbridge Park.	
Authorization:	Signature:	Date:
Requested By:	_____	_____
Approval:	Isaac Whippy _____	_____
Finance Use:	Adriana Moreno Ramos _____	_____
<i>Attach copies of Resolution or other documentation</i>		



FORT BRAGG UNIFIED SCHOOL DISTRICT

Superintendent
Rebecca Walker

Board of Trustees
Kathy Babcock
Mary Makela, Vice President
Gerald Matson
Diana Paoli, President
Scott Schneider

312 South Lincoln Street, Fort Bragg, California 95437-4416

Telephone (707) 961-2850

Fax (707) 964-5002

March 22, 2022

City of Fort Bragg
416 North Franklin Street
Fort Bragg, CA 95437

Attention: City Council Members & City Manager

Dear Esteemed City Council Members and Mr. Spaur,

On behalf of the FBUSD Board of Trustees and the FBUSD team, thank you for your continued support of our school district and the youth of our community. We have appreciated a positive working relationship with you and look to continue this comradery.

At the March 10th FBUSD School Board meeting, the Board of Trustees took action to support the Mayor's request to use TOT funds to complete the final stages of the proposed soccer fields at Bainbridge Park. We understand that the portion of the TOT that was dedicated to FBUSD fields will be allocated to completing this project and we fully support this endeavor. Once this project is complete, we hope to work together to refocus future TOT funds on the renovation and/or maintenance of the school district fields.

Thank you again for supporting the wellness of our community. The soccer fields will be a welcome addition to our town.

Sincerely,

Rebecca Walker
FBUSD Superintendent

From: [K.Silva](#)
To: [Norvell, Bernie](#); [Morsell-Haye, Jessica](#); [Peters, Lindy](#); [Albin-Smith, Tess](#); [Rafanan, Marcia](#); [Lemos, June](#)
Subject: Public Comment - 28 March 2022 City Council Meeting - Agenda Item 8A. Bainbridge Park proposed Soccer Fields
Date: Monday, March 28, 2022 4:10:48 PM

Dear Mayor Norvell and Fort Bragg City Councilmembers;

I like living near Bainbridge Park and love the sounds of people, especially children, having fun there. I am writing to support Per Capita Grant Funds to be spent on amenities and improvements as decided by the community during the workshops, surveys and meetings while creating the Bainbridge Park Master Plan. How about using the funds for Wiggly Giggly renovations and use the TOT for soccer field improvements? Building new soccer courts at Bainbridge Park is not consistent with the Master Plan and disregards the considerable public input in the planning for the park. Perhaps most, if not all of you want to build soccer courts at Bainbridge Park, but please read the following so you will be informed of some of things your decision entails:

Figure #1 of the Bainbridge Soccer Fields Report shows a 48-foot long pavilion fitting along the 20-foot length of angled fence in the NW corner of the park. It is impossible. Even a smaller pavilion will need to be located much further south to fit in the park with room to walk around it. And that is one big problem with putting the soccer courts in the western half of the park. It removes a large part of the area meant for parties, gatherings, and audiences for the pavilion. The pavilion was most-wanted feature during the public workshops for the Bainbridge Park Master Plan. If the soccer courts go in there, the pavilion will not work in the small amount of space left. That completely disregards the Bainbridge Park Master Plan and it disregards the many members of the community who took part in developing that plan.

The Master Plan intentionally kept the open space as lawn area for passive recreation like family and community gatherings. It is a popular place for everything from birthday parties (especially with Wiggly Giggly nearby), to volleyball, badminton, frisbee, to the quilt show, Paul Bunyan Day festivities, library events, etc. The lawn fills up with those parties and events regularly already. The Master Plan recognized that it will be used even more in the future as people add ADUs (and now tiny homes) and will need family-friendly outdoor space to get together. Keeping that space available for people to gather is a main reason that a draft of the Bainbridge Park Master Plan that shows possible active recreation extending beyond the basketball court was rejected. Placing the pétanque courts in a part of the south end

was a compromise that would not permanently interfere with using that area as open space and would not have an impact on the homes just a few feet away. In fact, page 11 of the Master Plan states "The entire Western half of the park will serve as a lawn for seating or other open space activities." That sentence is very clear. Why do you disregard that?

Why is the north side of the C.V. Starr Center property not being considered? It's a place where active sports is its main purpose, whereas the west half of Bainbridge Park is meant to be a public gathering space and open for passive recreation of all kinds. The C.V. Starr Center was mentioned as a possible location for the soccer courts at the Community Development Committee meeting but no follow-up was requested by committee members. Instead, Bainbridge Park is being radically changed without soliciting input from those who expected that the Bainbridge Park Master Plan was indeed a plan with the amenities desired by the community. I am also surprised and disappointed that the pétanque courts, volleyball/badminton poles and storywalk have been suddenly removed from the Master Plan without soliciting community input. Soliciting public participation was said to be needed if the CV Starr Center property was considered as the location of the soccer courts. But an invitation to participate in the decision to ignore the Bainbridge Park Master Plan and hugely alter the Bainbridge Park was not afforded the large number of community members who worked with staff to create that plan. Contrary to the Bainbridge Soccer Fields Report, making a major change like this is not consistent with the General Plan Policy OS-10.4: "Public Participation: Actively solicit public participation in the selection, design, and facilities planning for existing and future park sites." Allowing public comment at City Council and Committee meetings is not actively soliciting public participation.

During Phase I of the implementation of the Master Plan, a fence and new sidewalk from the west entrance were added, along with a double bench on a new square concrete pad at the west side of the basketball court. The west entrance of the fence is actually located quite a bit farther south than shown on the Figure 1 layout, much closer to the numeral 6 on that layout. If you decide to build the soccer courts at Bainbridge Park, half of the new sidewalk and some of the old will need to be removed or it will be laying under the soccer courts. And the remaining half of the new sidewalk from the west entrance will end at the west side of the soccer courts, leading to

nowhere. The new concrete pad that holds the double benches to the west of the basketball court will also have to be removed, along with the benches and a small tree nearby. The layout shows a much narrower spot for a single bench west of the basketball court. These are issues that have not even been discussed. How do you justify destroying the recently added features created using Phase 1 funds to now create the soccer courts that are not consistent with the Master Plan? To solicit and then completely disregard the wishes of the community is surprising and extremely disturbing. And to remove features added during Phase I in order to add the soccer courts is fiscally irresponsible.

One consideration in developing the Master Plan was to avoid adding more nighttime noise and light affecting the neighboring homes, especially those abutting the south side of the park. There is not even a street or sidewalk separating them from the park. Adding lighted soccer courts, where a dynamic sport will be played at night just several feet away from those residences, also runs contrary to the Master Plan. And the narrow strip of lawn that would be created to the south of the proposed soccer courts is ideal for people who want to hang out doing things they don't want to be seen doing and is too narrow to be used for anything else. Constant illegal, unsafe activity was the reason for the added fencing behind the utility shed. And that narrow strip of lawn is narrower than shown on Figure 1. There is a wide privacy hedge on the south side of the park property west of the utility shed that is not shown on Figure 1. The C.V. Starr Center location would not place the courts anywhere near as close to any homes as the current plans at Bainbridge Park. How about considering the community as a whole?

Building athletic, one-sport courts in a location that has been and is intended and desired by the community, to remain the more passive recreational space for people to gather for events and family gatherings is not right. It's the only city park we have where large families and groups can comfortably meet. That is why the pavilion was the number one desired feature. The Per Capita Grant funds would be more wisely spent on the features in the Master Plan: a pavilion, pétanque, storywalk, and much-needed renovations at the 18-year-old Wiggly Giggly playground. It is overdue. There is also the concern with repairs and maintenance at the park. It is difficult to keep up with what is currently at the park and it will be an even bigger challenge to maintain with an additional artificial turf court,

which needs much more regular attention than mowing the lawn. Adding new amenities is more glamorous than addressing maintenance but those costs and time involved need to be factored in. I don't see an ability to keep up with the maintenance needs that already exist before adding high maintenance artificial turf enclosed courts.

I respectfully request that, should you choose to spend the Per Capita Grant funds on Bainbridge Park, you first read the Bainbridge Park Master Plan and consider the amenities and renovations which many community members have taken part in planning and have been patiently awaiting. And spend that money on the long-overdue repairs/renovations in the Wiggly Giggly playground. If you are adamant about spending the funds on soccer courts, please consider building them at the much larger, more logical location; the C.V. Starr Community Center. Please don't remove our only large-enough family picnic and gathering area. Thank you for your consideration.

Sincerely,

Kathy Silva

Fort Bragg resident

Coast Youth Soccer League

PO Box 694
Fort Bragg CA 95437



RE: Item 8A. 22-136 Receive Report and Consider Adoption of City Council Resolution Approving Budget Amendment No. 2022-20 to Appropriate Funds from the Transient Occupancy Tax Special Projects (Account No. 110-4390-0619), Funds from Asset Forfeiture Funds (Account No. 167-7999-0799), Funds from the State Department of Parks and Recreation Grant (Account No. 329-7999-0799), and Funds from Facilities- Internal Service Funds (Account No. 520-7999-0799) for the Implementation of Two Soccer Fields at Bainbridge Park

City of Fort Bragg
416 North Franklin Street
Fort Bragg, CA 95437

March 27, 2022

City Council Members and City Staff,

The board of the Coast Youth Soccer League would like to express our support for the proposed budget amendment to facilitate the installation of 2 artificial soccer fields. CYSL believes that this allocation of funds is a great service to the youth of our community and fully supports the investment into Bainbridge Park.

As a non-profit youth organization that services the families of the North Coast, CYSL is available to collaborate on future projects that will enhance the facilities available to the youth in our community.

Thank you for your time and thoughtful consideration.

Respectfully,

Brandy Moulton
Vice President
cyslmendo@gmail.com



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 22-137

Agenda Date: 3/28/2022

Version: 2

Status: In Committee

In Control: Community Development Committee

File Type: Staff Report

Agenda Number: 8B.

Receive Report and Provide Direction to Staff Regarding Funding for Replacement of Playground Equipment at Wiggly Giggly Playground in Bainbridge Park



AGENCY: City Council
MEETING DATE: March 28, 2022
DEPARTMENT: Public Works
PRESENTED BY: Chantell O'Neal
EMAIL ADDRESS: coneal@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

Receive Report and Provide Direction to Staff Regarding Funding for Replacement of Playground Equipment at Wiggly Giggly Playground in Bainbridge Park

ISSUE:

In 2016, City Council directed staff to work with the community to develop a plan for park improvements to enhance the “family friendly” environment at Bainbridge Park. Since that time, several improvements have been made to various features at the Park including new fencing, new pathways, and the addition of soccer courts is currently on the agenda. When discussions about Bainbridge Park Master Plan began, the playground equipment was still in adequate condition, so other improvements scored higher for replacement. However, the current state of the playground equipment is verging on unusable and staff is seeking direction on funding for replacement of the equipment.

ANALYSIS:

Staff had applied for two Prop 68 Grants from the State Department of Parks (2019 and 2021) and Recreation to fund all the improvements associated with the Bainbridge Park Master Plan. Both applications were unsuccessful. The City did receive \$177,952 in Per Capita Funds, which is being programmed for the installation of two artificial turf soccer courts at the direction of the Community Development Committee. However, the playground equipment has now degraded to a poor condition, and funding for replacement needs to be identified. Below are some photographs depicting the current state of the equipment. The playground is currently missing one mesh ladder that leads to the big slide, the swinging bridge has been removed and is now boarded up, the tire swing has been removed, and several other areas are showing significant signs of age and are quickly deteriorating to a point beyond repair.

The Wiggly Giggly Playground is the only City-owned playground available to our community’s young children and it is the only playground between Leggett and Caspar. According to the 2020 Census there are ±2,659 children that live in the 95437 zip code. That means this is the only playground for all these kids, making it a very popular place for gatherings and play dates. The playground repair is past due. Earlier this year, staff received the following estimates for the cost of the replacing the equipment and surfacing.

- Playground Equipment - \$299,000
 - Construction Management/ Contingency/ Contracts/ Demolition – \$60,000
- Playground Surface - \$323,000
 - Construction Management/ Contingency/ Contracts – \$15,000

AGENDA ITEM NO. 8B



At the February 28, 2022 meeting of the Community Development Committee, the playground equipment replacement was scheduled for a future discussion. However, as you can see from the photographs, this item should not be delayed any further. If the total cost of the project exceeds available funds determined appropriate for this project, staff recommends prioritizing the playground equipment and retaining the chip surfacing for replacement as a Phase II.

RECOMMENDED ACTION:

Identify funding sources for the replacement of the playground equipment and surfacing, and provide direction for either a 2021/2022 budget amendment or inclusion in the 2022/2023 budget.

ALTERNATIVE ACTION(S):

1. Direct staff to proceed with only equipment replacement or only surfacing at this time;
2. Direct staff to continue to seek out grant funds;
3. Send to Committee for additional scoping; or
4. Make no recommendations for playground equipment replacement at this time.

FISCAL IMPACT:

The City’s 2021/2022 budget Capital Improvement Program (CIP) 5-year look ahead, has identified Bainbridge Park improvements as beyond the CIP and estimated the full improvements to be \$1,800,000. As the state of the playground has deteriorated to an unusable condition, the playground equipment and surfacing is one part of this project and the estimated total cost of rehab is \$697,000. To date staff has not identified a funding source to cover the cost of the improvements, however the facilities budget with transient occupancy tax money seems the most appropriate to consider for fund allocation.

Wiggly Giggly Upgrades

Playground Equipment	\$299,000
<u>Construction Management/ Contingency/ Contracts/ Demolition</u>	<u>\$60,000</u>
Sub-Total	\$359,000
Playground Surface	\$323,000
<u>Construction Management/ Contingency/ Contracts</u>	<u>\$15,000</u>
Sub-Total	\$338,000
Playground Upgrades	\$697,000

GREENHOUSE GAS EMISSIONS IMPACT:

If funding is approved and the project were to be constructed, there will be a short-lived increase of greenhouse gas emissions during the construction phase due to the equipment necessary for the performance of the work. Increases in greenhouse gases will only occur during actual construction. All Air Quality Management District best management practices for minimizing greenhouse gas emissions during construction, like reducing idling vehicles, will be incorporated into the daily activities during construction of this project.

CONSISTENCY:

Renovating the Wiggly Giggly Playground would carry out the vision of the Bainbridge Park Master Plan. Additionally, park improvements would be consistent with the following General Plan policies:

- **Policy OS-9.3:** Recreational Facilities: Provide recreational facilities to meet the needs of all Fort Bragg citizens, especially children and teenagers.
- **Program OS-9.3.1:** Consider teen recreation needs when planning new or redesigned parks.
- **Policy OS-9.4:** Playground Facilities: Add or upgrade playground facilities at existing neighborhood parks.
- **Program OS-9.4.1:** Provide additional playground facilities and basketball courts at appropriate locations within neighborhoods.
- **Goal OS-10:** Develop park and recreation facilities with the coordination of other agencies and the public.
- **Policy OS-10.4:** Public Participation: Actively solicit public participation in the selection, design, and facilities planning for existing and future park sites.

IMPLEMENTATION/TIMEFRAMES:

Once a funding source has been identified, staff will prepare a report to the Community Development Committee with playground equipment and surfacing options to solicit input on selection of a theme and style. After equipment selection, staff will program the project and put together a bid package for construction this summer.

ATTACHMENTS:

1. Bainbridge Park Master Plan

NOTIFICATION:

1. Notify Me List – Bainbridge Park



BAINBRIDGE PARK MASTER PLAN

CITY OF FORT BRAGG | 2016

Bainbridge Park Master Plan

2016

CITY OF FORT BRAGG, CA | city.fortbragg.com

Development of the Bainbridge Park Master Plan is a Supplemental Activity funded by Program Income through a 2014 Community Development Block Grant.

This project is informed by the insight and generosity of numerous members of the Fort Bragg community. The following individuals participated and contributed to the Bainbridge Park Master Plan:

- Fort Bragg City Council
 - Dave Turner, Mayor
 - Lindy Peters, Vice-Mayor
 - Michael Cimolino
 - Scott Dietz
 - Doug Hammerstrom
- Fort Bragg City Staff
 - Marie Jones, Community Development Director
 - Tom Varga, Public Works Director
 - John Smith, Operations Manager
 - Allen Palacios, Maintenance Worker
 - Sgt. Drew Kendl, Fort Bragg Police Department
 - Lynda Bengtsson-Davis, Information Technology
- Kathy Silva
- Peter Gealey, Noyo Yoyos
- Lolli Jacobsen, Noyo Yoyos

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Introduction

Purpose

The Bainbridge Park Master Plan examines both existing and compatible new uses to create a balanced park that serves the nearby community while addressing the City's recreation needs. The Plan provides direction and implementation strategies to guide the development and operation of Bainbridge Park.

Guiding Principles

The Bainbridge Park Master Plan relies on the following documents for guidance:

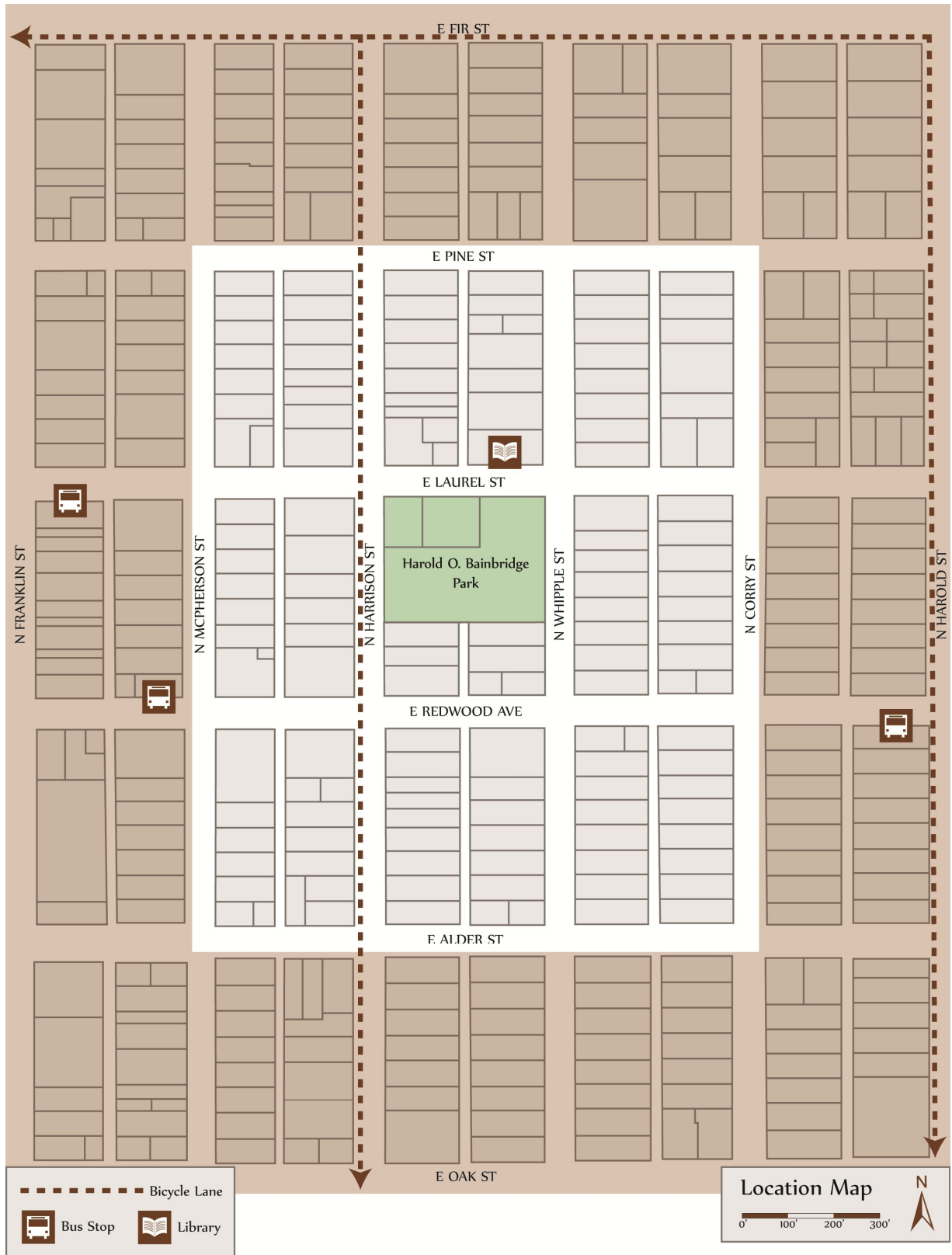
City of Fort Bragg Inland General Plan

The Inland General Plan specifically addresses open space and parks, and provides the goals, policies and programs to guide future development of City parks so that they meet the community's recreational needs. The following policies of the General Plan are applicable to the Bainbridge Park Master Plan.

- Policy OS-9.3: Recreational Facilities: Provide recreational facilities to meet the needs of all Fort Bragg citizens, especially children and teenagers.
- Program OS-9.3.1: Consider teen recreation needs when planning new or redesigned parks.
- Policy OS-9.4: Playground Facilities: Add or upgrade playground facilities at existing neighborhood parks.
- Program OS-9.4.1: Provide additional playground facilities and basketball courts at appropriate locations within neighborhoods.
- Goal OS-10: Develop park and recreation facilities with the coordination of other agencies and the public.
- Policy OS-10.4 Public Participation: Actively solicit public participation in the selection, design, and facilities planning for existing and future park sites.

City of Fort Bragg Inland Land Use and Development Code

The Inland Land Use and Development Code (ILUDC) maps Bainbridge Park in the Parks and Recreation zoning district, and limits allowable uses to recreational uses, the structures needed to support those uses, and facility and site maintenance. All of the uses and improvements proposed in the Bainbridge Park Master Plan are permitted uses consistent with the zoning district. Development of new structures will require Design Review to ensure consistency with the Citywide Design Guidelines.



Bainbridge Park Today



Site Description

The partially developed two-acre Harold O. Bainbridge Park is located in the north half of town, surrounded by a residential neighborhood with medium to very-high density residential development. The west half of the park is a large, undeveloped grassy lawn. Trees border the lawn along the west and north boundaries of the park. This half of the park is the least used and has the most potential for improvements and new facilities. See the **Existing Facilities Map** on the following page for more detail.

The eastern half of Bainbridge Park contains the Wiggly Giggly Playground, two tennis courts and a reduced size full-court basketball court. Public restrooms sit in the center of these uses, and are accessible from the east through the playground and from the west by the basketball court. A maintenance shed, which houses maintenance equipment and provides access to the utilities that serve the park, sits near the southern border of the park, west of the basketball court.

Veteran's Memorial Hall sits on the north end of the park, west of the playground. The building and surrounding area is Mendocino County property, and is not a subject of this Master Plan.

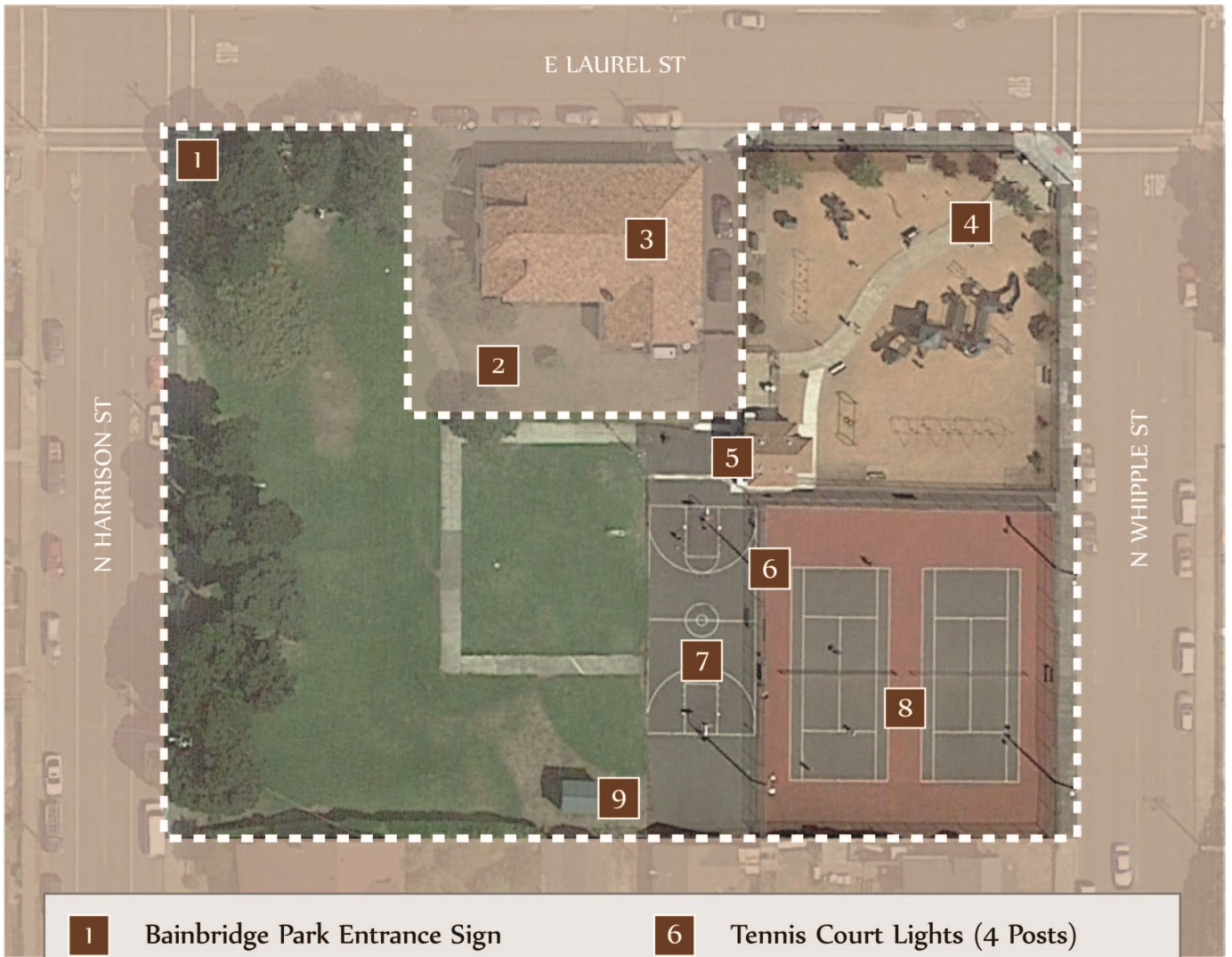
History

The Bainbridge Park property formerly housed the City Grammar School, constructed in 1889. The City Grammar School included four classrooms and a library, and was used as a school until 1923 when it became the location for City Hall.¹

Bainbridge Park is named for Harold O. Bainbridge, former mayor and city councilman for the City of Fort Bragg spanning twenty years. Mr. Bainbridge was born in Usal and the son of a millwright. Prominent in City politics, Mr. Bainbridge promoted the inclusion of Highway 1 and Highway 20 into the State Highway System. Mr. Bainbridge operated the Fort Bragg Market, then located at 362 North Franklin Street until 1953.²

¹ "City Grammar School," Fort Bragg – Mendocino Coast Historical Society, http://www.fortbragghistory.org/index_files/PhotoCityGrammar.htm.

² Holmer, "Glance at the Past," *Fort Bragg Advocate*, October 18, 2012.



- | | |
|---|--|
| 1 Bainbridge Park Entrance Sign | 6 Tennis Court Lights (4 Posts) |
| 2 Mendocino County Property Boundary | 7 Basketball Court |
| 3 Veterans Hall (Historic Building) | 8 Tennis Courts |
| 4 Wiggly Giggly Playground | 9 Utility and Maintenance Shed |

5 Public Restrooms

Existing Facilities Map

0' 20' 40' 60'

Collaboration

Community Development Department (CDD) staff sought initial input from various City staff regarding maintenance and security issues at Bainbridge Park.

Public Works

CDD staff met with Public Works staff to discuss funded and pending maintenance projects scheduled for the park. In the summer of 2016, Public Works made the following improvements to the park:

1. Reduced the wattage and height of the existing lights above the tennis courts to limit the amount of light pollution.
2. Installed more lights on existing poles west of the tennis courts to light the basketball court.
3. Replaced the picnic tables that were removed from the park due to deterioration and vandalism. The new picnic tables were placed on concrete slabs to reduce wear and protect against soggy ground underneath. The location of these new picnic tables was determined by preliminary drafts of this the Bainbridge Park Master Plan.

In terms of maintenance, the adult restroom facilities are the biggest ongoing maintenance challenge in the park, as the doors are regularly vandalized and the interiors are subject to a variety abuses. New facilities could help alleviate some of these challenges by contributing to the active use of the park.

Fort Bragg Police Department

CDD staff worked with Fort Bragg Police Sergeant Kendl to examine existing and ongoing policing issues at Bainbridge Park, such as transients and use of the park for illegal purposes. The Bainbridge Park Master Plan addresses policing issues for each proposed park improvement. Sergeant Kendl's primary recommendation is to install fencing with two gated entrances for the western and northern boundaries of the park to limit the options for quick ingress and egress, thereby making the park a less desirable destination for troublemakers.

Information Technology

The Information Technology Department identified ways to improve the security system:

1. The cameras cannot visualize the area directly in front of Veteran's Memorial Hall or the area behind the maintenance shed.
2. The security cameras previously recorded to a system within Veteran's Memorial Hall, which could only be reviewed after a problem occurs to identify troublemakers after the fact. In summer of 2016, Information Technology installed a wireless system to transmit security video footage from the park to City Hall and the Police Department. This should make the footage more easily accessible and help the Police Department when dealing with crime in the park

Community Participation

The park planning processes invited citizen input and included well-attended public meetings and a community workshop held at Veteran's Memorial Hall in Bainbridge Park. The planning process brought together City residents, neighbors, park goers, and City of Fort Bragg staff to develop and create consensus with regard to physical improvements, management issues and park improvement and rehabilitation priorities for Bainbridge Park.

The City invited the public to the following opportunities to provide input for the Bainbridge Park Master Plan:

1. Community Development Committee (October 27, 2015)
2. Bainbridge Park Community Workshop (November 17, 2015)
3. Special City Council Meeting (December 16, 2015)
4. City Council Meeting (February 22, 2016)

Community Development Committee (October 27, 2015)

During the Community Development Committee (CDC) meeting, staff provided a summary of the project and the plans for a Community Workshop to the Committee. The CDC, staff and the attending public discussed past and ongoing maintenance issues at Bainbridge Park, including the previous removal of vegetation and picnic tables, and the planned alteration to the tennis court lights.

Community Workshop (November 17, 2015)

The community workshop gave the public an opportunity to inform the planning process and prioritize and locate potential improvements.

1. The workshop began with a brief walking tour of Bainbridge Park.
2. The walking tour was followed by a presentation of poster boards illustrating the existing facilities, and participants provided additional comments and input about existing facilities.
3. Staff then presented colorful poster boards that illustrated a number of potential improvements for the park. Workshop participants discussed pros and cons of the various potential improvements.
4. After this general discussion, the seated format of the workshop broke up and each participant was given six green dots and six red dots to prioritize their favorite and least favorite potential park improvements by placing them on the poster boards.
5. Staff tallied the dots to determine the highest priority improvements and conveyed this information to the participants.
6. Workshop participants then worked in five small groups of three to seven people to create park layouts using the most popular improvements and scaled cut-out representations of each improvement.
7. The workshop concluded with a presentation by each small group of their layout and the rationale for the layout that they created.

Over thirty citizens attended the public workshop, in addition to City staff and Councilmembers. Included among the participants was a strong turnout by the petanque- and tennis-playing communities.

The workshop provided opportunity for participants to develop a vision for Bainbridge Park and potential improvements. There was clear consensus among the workshop participants that park improvements should include new petanque courts and a covered structure (or pavilion) at the park. Other very popular ideas include improving the tennis and basketball courts and adding public art. Workshop participants were strongly opposed to developing a community garden or a public plaza. The table below shows the tally for the improvement ideas (from highest to lowest priority) from the workshop.

Bainbridge Park Community Workshop Preference Results

		Potential Amenity	Votes in Favor	Votes Opposed
Most Favorable		Petanque Courts	20	0
		Covered Structure (Pavilion)	26	5
		Public Art	26	12
		Improve Tennis Courts	32	2
Favorable		Landscaping	17	9
		Grills	11	0
		Improve Basketball Court	10	0
Not Favorable		Batting Cage	1	8
		Golf or Putt-Putt	0	11
Least Favorable		Community Garden	0	32
		Plaza or Square	3	19
		Allow Soccer on Tennis Courts	0	32
Most Debated		Fencing	22	17



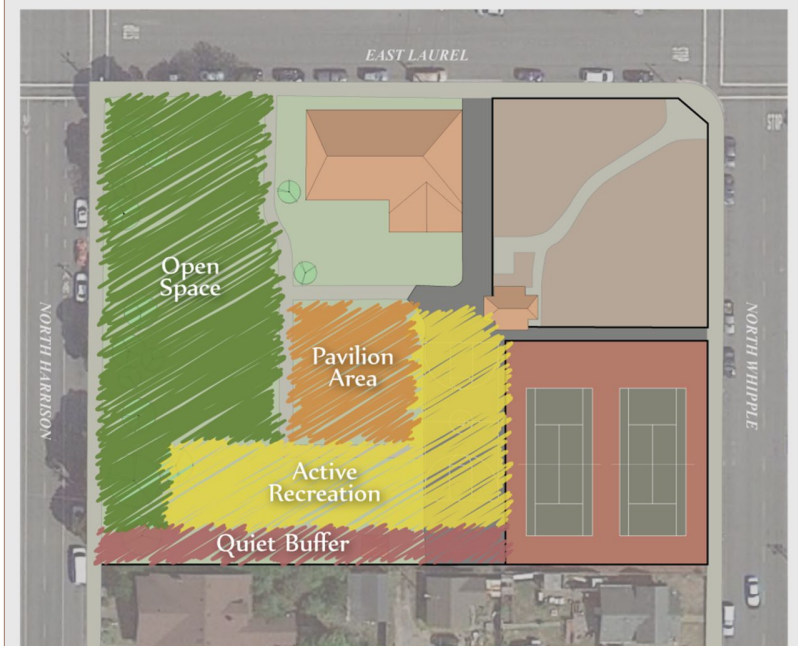
Although not listed in the table above, workshop participants were in favor of adding benches and picnic tables. These improvements received limited votes because it was understood that these improvements were already ordered and would be available prior to the completion of the Master Plan.

Two general themes emerged from the five plans created at the community workshop. **Workshop Theme 1** placed the pavilion at the northwest corner of Bainbridge Park, with more space for active recreation uses (petanque, volleyball, etc.) along the southeastern portion of the open space. Three of

the five workshop groups preferred this general layout. Each of these three groups had open space south of the covered structure to serve as seating when the pavilion is utilized as a stage. An open space buffer or vegetation would shield the residences immediately to the south from park uses.



Workshop Theme 1



Workshop Theme 2

Workshop Theme 2 placed the covered structure immediately west of the basketball court in the area presently surrounded by sidewalk. This layout protects a good deal of Bainbridge Park’s existing open space, while placing a more limited amount of active recreation facilities on the southern end of the park.

Special City Council Meeting (December 16, 2015)

Following the Community Workshop, staff analyzed the public recommendations for presentation at the December 16, 2015 Special City Council meeting. A handful of citizens attended the meeting and provided additional input to help frame the Bainbridge Park Master Plan. At the meeting, City Council reviewed the results of the Community Workshop and the recommendations from City staff. City Council preferred the park layout reflected in **Workshop Theme 1**, placing the covered structure at the northwest corner of the park.

City Council Meeting (February, 2016)

City Council made final direction on the Bainbridge Park Master Plan, recommending the fence be the highest priority improvement, but requested that gates be removed from the Plan. Council also requested that the future pavilion should architecturally match the existing restrooms and Veteran’s Memorial Hall.

Master Plan Recommendations



Focus Area: Community Gathering Space

Covered Structure/Pavilion

City Council and workshop participants expressed strong support for a new small pavilion in Bainbridge Park to provide a dry location for activities during inclement weather, a venue for markets, fairs, parties, and events, and a small stage for music or shows.

The workshop groups were given an option of a larger (30-40 person, 1,200 square feet) or smaller (15-20 person, 400 square feet) pavilion, and all five groups selected the larger structure for their plans. Three of the five groups proposed the pavilion at the northwest corner of the park. One located it at the south end of the park and the other located it in the middle of the park. At the December 16, 2015 Special City Council Meeting, City Council favored placing the structure at the northwest corner of the park for the following reasons:

1. The inside of the pavilion will be visible from Harrison and Laurel Streets to accommodate police monitoring.
2. The entire western half of the park will serve as a lawn for seating or other open space activities.
3. The close proximity to Harrison and Laurel Streets will provide easy access for loading and unloading equipment, food and party supplies for the pavilion.



Sample pavilion designs that received favorable responses from the Community Workshop and City Council meetings

The **Master Plan Park Layout** sites the pavilion at an angle in the corner of the park. This allows for a larger pavilion (shown as 48-feet by 24-feet) without encroaching onto Mendocino County property. The angle of the structure also provides space at the corner of the park for an art installation, discussed later in the Master Plan.

Electricity and water are important amenities for the pavilion to encourage various uses; however, any access to utilities would be secured and available by reservation only. Reservations will be managed by City Hall. Picnic tables will not be permanently installed inside the pavilion to allow flexibility for multiple uses. If after construction it is apparent that the primary use of the pavilion requires picnic tables, the City can evaluate placing permanent picnic tables in the pavilion at that time. Otherwise, users will need to bring or rent their own picnic tables for parties within the Pavilion.

The pavilion was the most popular recommended improvement at the community workshop. At their February 22, 2016 meeting, City Council recommended that the future pavilion architecturally match the style of the existing bathrooms and Veteran's Memorial Hall.

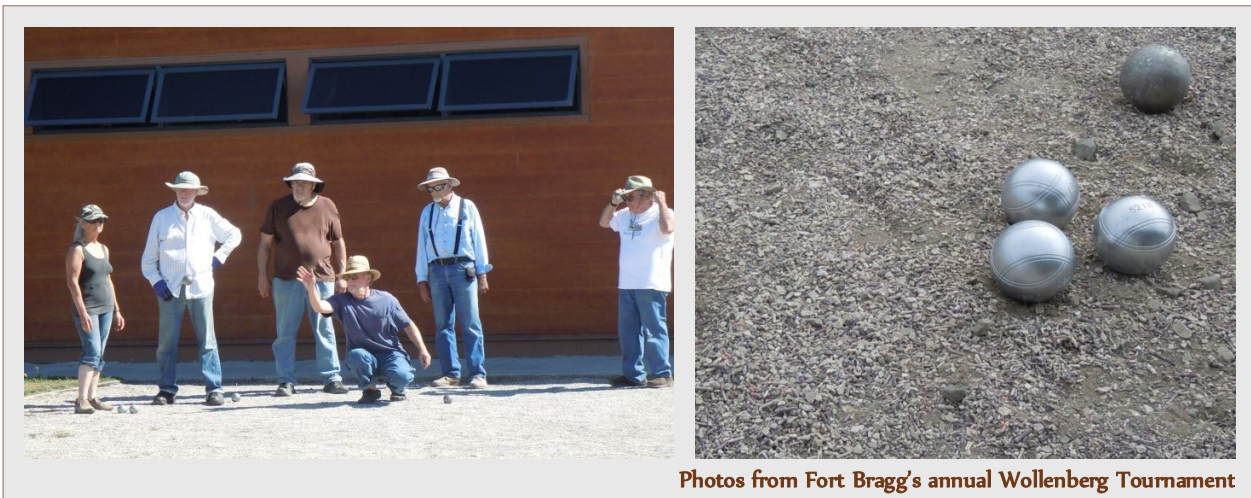
Picnic Tables, Grills and Benches

All five workshop site plans included picnic tables and benches distributed around the open space of the park. Many also included benches next to active uses. Four of the plans included grills in the park. Grills need to be secured overnight to prevent misuse by anyone trying to camp in the park. Picnic tables, grills and benches are proposed throughout the park, as depicted on the **Master Plan Park Layout**.

Focus Area: New Active Recreation Uses

Petanque Courts

Workshop attendees and City Council were strongly in favor of adding playing courts for petanque, a form of lawn bowling played on a hard dirt or gravel surface. There is approximately 12,500 square feet of petanque surface presently located at the C.V. Starr Center. Of those courts, approximately 10,000 square feet are scheduled for removal to accommodate the eventual construction of the proposed gymnasium at the C.V. Starr Center property.



A single petanque court measures approximately 16 feet by 50 feet (800 square feet). The existing courts at C.V. Starr Center consist of a layer of gravel topped with crushed urchin shells. Petanque courts could also be used for other purposes besides Petanque (for example, the courts located at the C.V. Starr Center are used for the Soroptomists' Labor Day Craft Show).

The Noyo Yoyos, Fort Bragg's local petanque organization, holds the annual Wollenberg Petanque Tournament, simultaneously utilizing 14 separate petanque courts (including those courts slated for removal for potential gymnasium construction). The layouts generated at the community workshop depict petanque areas ranging from one court (16 feet by 50 feet) to three courts (60 feet by 50 feet). City Council recommended the Master Plan include space for three or four petanque courts.

The **Master Plan Park Layout** locates approximately 3,200 square feet of petanque surface west of the proposed basketball expansion. This will provide space for four separate petanque courts.

Focus Area: Improvements to Existing Features

Wiggly Giggly Playground

The playground, the most utilized facility at Bainbridge Park, is busy throughout the day. The ongoing success of the playground relies on continuing maintenance to keep the quality of the facility high. Attendees at the Community Workshop had relatively minor requests for the playground, including that the gates be strengthened, and that the latches on the gates be replaced so that they make less noise when latched. Additionally, the ground mulch composing the floor of the playground area needs regular

upkeep. The mulch must be kept level and even, and bare spots need to be filled to keep the surface safe. As the mulch decays into soil, the excess soil needs to be regularly removed and replaced with fresh mulch. At the December 16, 2015 Special City Council Meeting, City Council recommended the Master Plan include installation of a synthetic surface to replace the mulch in Wiggly Giggly Playground. This will dramatically decrease the regular maintenance required to manage the mulch, but at a very high initial investment. Upgrading the play surface to a synthetic material is considered a low priority.

Shed

The location of the existing utility shed had created issues in the park, providing individuals with a visual barrier that shields illegal activities. However, the City recently installed a chain link fence blocking access to the south side of the shed. Nearby residents report that the shed still serves as a screen for illegal activity occurring on the east side. Providing the Police Department with easier access to security footage (as discussed above) and installing perimeter fencing may help the police to alleviate these issues.

Improve Basketball Court

Four of the five workshop groups and City Council requested an expansion of the basketball court to a regulation size. Enlarging the court requires avoiding the existing water meter located a few feet west of the existing pavement edge. In order to stay clear of the water meter, the court would need to be shifted south approximately ten feet.

City Council received a letter from a citizen living at the end of the alley south of the park. The letter indicated that bouncing basketballs frequently clear the fence and hit his residence. The proposed park layout shifts the park further to the south, potentially leading to more incidents of basketballs clearing the fence. In order to resolve the existing issue and offset any new impacts of moving the basketball court, the Master Plan recommends extending the tall tennis court fence west along the southern edge of the basketball court. The fence addition should correspond with the basketball court expansion.

Improve Tennis Courts

Many local tennis players came to the workshop and they strongly opposed allowing other uses on the tennis courts, especially soccer, in order to protect the playing surface and equipment from damage. CDC staff had received requests to begin allowing soccer or pickle ball on the courts. Presently, kids and adults looking for hard surfaces that could accommodate activities other than tennis are available two blocks to the east of Bainbridge Park at Fort Bragg Middle School.

Workshop attendees recommended improvements to the tennis courts, including: replacing the nets, resurfacing the courts, and adding a hitting wall for solo playing. Four of the five workshop layouts left the tennis courts unchanged, just one recommended a hitting wall.

This plan recommends maintaining the limitation of court use to only tennis to protect the long-term quality of the courts.



The edge of the existing undersized basketball court

Focus Area: Pathways and Beautification

Fencing

Fencing was the most controversial potential improvement for the park as it received many votes both in favor and opposed at the Community Workshop. City Council requested that the City of Fort Bragg Police Department direct fencing improvements for the Master Plan, as security and safety were the primary concerns of the citizens in attendance at the Special City Council Meeting. The Police Department recommends surrounding the park with fencing to limit options for ingress and egress, making the park less desirable for transient individuals. The Police Department's recommendation included gated entrances along the north and west boundaries of the park; however, City Council requested that the fencing exclude gates to reduce costs and avoid creating an unwelcoming feeling at the park.

Fencing the park will have the following benefits to safety and security:

1. Emphasizing the boundary of the park with a fence has the potential to increase the sense of security within the park—children inside the park are kept away and separate from vehicular and pedestrian traffic, and the west portion of the park would feel connected to the more regularly-populated east side of the park.
2. Fencing would reduce the amount of ingress and egress points for the park, which could make the park less appealing to those wishing to use the park for illegal activity.
3. Fencing can match the existing fencing around the Wiggly Giggly Playground, creating an aesthetic connection between the east and west sides of the park.



The **Master Plan Park Layout** includes fencing along the western and northern boundaries of the park. City Council requested the fencing generally match the existing fencing at the Wiggly Giggly Playground, but could be simpler and shorter to reduce costs. City Council requested the fencing generally match the existing Wiggly Giggly fence, but recommended considering a slightly shorter height or removal of the decorative top rail to reduce costs.

An agreement (Memorandum of Understanding) between the City of Fort Bragg and Mendocino County will be required to install fencing along the northern property boundary extending all the way to the Veteran's Memorial Hall building, since Mendocino County owns the Veteran's Memorial Hall building and the nearby property. In order to establish the necessary agreement, the City will need to work with the County to establish terms for the ongoing maintenance of the fence. In preliminary conversations with Mendocino County General Services, the County is receptive to enter into such an agreement. Additionally, the City will have to agree to indemnify the County for any claims resulting from the fence. Fencing is part of Phase 1 of the Master Plan.

Public Art

Public art can take many forms, such as a sculpted bike rack or crafted bench. Individual art pieces can dress up park entrances and compliment landscaping. Both the community and City Council expressed strong support for adding public art to Bainbridge Park.

The west half of the park is currently lacking amenities for children compared to the east side of the park, where Wiggly Giggly Playground is located. In order to provide the park with public art while simultaneously drawing youth-oriented elements to the west half of the park, the **Master Plan Park Layout** includes a “storywalk” along the outer perimeter of the park. It is important that the location of storywalk pedestals do not interfere with active users of the park (frisbee, catch, etc.).



Children acting out characters of a storywalk.

A storywalk involves a set of interpretive art pieces that give children an opportunity to move and read outside, promoting literacy and wellness by combining reading with physical activity. For example, a picture book is put, page by page, onto signs and installed along a walking path. Physical activities relating to the pages can be included at various locations, and could include corresponding art pieces (such as a tunnel to crawl through or statue to climb on). Coordination and cooperation with the adjacent Fort Bragg Library is key to promote, manage and create the storywalk. Additionally, a storywalk allows the Fort Bragg Library to engage with a larger community than just those that enter the facility. The Fort Bragg

Library is enthusiastic about the development of a storywalk, and has pledged assistance in maintaining and promoting the storywalk with the assistance of the Rotary Club. The pages on the interpretive art pieces could be rotated, keeping the storywalk fresh and new. It may be possible to install additional storywalk pieces beyond the boundaries of Bainbridge Park, with a longer story reaching its conclusion at the Fort Bragg Library and the Wiggly Giggly Playground.

The community and City Council also support a new public art installation at the corner of Harrison and Laurel Streets. By orienting the pavilion at an angle in the corner, ample space is available for art and associated landscaping. The art piece would also serve as a backdrop to the pavilion. The corner art installation should correspond with the fence and pavilion construction.

The **Master Plan Park Layout** also recommends new entry signage at the proposed gates on Harrison and Laurel Streets. The new entry signage should include clear park rules, such as park hours and restrictions on alcohol and smoking, to assist the Fort Bragg Police Department in enforcing the existing park rules. The installation of entry signage should correspond with the construction of the fence.

Landscaping

The trees along the park’s Harrison Street frontage are fully mature and near the end of their lives. Most attendees at the community workshop voted strongly in favor of including landscaping improvements in the Bainbridge Park Master Plan, specifically recommending the addition of native trees. City Council recommended the removal of the aging trees along Harrison Street in conjunction with a vegetation plan replacing the existing trees with appropriate species that are drought tolerant and allow visibility beneath the canopy.

Additional, but limited, new landscaping can also compliment the entry signage at Harrison and Laurel Streets, and the proposed art installation at the Bainbridge Park’s northwest corner. Any future landscaping should be native and drought tolerant, and of growth habit such that it does not become an attractive nuisance for camping.

Implementation

Phasing

City Council reviewed the various improvements identified for the park, and prioritized their development based on need, community input and costs. Four improvement phases are described below. It is important to note that improvements do not need to occur in order of the prescribed phasing. Availability of funding or shifting community needs may inform these timelines.

Fencing Phase – Top Priority

City Council places the highest priority on fencing for the park. At the recommendation of the Police Department and with input from the community, fencing should help alleviate some of the security issues presently affecting the park. Installation of entrance signage and landscaping are included in this first phase.

The City anticipates collecting Community Development Block Grant Program Income in early 2017 to fund the Fencing Phase of Bainbridge Park improvements. Funding is expected to be approximately \$75,000.

Pavilion Phase – High Priority

The community meetings identified development of a pavilion as the most popular improvement of the Master Plan. City Council requested that a new pavilion generally match the architectural style of the existing buildings in the park, which requires a greater investment than a more rustic style structure. Installation of public art at the intersection of Harrison Street and Laurel Street is included in this phase to fill the prominent area created by the placement of the pavilion.

Activity Phase – Mid Priority

The community suggested the Master Plan include improvements to encourage active use of the park. Regular active park use would deter transients from loitering in the park. Development of the petanque courts and the storywalk would invite regular use of the park—particularly during daytime weekday hours when the park presently gets the least amount of use.

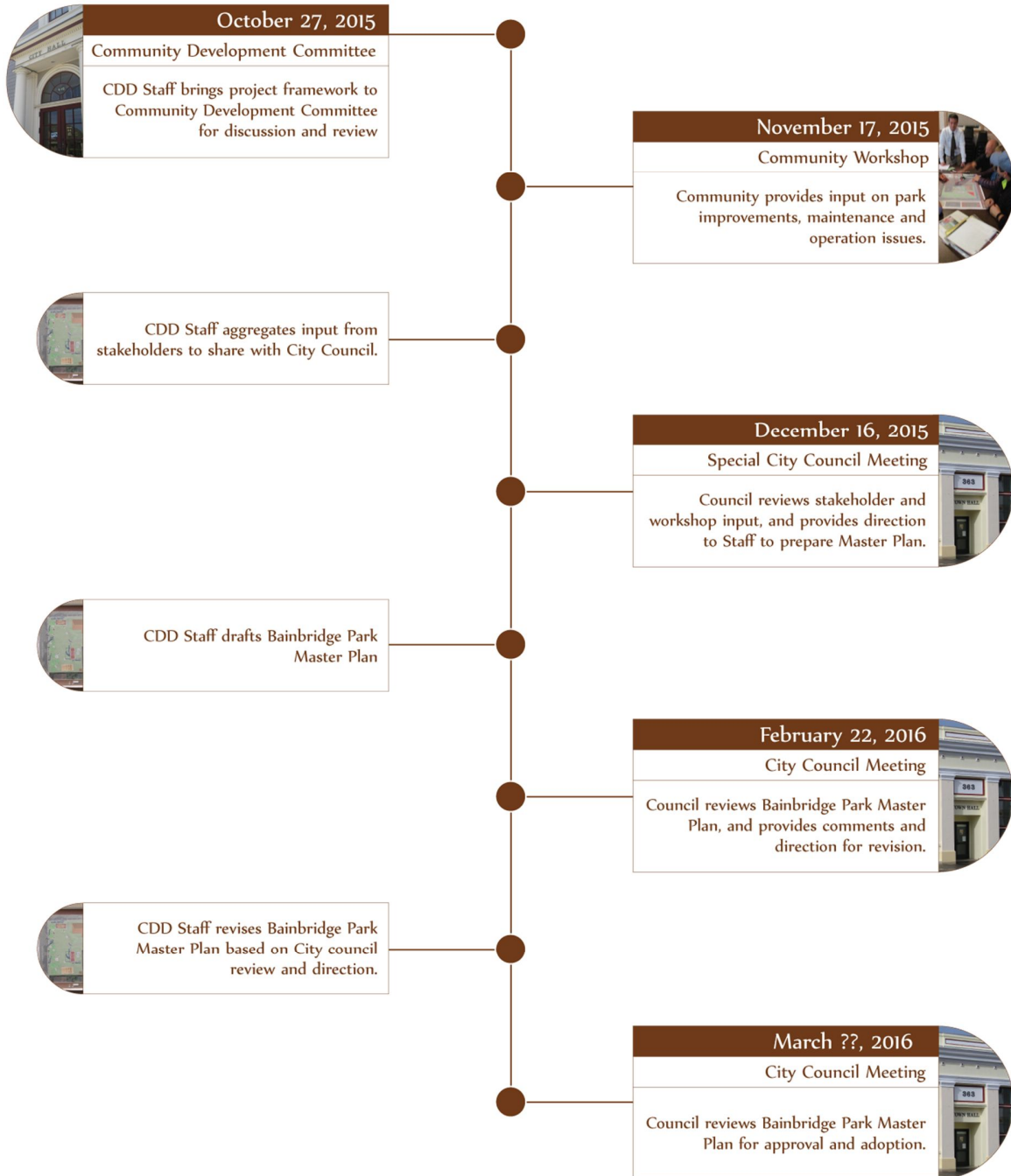
Maintenance Phase – Low Priority

The community and City Council identified the need to update or modify existing facilities of the park, including expansion of the basketball court, replacement of trees that are near the end of their lifespans, and resurfacing the playground to decrease maintenance costs. However, there is no imminent need to undertake these improvements, and have been identified as low priorities.

Bainbridge Park Improvement Summary and Priorities

	Park Improvement	Size or Quantity	Approx. Cost
Fencing Phase Top Priority	Perimeter Fencing	350 linear ft.	\$30k to \$50k
	Entrance Signage	2 signs	\$5,000+
	Landscaping	Associated with signs and fence	\$5,000+
Pavilion Phase High Priority	Pavilion	24 ft. x 48 ft.	\$50,000+
	Corner Art	1 piece	\$5,000 to \$10,000
Activity Phase Mid Priority	Petanque Courts	4 courts	\$15,000
	Storywalk	Storywalk with interactive art	\$500 (temporary) \$10,000 (with art)
Maintenance Phase Low Priority	Expand Basketball Court	1,400 square ft.	\$30,000
	Tree Replacement	Remove 9 trees, plant 10 trees	\$20,000
	Resurface Playground	15,000 square ft.	\$175,000+

Bainbridge Park Master Plan Process



Bainbridge Park Community Workshop Draft Layout Exercise



From: [K Silva](#)
To: [Norvell, Bernie](#); [Morsell-Haye, Jessica](#); [Peters, Lindy](#); [Albin-Smith, Tess](#); [Rafanan, Marcia](#); [Lemos, June](#)
Subject: Public Comment - 28 March 2022 - Item 8B. Wiggly Giggly Playground
Date: Monday, March 28, 2022 4:39:42 PM

Dear Mayor Norvell and Fort Bragg City Councilmembers;

I am delighted to see that renovations at our Wiggly Giggly playground are being considered tonight. I wholeheartedly support and urge you to proceed with the project. My suggestion is to use the Per Capita funds for equipment replacement at this time. The playground renovations were included in the Bainbridge Park Master Plan and public participation has already occurred during earlier meetings where the need was for renovations was acknowledged. The playground is wildly popular but it is in a sad state of repair. I can't imagine anyone seeing the conditions there would argue with spending a bit of the TOT funds to supplement costs exceeding the Per Capita Grant funds of +/- \$178,000. Please move this through quickly to allow City staff to create a lively, convivial and safe place to play...before summertime arrives.

Sincerely,

Kathy Silva

Fort Bragg resident



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 22-139

Agenda Date: 3/28/2022

Version: 1

Status: Business

In Control: City Council

File Type: Staff Report

Agenda Number: 8C.

Receive Report, Receive Finance and Administration Committee Recommendation, and Provide Direction to Staff Regarding Resumption of Water Shutoffs



AGENCY: City Council
MEETING DATE: March 28, 2022
DEPARTMENT: Finance
PRESENTED BY: Isaac Whippy
EMAIL ADDRESS: iwhippy@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:
Receive Report, Receive Finance and Administration Committee Recommendation, and Provide Direction to Staff Regarding Resumption of Water Shutoffs

ISSUE:
 In April 2020, Governor Gavin Newsom signed an executive order restricting water shutoffs to homes and small businesses while the state responded to the COVID-19 pandemic. This statewide moratorium has expired as of December 31, 2021. Accordingly, the City of Fort Bragg Water Department has begun providing notices to delinquent customers and, upon Council direction, will be resuming water shutoffs in April 2022 per the City's Shutoff policy and requirements of Senate Bill 998 ("SB 998"), which imposes a 60-day waiting period before an account can be turned off for non-payment.

ANALYSIS:
 As of the last billing cycle, the total amount of past-due accounts was \$217,756 (217 accounts), up 62 percent from the previous year, \$134,501, and 224 percent from March 2020 (pre-pandemic) at \$58,667. Currently, 40 percent or 101 accounts are over 120 days due, 19 percent or 113 accounts are between 30 and 60 days, 20 percent are between 60 and 120 days, and 21 percent are under 30 days.

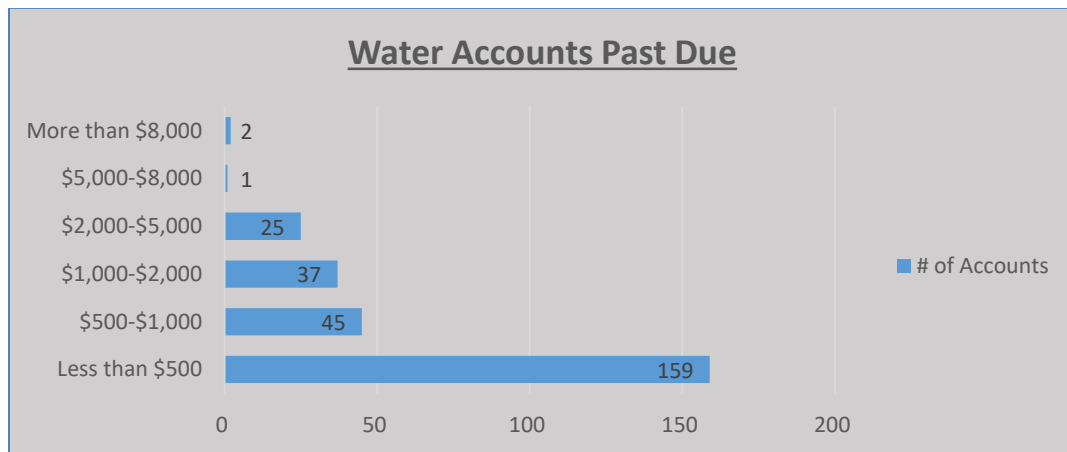


Table 1: Past Due Water Accounts

Of the total delinquent accounts highlighted in the table above, customers with substantial balances will struggle to pay and are at a greater risk of being shut off in April. Most of these delinquent accounts are residential, with only one commercial account. The City's shutoff policy states that a 20 percent down payment is required to establish a 60-day payment plan.

Available Utility Assistance Programs

- In June 2021, the City successfully launched the Utility Assistance Program through a Community Development Block Grants (CDBG) program, which provides up to \$500 towards utility bills for qualified accounts. The City has provided \$32,421 or 63 accounts of assistance to customers to date. The program is available through May 2022.
- The [State Water Resources Control Board](#) has received federal funding to help reimburse water systems for revenues lost in unpaid bills through the pandemic. The City has already submitted the required information and has received funds for qualified Water accounts amounting to \$29,746 and waived the required late fees of \$17,816 and is awaiting approval for Wastewater funding of \$31,328. Once approved, this additional funding will be applied to each eligible delinquent account to offset the past due amount owed.
- Furthermore, the City submitted an interest application to the California Department of Community Services & Development regarding the new [California Low Income Household Water Assistance Program \(LIHWAP\)](#). The program is designed to provide financial assistance (up to \$2,000) one-time credit to qualifying Californians to help manage their residential water utility costs. This grant program will roll out in May 2022 and will be administered through North Coast Opportunities and North Coast Energy Services in Ukiah.

Staff will continue outreach efforts to these delinquent customers to ensure they are notified and given the option to make payment, apply for the available assistance programs, or make payment arrangements to avoid water turn-offs.

On February 9, 2022, the Finance and Administration Committee held a regularly scheduled meeting to discuss delinquent accounts and the resumption of water shutoffs. It was the unanimous decision of the Committee Members to make a recommendation to the City Council to direct staff to resume water shutoffs for delinquent accounts effective April 4, 2022.

RECOMMENDED ACTION:

Direct staff to recommence water shutoffs on April 4, 2022, for accounts with balances over \$2k only and reevaluate in June 2022 to allow low-income customers to apply for the LIHWAP Grant.

ALTERNATIVE ACTION(S):

Provide other directions to Staff.

FISCAL IMPACT:

N/A.

GREENHOUSE GAS EMISSIONS IMPACT:

N/A.

CONSISTENCY:

Water shutoff policies are consistent with Chapter 14.04 of the Fort Bragg Municipal Code, Water Department, and Regulations.

IMPLEMENTATION/TIMEFRAMES:

Upon Council direction, water shutoffs will resume in April 2022.

ATTACHMENTS:

1. Water Shutoff Policy

NOTIFICATION:

None.

City of Fort Bragg Water Department Shut-off Policy

Purpose/Background:

This policy enumerates the City of Fort Bragg Water Department's (hereinafter referred to as "City Water Department") administrative actions for the collection of delinquent accounts, including notifications, fee assignments and discontinuation of service. This policy will be made available to the public on the City Water Department's website. The City Water Department may be contacted by phone at (707) 961-2825 to discuss options for averting termination of water service for nonpayment under the terms of this policy.

Text of policy:

As an urban or community water system that supplies water to more than 200 service connections, the City Water Department is governed by Senate Bill No. 998.

Delinquent Account:

The City Council of the City of Fort Bragg has set the water billing period to be the tenth day of the month following the month of service delivery and deems water bills delinquent if not paid by the third day of the month following the billing period (Resolution 4065-2018). The following rules shall apply to the collection of delinquent accounts:

1. **Small Balance Accounts:**

Any balance on a bill of \$20 or less may be carried over, and added to, the next billing period without being assessed a late fee or incurring further collection action.

2. **Delinquent Notice:**

If payment for a bill is not received by close of business on the third day of the month following the billing period, a late fee will be assessed. The due date and late fee will be displayed prominently on the bill. Upon a bill becoming delinquent, the Water Department shall give the person or entity responsible for payment of the bill (hereinafter referred to as "customer") a notice of delinquency stating that water service will be discontinued after sixty (60) days. The delinquent notice will be mailed to the mailing address designated on the account. If the mailing address and the address of the property to which water service is provided are different, a second notice will be mailed to the service address and addressed to "Occupant". The City Water Department assumes no responsibility for contact information that has not been kept up-

to-date by the customer.

3. Waiver of Late Fee:

At the request of the customer, the City Water Department will waive the late fee if there are extenuating circumstances and the customer has been assessed a late fee for delinquent payment no more than once in the proceeding twelve months.

4. Alternative Payment Arrangements:

Any customer who is unable to pay for water service within the normal payment period may request an alternative payment arrangement to avoid late fees or disruption of service. The City Water Department shall not discontinue water service for non-payment if a customer has requested and entered into an alternative payment arrangement. Payment arrangements that extend into the next billing period are considered an amortization plan, which must be in writing and signed by the customer. A down payment of twenty (20) percent of the customer's outstanding balance will be due at the time of signing. An amortization plan will amortize the remaining unpaid balance over a period not to exceed two (2) months from the original date of the bill. The amortized payments will be combined with, and subject to the due date of, the customer's regular bill. The customer must comply with the terms of the amortization plan and remain current as charges accrue in each subsequent billing period. The customer may not request further amortization of any subsequent unpaid charges while paying delinquent charges pursuant to an amortization plan.

5. First Disconnection Notice:

The City Water Department shall not discontinue water service for non-payment until payment by the customer has been delinquent for at least sixty (60) days. The Water Department shall give the customer a first notice of disconnection approximately thirty (30) days but in no event less than seven (7) business days before termination of service for non-payment. The written first disconnection notice will be mailed to the mailing address designated on the account. If the mailing address and the address of the property to which water service is provided are different, a second notice will be mailed to the service address and addressed to "Occupant". The first written disconnection notice will include:

- Customer's name and address
- Amount that is past due

- Date by which payment or payment arrangements are required to avoid termination of service
- Description of the process to apply for an amortization plan
- Description of the process to dispute or appeal a bill
- City Water Department phone number and a web link to the City Water Department's written collection policy

a) *Notice to Residential Tenants/Occupants in an Individually Metered Residence*

The City Water Department will make a reasonable, good faith effort to inform the occupants, by means of written notice, when the water service account is in arrears and subject to disconnection at least ten (10) days before water service is shut off. The written notice will advise the tenant/occupant that they have the right to become customers of the City Water Department without being required to pay the amount due on the delinquent account, as long as they are willing to assume financial responsibility for subsequent charges for water service at that address. In order for the amount due on the delinquent account to be waived, the tenant/occupant must provide verification of tenancy in the form of a rental agreement or proof of rent payments.

b) *Notice to Tenants/Occupants in a Multi-Unit Complex Served through a Master Meter*

The City Water Department will make a reasonable, good faith effort to inform the occupants, by means of written notice hung on the door of each residence, when the water service account is in arrears and subject to disconnection at least ten (10) days before water service is shut off. The written notice will advise the tenant/occupant that they have the right to become customers of the City Water Department without being required to pay the amount due on the delinquent account, as long as they are willing to assume financial responsibility for subsequent charges for water service at the address(es) served by the master meter. If one or more of the occupants are willing and able to assume responsibility for the subsequent charges for water service to the satisfaction of the City Water Department, or if there is a physical means, legally available to the City Water Department, of selectively terminating service to those occupants who have not met the requirements for service, the City Water Department will make service available to the occupants who have met those requirements.

If the written first disconnection notice is returned through the mail as undeliverable, the City Water Department will make a reasonable, good faith effort to visit the residence and leave a notice of discontinuance for non-payment.

6. Final Disconnection Notice:

Failure to comply with the terms of an amortization plan for sixty (60) days or more or failure to pay current residential service charges for sixty (60) days or more will result in the issuance of a final disconnection notice. The final disconnection notice will be in the form of a door hanger delivered to the premises no less than five (5) business days in advance of discontinuance of service.

7. Forty-eight (48) Hour Courtesy Call:

The City Water Department will make a reasonable, good faith effort to notify the customer 48 hours in advance of disconnection of water service for non-payment. The means of notification will be by phone. Customer accounts may be designated to receive notification by text message if requested by Customer. The forty-eight (48) hour courtesy call is meant entirely as a courtesy and failure of the Water Department to send the notice or failure by the customer to receive the notice shall not constitute an acceptable reason for non-payment or delay of disconnection.

8. Disconnection Deadline:

All delinquent water service charges and associated fees must be received by the City Water Department by 5:00p.m. on the day specified in the written disconnection notice.

9. Disconnection of Water Service for Non-Payment:

The City Water Department will disconnect water service by turning off, and in some cases locking off, the meter. Before service is disconnected, the customer will be notified by a delinquent notice, a first disconnection notice, a final disconnection notice and a forty-eight (48) hour courtesy call. The customer will be charged a fee to re-establish service in the billing system regardless of whether the meter has physically been turned off. The meter will be locked in the off position if payment is not received within 7 days of initial disconnection.

10. Re-establishment of Service:

In order to resume or continue service that has been disconnected for non-payment, the customer must pay a re-establishment fee. The City Water

Department will endeavor to reconnect service as soon as practicable but, at a minimum, will restore service before the end of the next regular working day following payment of any past due amount and delinquent fees attributable to the termination of service. Water service that is turned on by any person other than City Water Department personnel or without City Water Department authorization may be subject to fines or additional charges or fees. Any damages that occur as a result of unauthorized restoration of service are the responsibility of the customer.

11. Re-establishment of Service After Business Hours:

Service restored after 3:00 pm Monday through Friday, weekends, or holidays will be charged an after-hours re-establishment fee. Service will not be restored after regular business hours unless the customer has been informed of the after-hours re-establishment fee and has signed an agreement acknowledging the fee and agreeing to contact the City Water Department's billing department no later than noon the following business day to pay the subject fee. The after-hours re-establishment fee is in addition to the regular re-establishment fee and the late fee for a past due account. City Water Department staff responding to service calls are not permitted to collect payment but will instruct the customer to contact the billing department before noon the following business day.

12. Notification of Disposition of Returned Check:

Upon receipt of a returned check taken as payment of water service or other charges, the City Water Department will consider the account not paid. The City Water Department will make a reasonable, good faith effort to provide a 48-hour courtesy notice of termination of service due to a returned check. The means of notification will be by phone. Customer accounts may be designated to receive notification by text message if requested by Customer.

Water service will be disconnected if the amount of the returned check and the returned check charge are not paid on or before the date specified in the notice of termination. All amounts paid to redeem a returned check and to pay the returned check charge must be in cash, credit card or certified funds.

13. Returned Checks for Previously Disconnected Service:

In the event a customer tenders a non-negotiable check as payment to restore water service previously disconnected for non-payment and the City Water Department restores service, the City Water Department may promptly disconnect service without providing further notice. No 48-hour notice of

termination will be given in the case of a non-negotiable check tendered for payment of water charges that were subject to discontinuance.

Any customer issuing a non-negotiable check as payment to restore service turned off for non-payment will be required to pay cash, credit card or certified funds to restore future service disconnections for a period of 12 months from the date of the returned payment.

14. Disputed Bills:

If a customer disputes a bill, they must follow the procedure outlined in the City's Municipal Code chapter 14.04.034. Appeals must be in writing and must be filed no later than (15) days after a delinquency notice has been issued. If a customer disputes the water bill and exercises their right to appeal to the City Manager, the City Water Department will not disconnect water service for non-payment while the appeal is pending.



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
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Text File

File Number: 22-133

Agenda Date: 3/28/2022

Version: 1

Status: Second Reading

In Control: City Council

File Type: Ordinance

Agenda Number: 8D.

Receive Report and Consider Introducing by Title Only and Waiving the First Reading of Ordinance 978-2022 Adding Chapter 6.09 (Organic Waste Disposal Reduction) to Title 6 (Health and Sanitation) of the Fort Bragg Municipal Code in Compliance with SB 1383



AGENCY: City Council
MEETING DATE: March 28, 2022
DEPARTMENT: Public Works
PRESENTED BY: A. Huerta
EMAIL ADDRESS: ahuerta@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

Receive Report and Consider Introducing by Title Only and Waiving the First Reading of Ordinance 978-2022 Adding Chapter 6.09 (Organic Waste Disposal Reduction) to Title 6 (Health and Sanitation) of the Fort Bragg Municipal Code in Compliance with SB 1383

ISSUE:

Senate Bill 1383, as enacted in 2017, established statewide targets to reduce the statewide disposal of organic waste by 50% from 2014 levels by 2020 and 75% by 2025; and requires that not less than 20% of edible food that is currently disposed be recovered for human consumption by 2025. Jurisdictions throughout the state are required by SB 1383 regulations to adopt a mandatory organic recycling ordinance or other similarly enforceable mechanism to mandate that waste generators and haulers comply with SB 1383 regulatory requirements.

ANALYSIS:

As a result of SB 1383, the California Department of Resources Recycling and Recovery ("CalRecycle"), the state department tasked with administering California's waste and recycling programs, developed prescriptive regulations to achieve the State's outlined organic waste disposal goals by 2025. Fortunately for the City, solid waste programs and policies already in place contribute to the community being well on the way toward compliance with SB 1383. However, there are many other parts of SB 1383 that the City has been working to address.

SB 1383 requires the City to adopt an enforceable ordinance to compel city residents and business owners to recycle their organic waste. The City could face fines for failing to comply and must have corrective actions in place to ensure compliance during the calendar year of 2022 to avoid these fines. Adoption of the Ordinance is the first step toward compliance. Compliance requirements will include providing mandatory mixed organic waste collection services for all residents and businesses, establishing an edible food recovery program, monitoring and reporting compliance efforts to CalRecycle, providing education and outreach procurement, and enforcement of the Ordinance. From January 1, 2022 to December 31, 2023, the City will be allowed to take non-punitive, education-based enforcement actions against non-compliant entities. Starting January 1, 2024, the City must take punitive enforcement actions against non-complying entities.

RECOMMENDED ACTION:

Staff recommends that Council introduce by title only and waive the first reading of Ordinance No. 978-2022.

ALTERNATIVE ACTION(S):

Provide direction to staff for further revision of the municipal code.

AGENDA ITEM NO. 8D

FISCAL IMPACT:

The City is responsible for the funding, providing administrative services, and implementation. The City could face fines of \$10,000.00 per day for failing to comply with SB 1383. To avoid these fines, on February 28, 2022, the City Council reviewed and adopted Resolution 4514-2022, authorizing submittal of Notice of Intent to Comply with SB1383 Regulations. The City Council also reviewed and adopted Resolution 4508-2022 on February 14, 2022, authorizing submittal of an Application(s) for CalRecycle Grants. The Public Works department, on behalf of the City of Fort Bragg, has applied for the SB1383 Local Assistance Grant Program, which provides one-time funding in the amount of \$20,000.00 to assist with the implementation of regulation requirements associated with SB 1383. The City has not identified any additional funding for implementation and compliance with SB1383 mandates.

GREENHOUSE GAS EMISSIONS IMPACT:

Organic waste in landfills emits 20% of the state’s methane. Organics like food scraps, yard trimmings, paper, and cardboard make up half of what Californians dump in landfills. Reducing short-lived climate super pollutants like organic waste will have a significant impact on the climate crisis and is one of the key climate change strategies necessary to meet California’s target to reduce greenhouse gas emissions.

CONSISTENCY:

SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires Jurisdictions to adopt and enforce an ordinance or enforceable mechanism to implement relevant provisions of SB 1383 Regulations. This ordinance will also help reduce food insecurity by requiring Commercial Edible Food Generators to arrange to have the maximum amount of their Edible Food, that would otherwise be disposed, be recovered for human consumption. SB1383 Regulations refers to the Short-Lived Climate Pollutants (SLCP): Organic Waste Reductions regulations developed by CalRecycle and adopted in 2020 that created Chapter 12 of Title 14, Division 7 of the California Code of Regulations (CCR), and amended portions of regulations of Title 14 CCR and Title 27 CCR. Adoption of the ordinance ensures consistency with state law.

Adoption and Implementation of the SB1383 through adoption of Chapter 6.09 (Organic Waste Disposal Reduction) to Title 6 (Health and Sanitation) of the Fort Bragg Municipal Code fulfills the following Goals, Policies, and Programs in the City’s General Plan Sustainability Element:

Goal S-4 Reduce, recycle, and reuse solid waste generated in the City.

Policy S-4.1 Recycling: All commercial, office, and multi-family residential developments shall provide a centralized drop-off location for recyclables and compostable materials.

Policy S-4.2 Recycling and Reuse of Solid Waste: Comply with State requirements to reduce the volume of solid waste through recycling and reduction of solid waste.

Program S-4.2.1: Continue to participate in the County’s Integrated Waste Management Plan operated by the Mendocino Solid Waste Management Authority.

Program S-4.2.2: Continue to implement the City's Construction and Demolition Waste Recycling Ordinance. Periodically review the ordinance and consider increasing the target diversion amounts.

IMPLEMENTATION/TIMEFRAMES:

If approved, Ordinance No. 978-2022 will be adopted on April 11, 2022 and made effective thirty (30) days after.

ATTACHMENTS:

1. Ordinance No. 978-2022

NOTIFICATION:

1. Climate Action Plan Notify Me subscribers
2. Solid Waste Franchise Notify Me subscribers

BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

**AN ORDINANCE ADDING CHAPTER 6.09
(ORGANIC WASTE DISPOSAL
REDUCTION) TO TITLE 6 (HEALTH AND
SANITATION) OF THE FORT BRAGG
MUNICIPAL CODE**

ORDINANCE NO. 978-2022

WHEREAS, State recycling law, Assembly Bill 939 of 1989, the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq., as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) Solid Waste generated in their Jurisdictions to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy, and other natural resources, and to protect the environment; and

WHEREAS, State recycling law, Assembly Bill 341 of 2011 (approved by the Governor of the State of California on October 5, 2011, which amended Sections 41730, 41731, 41734, 41735, 41736, 41800, 42926, 44004, and 50001 of, and added Sections 40004, 41734.5, and 41780.01 and Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and added and repealed Section 41780.02 of, the Public Resources Code, as amended, supplemented, superseded and replaced from time to time), places requirements on businesses and Multi-Family property owners that generate a specified threshold amount of Solid Waste to arrange for recycling services and requires the City to implement a Mandatory Commercial Recycling program; and

WHEREAS, State organics law, Assembly Bill 1826 of 2014 (approved by the Governor of the State of California on September 28, 2014, which added Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time), requires businesses and Multi-Family property owners that generate a specified threshold amount of Solid Waste, Recycling, and Organic Waste per week to arrange for recycling services for that waste, requires the City to implement a recycling program to divert Organic Waste from businesses subject to the law, and requires the City to implement a Mandatory Commercial Organics Recycling program; and

WHEREAS, Senate Bill (SB) 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires the California Department of Resource Recycling and Recovery (CalRecycle) to develop regulations to reduce organics in landfills as a source of methane. As adopted by CalRecycle, these regulations (SB 1383 Regulations) place requirements on multiple entities including the City, residential households, Commercial Businesses and business owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Organizations,

and Food Recovery Services to support achievement of Statewide Organic Waste disposal reduction targets; and

WHEREAS, SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires the City to adopt and enforce an ordinance or enforceable mechanism to implement relevant provisions of SB 1383 Regulations. This ordinance will also help reduce food insecurity by requiring Commercial Edible Food Generators to arrange to have the maximum amount of their Edible Food, that would otherwise be disposed, be recovered for human consumption; and

WHEREAS, this Ordinance implements the requirements of Assembly Bill 341, Assembly Bill 1826, and the SB 1383 Regulations.

NOW, THEREFORE, the City Council ordains as follows:

Section 1. Legislative Findings. The City Council hereby finds as follows:

1. The foregoing recitals are true and correct and are made a part of this Ordinance.
2. Adding chapter 6.09 (ORGANIC WASTE DISPOSAL REDUCTION) to TITLE 6 (HEALTH and SANITATION) of the Fort Bragg Municipal Code is necessary to ensure that the City conforms to the SB1383 regulations as well as providing tools to effectively enforce those regulations.
3. The adoption of this ordinance will ensure that the City is doing its part to contribute to the State’s organics waste disposal reduction goals as well as its edible food recovery goals.
4. There is no possibility that the adoption of this ordinance will have a significant impact on the environment, and therefore, the adoption of this ordinance is exempt from the California Environmental Quality Act (“CEQA”), pursuant to Section 15061(b)(3) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations).

Section 2. Chapter 6.09 is hereby added to Title 6 of the Fort Bragg Municipal Code and shall read as follows:

CHAPTER 6.09

ORGANIC WASTE DISPOSAL REDUCTION

Section

- 6.09.010 Definitions
- 6.09.020 Requirements for Single-Family Organic Waste Generators
- 6.09.030 Requirements for Commercial Businesses
- 6.09.040 Waivers for Generators
- 6.09.050 Requirements for Commercial Edible Food Generators
- 6.09.060 Requirements for Food Recovery Organizations and Services

- 6.09.070 Requirements for Haulers and Facility Operators
- 6.09.080 Self-Hauler Requirements
- 6.09.090 Procurement Requirements for City Departments, Direct Service Providers, and Vendors
- 6.09.100 Inspections and Investigations by the City
- 6.09.110 Enforcement

6.09.010 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BLUE CONTAINER. Has the same meaning as in 14 CCR Section 18982.2(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials or Source Separated Blue Container Organic Waste.

CALRECYCLE. California's Department of Resources Recycling and Recovery, which is the Department designated with responsibility for developing, implementing, and enforcing SB 1383 Regulations on local agencies (and others).

CALIFORNIA CODE OF REGULATIONS (CCR). The State of California Code of Regulations. CCR references in this Chapter are preceded with a number that refers to the relevant Title of the CCR (e.g., "14 CCR" refers to Title 14 of CCR).

COMMERCIAL EDIBLE FOOD GENERATOR. Includes a Tier One or a Tier Two Commercial Edible Food Generator as defined in this section or as otherwise defined in 14 CCR Section 18982(a)(73) and (a)(74). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators pursuant to 14 CCR Section 18982(a)(7).

COMPLIANCE REVIEW. A review of records by the City to determine compliance with this Chapter.

COMMUNITY COMPOSTING. Any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and Compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR Section 17855(a)(4); or, as otherwise defined by 14 CCR Section 18982(a)(8).

COMPOST. Has the same meaning as in 14 CCR Section 17896.2(a)(4), which stated, as of the effective date of this Chapter, that "Compost" means the product resulting from the controlled biological decomposition of organic Solid Wastes that are Source Separated from the municipal Solid Waste stream, or which are separated at a centralized facility.

COMPOSTABLE PLASTICS (COMPOSTABLE PLASTIC). Plastic materials that meet the ASTM D6400 standard for compostability, or as otherwise described in 14 CCR Section 18984.1(a)(1)(A) or 18984.2(a)(1)(C).

CONTAINER CONTAMINATION (CONTAMINATED CONTAINER). A container, regardless of color, that contains Prohibited Container Contaminants, or as otherwise defined in 14 CCR Section 18982(a)(55).

DESIGNEE. An entity that the City contracts with or otherwise arranges to carry out any of the City's responsibilities of this Chapter as authorized in 14 CCR Section 18981.2. A Designee may be a government entity, a hauler, a private entity, or a combination of those entities.

EDIBLE FOOD. Food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this Chapter or as otherwise defined in 14 CCR Section 18982(a)(18), "Edible Food" is not Solid Waste if it is recovered and not discarded. Nothing in this Chapter or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.

ENFORCEMENT ACTION. An action of the City to address non-compliance with this Chapter including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.

ENFORCEMENT OFFICIAL. The city manager, county administrative official, or other executive in charge or their authorized Designee(s) who is/are partially or wholly responsible for enforcing this Chapter.

EXCLUDED WASTE. Hazardous substance, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from the City and its generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, State, or Federal law, regulation, or Chapter, including: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that in the City's, or its Designee's reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose the City, or its Designee, to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Single-Family or Multi-Family Solid Waste after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code.

FOOD DISTRIBUTOR. A company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores, or as otherwise defined in 14 CCR Section 18982(a)(22).

FOOD FACILITY. Has the same meaning as in Section 113789 of the Health and Safety Code.

FOOD RECOVERY. Actions to collect and distribute food for human consumption that otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).

FOOD RECOVERY ORGANIZATION. An entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the

public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to:

1. A food bank as defined in Section 113783 of the Health and Safety Code;
2. A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,
3. A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

A Food Recovery Organization is not a Commercial Edible Food Generator for the purposes of this Chapter and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

FOOD RECOVERY SERVICE. A person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator for the purposes of this Chapter and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

FOOD SCRAPS. All food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells. Food Scraps excludes fats, oils, and grease when such materials are Source Separated from other Food Scraps.

FOOD SERVICE PROVIDER. An entity primarily engaged in providing food services to institutional, governmental, commercial, or industrial locations of others based on contractual arrangements with these types of organizations, or as otherwise defined in 14 CCR Section 18982(a)(27).

FOOD-SOILED PAPER. Compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, pizza boxes, and milk cartons.

FOOD WASTE. Food Scraps and Food-Soiled Paper.

GRAY CONTAINER. Has the same meaning as in 14 CCR Section 18982.2(a)(28) and shall be used for the purpose of storage and collection of Gray Container Waste.

GRAY CONTAINER WASTE. Solid Waste that is collected in a Gray Container that is part of a three-container Organic Waste collection service that prohibits the placement of Organic Waste in the Gray Container as specified in 14 CCR Sections 18984.1(a) and (b), or as otherwise defined in 14 CCR Section 17402(a)(6.5).

GREEN CONTAINER. Has the same meaning as in 14 CCR Section 18982.2(a)(29) and shall be used for the purpose of storage and collection of Source Separated Green Container Organic Waste.

HAULER ROUTE. The designated itinerary or sequence of stops for each segment of the City's collection service area, or as otherwise defined in 14 CCR Section 18982(a)(31.5).

INSPECTION. A site visit where the City reviews records, containers, and an entity's collection, handling, recycling, or landfill disposal of Organic Waste or Edible Food handling to determine if the entity is complying with requirements set forth in this Chapter, or as otherwise defined in 14 CCR Section 18982(a)(35).

LARGE EVENT. An event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 CCR Section 18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to this Chapter.

LARGE VENUE. A permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this Chapter and implementation of 14 CCR, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this Chapter and implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue. If the definition in 14 CCR Section 18982(a)(39) differs from this definition, the definition in 14 CCR Section 18982(a)(39) shall apply to this Chapter.

LOCAL EDUCATION AGENCY. A school district, charter school, or county office of education that is not subject to the control of city or county regulations related to Solid Waste, or as otherwise defined in 14 CCR Section 18982(a)(40).

MULTI-FAMILY RESIDENTIAL DWELLING (MULTI-FAMILY). Of, from, or pertaining to residential premises with three (3) or more dwelling units. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses on residential parcels ADU's are excluded for the dwelling count.

NON-COMPOSTABLE PAPER. Includes but is not limited to paper that is coated in a plastic material that will not break down in the composting process, or as otherwise defined in 14 CCR Section 18982(a)(41).

NON-LOCAL ENTITY. The following entities that are not subject to the Jurisdiction's enforcement authority, or as otherwise defined in 14 CCR Section 18982(a)(42):

1. Special district(s) located within the boundaries of the City.
2. State agencies located within the boundaries of the City.

NON-ORGANIC. Non-putrescible and non-hazardous recyclable wastes including but not limited to bottles, cans, metals, plastics and glass, or as otherwise defined in 14 CCR Section 18982(a)(43).

NOTICE OF VIOLATION. A notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in Chapter 6.12.060 of the Fort Bragg Municipal Code.

ORGANIC WASTE. Solid Wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing Paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined by 14 CCR Section 18982(a).

ORGANIC WASTE GENERATOR. A person or entity that is responsible for the initial creation of Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(48).

PAPER PRODUCTS. Include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling, or as otherwise defined in 14 CCR Section 18982(a)(51).

PRINTING AND WRITING PAPERS. Include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications, or as otherwise defined in 14 CCR Section 18982(a)(54).

PROHIBITED CONTAINER CONTAMINANTS. Means the following: (i) discarded materials placed in the Blue Container that are not identified as acceptable Source Separated Recyclable Materials for the City's Blue Container; (ii) discarded materials placed in the Green Container that are not identified as acceptable Source Separated Green Container Organic Waste for the City's Green Container; (iii) discarded materials placed in the Gray Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Green Container Organic Wastes to be placed in the City's Green Container and/or Blue Container; and, (iv) Excluded Waste placed in any container.

RECOVERED ORGANIC WASTE PRODUCTS. Products made from California, landfill-diverted recovered Organic Waste processed in a permitted or otherwise authorized facility, or as otherwise defined in 14 CCR Section 18982(a)(60).

RECOVERY. Any activity or process described in 14 CCR Section 18983.1(b), or as otherwise defined in 14 CCR Section 18982(a)(49).

RECYCLED-CONTENT PAPER. Paper Products and Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber, or as otherwise defined in 14 CCR Section 18982(a)(61).

REGIONAL AGENCY. Regional agency as defined in Public Resources Code Section 40181.

REGIONAL AGENCY OR COUNTY ENFORCEMENT OFFICIAL. Regional or county agency enforcement official, designated by the City with responsibility for enforcing this Chapter in conjunction or consultation with the City Enforcement Official. The City may opt not to designate a Regional Agency or County Enforcement Official.

RENEWABLE GAS. Gas derived from Organic Waste that has been diverted from a California landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by 14 CCR to recycle Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(62).

ROUTE REVIEW. A visual Inspection of containers along a Hauler Route for the purpose of determining Container Contamination, and may include mechanical Inspection methods such as the use of cameras, or as otherwise defined in 14 CCR Section 18982(a)(65).

SB 1383. Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.

SB 1383 REGULATIONS (SB 1383 Regulatory). Refers to, for the purposes of this Chapter, the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.

SELF-HAULER. A person who hauls Solid Waste, Organic Waste or recyclable material he or she has generated to another person. Self-hauler also includes a person who back-hauls waste, or as otherwise defined in 14 CCR Section 18982(a)(66). Back-haul means generating and transporting Organic Waste to a destination owned and operated by the generator using the generator's own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).

SINGLE-FAMILY. Of, from, or pertaining to any residential premises with fewer than three (3) units.

SOLID WASTE. Has the same meaning as defined in State Public Resources Code Section 40191, which defines Solid Waste as all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semisolid wastes, with the exception that Solid Waste does not include any of the following wastes:

1. Hazardous waste, as defined in the State Public Resources Code Section 40141.
2. Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the State Health and Safety Code).
3. Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the State Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in State Public Resources Code Section 40195.1. Medical waste that has

been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the State Public Resources Code.

SOURCE SEPARATED. Materials, including commingled recyclable materials, that have been separated or kept separate from the Solid Waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). For the purposes of this Chapter, Source Separated shall include separation of materials by the generator, property owner, property owner's employee, property manager, or property manager's employee into different containers for the purpose of collection such that Source Separated materials are separated from Gray Container Waste or other Solid Waste for the purposes of collection and processing.

SOURCE SEPARATED BLUE CONTAINER ORGANIC WASTE. Source Separated Organic Wastes that can be placed in a Blue Container that is limited to the collection of those Organic Wastes and Non-Organic Recyclables as defined in Section 18982(a)(43), or as otherwise defined by Section 17402(a)(18.7).

SOURCE SEPARATED GREEN CONTAINER ORGANIC WASTE. Source Separated Organic Waste that can be placed in a Green Container that is specifically intended for the separate collection of Organic Waste by the generator, excluding Source Separated Blue Container Organic Waste, carpets, Non-Compostable Paper, and textiles.

SOURCE SEPARATED RECYCLABLE MATERIALS. Source Separated Non-Organic Recyclables and Source Separated Blue Container Organic Waste.

STATE. The State of California.

SUPERMARKET. A full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items, or as otherwise defined in 14 CCR Section 18982(a)(71).

TIER ONE COMMERCIAL EDIBLE FOOD GENERATOR. A Commercial Edible Food Generator that is one of the following:

1. Supermarket.
2. Grocery Store with a total facility size equal to or greater than 10,000 square feet.
3. Food Service Provider.
4. Food Distributor.
5. Wholesale Food Vendor.

If the definition in 14 CCR Section 18982(a)(73) of Tier One Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this Chapter.

TIER TWO COMMERCIAL EDIBLE FOOD GENERATOR. A Commercial Edible Food Generator that is one of the following:

1. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
2. Hotel with an on-site Food Facility and 200 or more rooms.
3. Health facility with an on-site Food Facility and 100 or more beds.
4. Large Venue.
5. Large Event.
6. A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
7. A Local Education Agency facility with an on-site Food Facility.

If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(74) shall apply to this Chapter.

UNCONTAINERIZED GREEN WASTE AND YARD WASTE COLLECTION SERVICE (UNCONTAINERIZED SERVICE). A collection service that collects green waste and yard waste that is placed in a pile or bagged for collection on the street in front of a generator's house or place of business for collection and transport to a facility that recovers Source Separated Organic Waste, or as otherwise defined in 14 CCR Section 189852(a)(75).

WHOLESALE FOOD VENDOR. A business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 CCR Section 189852(a)(76).

6.09.020 REQUIREMENTS FOR SINGLE-FAMILY ORGANIC WASTE GENERATORS

Single-Family Organic Waste Generators shall comply with the following requirements:

- A. Shall subscribe to the City's Organic Waste collection services for all Organic Waste generated as described below in Subsection (B). The City shall have the right to review the number and size of a generator's containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Single-Family generators shall adjust its service level for its collection services as requested by the City. Generators may additionally manage their Organic Waste by preventing or reducing their Organic Waste, managing Organic Waste on site, and/or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).
- B. Shall participate in the City's Organic Waste collection service(s) by placing designated materials in designated containers as described in Subsection (C) of this Section, and shall not place Prohibited Container Contaminants in collection containers.
- C. Generator shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Gray Container Waste in the Gray Container. Generators shall not place materials designated for the Gray Container into the Green Container or Blue Container.

6.09.030 REQUIREMENTS FOR COMMERCIAL BUSINESSES

Generators that are Commercial Businesses, including Multi-Family Residential Dwellings, shall:

- A. Subscribe to the City's collection services and comply with requirements of those services as described below in Subsection (B).
- B. Participate in the City's Organic Waste collection service(s) by placing designated materials in designated containers as described below in subsection (1) of this section.
 - 1. Generator shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Gray Container Waste in the Gray Container. Generator shall not place materials designated for the Gray Container into the Green Container or Blue Container.
- C. Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors (conforming with Subsections (D)(1) and (D)(2) below) for employees, contractors, tenants, and customers, consistent with the City's Blue Container, Green Container, and Gray Container collection service.
- D. Excluding Multi-Family Residential Dwellings, provide containers for the collection of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials in all indoor and outdoor areas where disposal containers are provided for customers, for materials generated by that business. Such containers do not need to be provided in restrooms. If a Commercial Business does not generate any of the materials that would be collected in one type of container, then the business does not have to provide that particular container in all areas where disposal containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the business shall have either:
 - 1. A body or lid that conforms with the container colors provided through the collection service provided by the City, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. A Commercial Business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.
 - 2. Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.

- E. Multi-Family Residential Dwellings are not required to comply with container placement requirements or labeling requirement in Subsection (D) above pursuant to 14 CCR Section 18984.9(b).
- F. To the extent practical through education, training, Inspection, and/or other measures, excluding Multi-Family Residential Dwellings, prohibit employees from placing materials in a container not designated for those materials per the City's Blue Container, Green Container, and Gray Container collection service.
- G. Excluding Multi-Family Residential Dwellings, periodically inspect Blue Containers, Green Containers, and Gray Containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).
- H. Annually provide information to employees, contractors, tenants, and customers about Organic Waste Recovery requirements and about proper sorting of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials.
- I. Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep Source Separated Green Container Organic Waste and Source Separated Recyclable Materials separate from Gray Container Waste (when applicable) and the location of containers and the rules governing their use at each property.
- J. Provide or arrange access for the City or its agent to their properties during all Inspections conducted in accordance with this Chapter to confirm compliance with the requirements of this Chapter.
- K. If a Commercial Business wants to self-haul, meet the Self-Hauler requirements in Section 6.09.080 (Self-Hauler Requirements) of this ordinance.
- L. Nothing in this Section prohibits a generator from preventing or reducing waste generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).
- M. Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to Section 6.09.060.

6.09.040 WAIVERS FOR GENERATORS

A. De Minimis Waivers. The City may waive a Commercial Business's obligation (including Multi-Family Residential Dwellings) to comply with some or all of the Organic Waste requirements of this ordinance if the Commercial Business provides documentation that the business generates below a certain amount of Organic Waste material as described in Subsection (2) below.

Commercial Businesses requesting a de minimis waiver shall:

1. Submit an application specifying the services that they are requesting a waiver from and provide documentation as noted in Subsection (2) below.
2. Provide documentation that either:
 - a. The Commercial Business's total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 20 gallons per week per applicable container of the business's total waste; or,
 - b. The Commercial Business's total Solid Waste collection service is less than two cubic yards per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 10 gallons per week per applicable container of the business's total waste.
3. Notify Jurisdiction if circumstances change such that Commercial Business's Organic Waste exceeds threshold required for waiver, in which case waiver will be rescinded.
4. Provide written verification of eligibility for de minimis waiver every five years, if Jurisdiction has approved de minimis waiver.

B. **Physical Space Waivers.** The City may waive a Commercial Business's or property owner's obligations (including Multi-Family Residential Dwellings) to comply with some or all of the recyclable materials and/or Organic Waste collection service requirements if the Jurisdiction has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection containers required for compliance with the Organic Waste collection requirements of Section 6.09.020 or 6.09.030.

A Commercial Business or property owner may request a physical space waiver through the following process:

1. Submit an application form specifying the type(s) of collection services for which they are requesting a compliance waiver.
2. Provide documentation that the premises lack adequate space for Blue Containers and/or Green Containers including documentation from its hauler, licensed architect, or licensed engineer.
3. Provide written verification to Jurisdiction that it is still eligible for physical space waiver every five years, if Jurisdiction has approved application for a physical space waiver.

C. **Collection Frequency Waiver.** The City, at its discretion and in accordance with 14 CCR Section 18984.11(a)(3), may allow the owner or tenant of any residence, premises, business establishment or industry that subscribes to the City's three-container Organic Waste collection service to arrange for the collection of their Blue Container, Gray Container, or both once every fourteen days, rather than once per week.

D. **Review and Approval of Waivers.** Generators may submit requests for de minimis waivers, physical space waivers and Collection frequency waivers to the Solid Waste Refuse Collection Contractor (Contractor). The contractor shall review the Generator's waiver application and inspect the Generator's Premises to verify the accuracy of the application. Contractor shall provide documentation of the inspection, including the Contractor's recommendation to approve or deny the waiver request, and send this information to the City within thirty (30) days of receipt of the Generator's waiver application for the City's review and

approval. The City ultimately retains the right to approve or deny any application, regardless of the Contractor's recommendation.

6.09.050 REQUIREMENTS FOR COMMERCIAL EDIBLE FOOD GENERATORS

- A. Tier One Commercial Edible Food Generators must comply with the requirements of this Section commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.
- B. Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this Section, commencing January 1, 2024.
- C. Commercial Edible Food Generators shall comply with the following requirements:
 - 1. Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.
 - 2. Contract with, or enter into a written agreement with Food Recovery Organizations or Food Recovery Services for: (i) the collection of Edible Food for Food Recovery; or, (ii) acceptance of the Edible Food that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.
 - 3. Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
 - 4. Allow the City's designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR Section 18991.4.
 - 5. Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
 - a. A list of each Food Recovery Service or organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).
 - b. A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).
 - c. A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:
 - i. The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
 - ii. The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.
 - iii. The established frequency that food will be collected or self-hauled.
 - iv. The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.
 - 6. No later than the 15th day of June of each year commencing no later than June 2022 for Tier One Commercial Edible Food Generators and June 2024 for Tier Two Commercial Edible Food Generators, provide annual Food Recovery report to the City that includes the information described in Section 6.09.050.C.5.c.iv. above.

D. Nothing in this Chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 [commencing with Section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Section 114079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time).

6.09.060 REQUIREMENTS FOR FOOD RECOVERY ORGANIZATIONS AND SERVICES

A. Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1):

1. The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
2. The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.
3. The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.
4. The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.

B. Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):

1. The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.
2. The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month.
3. The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.

6.09.070 REQUIREMENTS FOR HAULERS AND FACILITY OPERATORS

A. Requirements for Haulers.

1. The exclusive franchise providing residential, Commercial, or industrial Organic Waste collection services to generators within the City’s boundaries shall meet the following requirements and standards as a condition of approval of a contract, agreement, or other authorization with the City to collect Organic Waste:
 - a. Through written notice to the City annually on or before January 1, 2023, identify the facilities to which they will transport Organic Waste including facilities for

Source Separated Recyclable Materials and Source Separated Green Container Organic Waste.

- b. Transport Source Separated Recyclable Materials and Source Separated Green Container Organic Waste to a facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.
- c. Obtain approval from the City to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting construction and demolition materials (“C&D”) in a manner that complies with 14 CCR Section 18989.1, and applicable provisions of this Chapter and [Chapter 15.34](#) (Construction and Demolition Recycling) of the City Code.

2. The exclusive franchise authorized to collect Organic Waste shall comply with education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements contained within its franchise agreement, permit, license, or other agreement entered into with the City.

B. Requirements for Facility Operators and Community Composting Operations.

1. Owners of facilities, operations, and activities that recover Organic Waste, including, but not limited to, Compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon the City’s request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the City or its Enforcement Officials shall respond within 60 days.
2. Community Composting operators, upon the City’s request, shall provide information to the City to support Organic Waste capacity planning, including, but not limited to, an estimate of the amount of Organic Waste anticipated to be handled at the Community Composting operation. Entities contacted by the City or its Enforcement Officials shall respond within 60 days.

6.09.080 SELF-HAULER REQUIREMENTS

A. Self-Haulers shall source separate all recyclable materials and Organic Waste (materials that Jurisdiction otherwise requires generators to separate for collection in the Jurisdiction’s organics and recycling collection program) generated on-site from Solid Waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2, or shall haul Organic Waste to a High Diversion Organic Waste Processing Facility as specified in 14 CCR Section 18984.3.

B. Self-Haulers shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; and haul their Source Separated Green Container Organic Waste to a Solid Waste facility, operation, activity, or property that processes or recovers Source Separated Organic Waste. Alternatively, Self-Haulers may haul Organic Waste to a High Diversion Organic Waste Processing Facility.

C. Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall keep a record of the amount of Organic Waste delivered to each Solid Waste

facility, operation, activity, or property that processes or recovers Organic Waste; this record shall be subject to Inspection by the Jurisdiction. The records shall include the following information:

1. Delivery receipts and weight tickets from the entity accepting the waste.
2. The amount of material in cubic yards or tons transported by the generator to each entity.
3. If the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Waste.

D. Self-Haulers that are Commercial Businesses (including Multi-Family Self-Haulers) shall provide information collected in Section 6.09.080.C.3. to the City or its Enforcement Officials if requested.

E. A residential Organic Waste Generator that self-hauls Organic Waste is not required to record or report information in Section 6.09.080.C. and 6.09.080.D.

6.09.100 INSPECTIONS AND INVESTIGATIONS BY THE CITY

A. City representatives and/or its designated entity is authorized to conduct Inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or Source Separated materials to confirm compliance with this Chapter by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow the City to enter the interior of a private residential property for Inspection.

B. Regulated entity shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with the City's Enforcement Official or designated entity/Designee during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in containers, Edible Food Recovery activities, records, or any other requirement of this Chapter described herein. Failure to provide or arrange for: (i) access to an entity's premises; or (ii) access to records for any Inspection or investigation, is a violation of this Chapter and may result in penalties described as established in [Chapter 1.12](#) (General Penalty) of the City's Municipal Code.

C. Any records obtained by the City during its Inspections and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.

D. City representatives, its designated entity, and/or Designee are authorized to conduct any Inspections or other investigations as reasonably necessary to further the goals of this Chapter, subject to applicable laws.

E. The City shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

6.09.110 ENFORCEMENT

A. Violation of any provision of this Chapter shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by the City Enforcement Official or representative. Enforcement Actions under this Chapter are issuance of an administrative citation and assessment of a fine as established in [Chapter 1.12](#) (General Penalty) of the City's Municipal Code. The City's procedures on imposition of administrative fines are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this Chapter and any rule or regulation adopted pursuant to this Chapter, except as otherwise indicated in this Chapter.

B. Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. The City may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. The City may choose to delay court action until such time as a sufficiently large number of violations, or cumulative size of violations exist such that court action is a reasonable use of City staff and resources.

C. Responsible Entity for Enforcement.

1. Enforcement pursuant to this Chapter may be undertaken by the City Enforcement Official, designee, legal counsel, or combination thereof.
2. Enforcement may also be undertaken by a Regional or County Agency Enforcement Official, designated by the City, in consultation with City Enforcement Official.
 - a. City Enforcement Official(s) and Regional or County Agency Enforcement Official, if designated, will interpret this ordinance; determine the applicability of waivers, if violation(s) have occurred; implement Enforcement Actions; and, determine if compliance standards are met.
 - b. City Enforcement Official(s) and Regional or County Agency Enforcement Official, if designated, may issue Notices of Violation(s).

D. Process for Enforcement

1. City Enforcement Officials or Regional or County Enforcement Officials and/or their Designee will monitor compliance with the ordinance randomly and through Compliance Reviews, Route Reviews, investigation of complaints, and an Inspection program. Section 6.09.100 of the City's Municipal Code establishes City's right to conduct Inspections and investigations.

2. The City may issue an official notification to notify regulated entities of its obligations under the ordinance.
3. The City shall issue a Notice of Violation requiring compliance within sixty (60) days of issuance of the notice.
4. Absent compliance by the respondent within the deadline set forth in the Notice of Violation, the City shall commence an action to impose penalties, via an administrative citation and fine, pursuant to this Section. Notices shall be sent to “owner” at the official address of the owner maintained by the tax collector for the City or if no such address is available, to the owner at the address of the dwelling or Commercial property or to the party responsible for paying for the collection services, depending upon available information.

E. **Penalty Amounts for Types of Violations.** The administrative penalty levels associated with violations are established in [Chapter 1.12](#) (General Penalty) of the City’s Municipal Code.

F. **Factors Considered in Determining Penalty Amount.**

The following factors shall be used to determine the amount of the penalty for each violation within the appropriate penalty amount range:

1. The nature, circumstances, and severity of the violation(s).
2. The violator’s ability to pay.
3. The willfulness of the violator's misconduct.
4. Whether the violator took measures to avoid or mitigate violations of this Chapter.
5. Evidence of any economic benefit resulting from the violation(s).
6. The deterrent effect of the penalty on the violator.
7. Whether the violation(s) were due to conditions outside the control of the violator.

G. **Compliance Deadline Extension Considerations.**

The City may extend the compliance deadlines set forth in a Notice of Violation issued in accordance with this Section if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:

1. Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;
2. Delays in obtaining discretionary permits or other government agency approvals; or,
3. Deficiencies in Organic Waste recycling infrastructure or Edible Food Recovery capacity and the City is under a corrective action plan with CalRecycle pursuant to 14 CCR Section 18996.2 due to those deficiencies.

H. **Appeals Process.**

Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation. A hearing will be held only if it is requested within

the time prescribed and consistent with the City's procedures for appeals of administrative citations in accordance with [Chapter 1.08](#) of the Fort Bragg Municipal Code. Evidence may be presented at the hearing. The City will appoint a hearing officer who shall conduct the hearing and issue a final written order.

I. Education Period for Non-Compliance.

Beginning January 1, 2022 and through December 31, 2023, City will conduct Inspections, Remote Monitoring, Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance, and if City determines that Organic Waste Generator, Self-Hauler, hauler, Tier One Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance, it shall provide educational materials to the entity describing its obligations under this ordinance and a notice that compliance is required by January 1, 2022, and that violations may be subject to administrative civil penalties starting on January 1, 2024.

J. Civil Penalties for Non-Compliance.

Beginning January 1, 2024, if the City determines that an Organic Waste Generator, Self-Hauler, hauler, Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with this Chapter, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to this Section, as needed.

Section 3. 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 4. Effective Date and Publication. This ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage. Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause a summary of said Ordinance to be published as provided in Government Code §36933, in a newspaper of general circulation published and circulated in the City of Fort Bragg, along with the names of the City Council voting for and against its passage.

The foregoing Ordinance was introduced by Councilmember _____ at a regular meeting of the City Council of the City of Fort Bragg held on 28th day of March, 2022 and adopted at a regular meeting of the City of Fort Bragg held on the 11th day of April, 2022 by the following vote:

AYES:
NOES:

**ABSENT:
ABSTAIN:
RECUSED:**

BERNIE NORVELL
Mayor

ATTEST:

June Lemos, MMC
City Clerk

PUBLISH: March 31, 2022 and April 21, 2022 (by summary).
EFFECTIVE DATE: May 11, 2022.



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
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Text File

File Number: 22-144

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In Control: City Council

File Type: Staff Report

Agenda Number: 8E.

Receive Report and Planning Commission Resolution Recommending Adoption of Ordinance 979-2022 Amending Sections 18.22.30, 18.24.30, 18.42.055, 18.42.057, 18.42.059 and 18.100.020 of Title 18 (Inland Land Use and Development Code) of the Fort Bragg Municipal Code Relating to Cannabis Regulations



AGENCY: City Council
MEETING DATE: March 28, 2022
DEPARTMENT: Community Development
PRESENTED BY: Marie Jones
EMAIL ADDRESS: marie@mariejonesconsulting.com

AGENDA ITEM SUMMARY

TITLE:

Receive Report and Planning Commission Resolution Recommending Adoption of Ordinance 979-2022 Amending Sections 18.22.30, 18.24.30, 18.42.055, 18.42.057, 18.42.059 and 18.100.020 of Title 18 (Inland Land Use and Development Code) of the Fort Bragg Municipal Code

ISSUE:

The Planning Commission and City Council have held many meetings over the past year to discuss and provide direction regarding new regulations for cannabis cultivation and retail cannabis sales. The Planning Commission and City Council have from time to time provided different recommendations to staff regarding specific aspects of the proposed ordinance especially as it relates to allowable locations for retail sale of cannabis and whether the use should be by right or require a Minor Use Permit. Additionally, permit requests for retail cannabis sales have resulted in hearings with significant public input and concern.

On March 9, 2022, the Planning Commission met and provided direction to staff to prepare a final draft of the ordinance, Inland Land Use and Development Code (ILUDC) amendments and to prepare a resolution from the Planning Commission transmitting its recommendations regarding the proposed ordinance to City Council.

On March 23, 2022, the Planning Commission met and adopted Planning Commission Resolution PC05-2022, recommending adoption of Ordinance 979-2022. This staff report summarizes the Planning Commission's recommendations and the rationale for those recommendations. (See Attachment 1 for Resolution PC05-2022, and Attachment 2 for Draft Ordinance 979-2022).

A Negative Declaration was prepared for the proposed ordinance and circulated for public review and is attached as Attachment 3.

ANALYSIS:

The proposed ILUDC amendment would establish land use regulations for commercial cannabis cultivation (cannabis cultivation) and includes modifications to existing regulations for retail cannabis regulations. As recommended by the Planning Commission, Chapters 18.22, 18.42, and 18.100 of the ILUDC have been revised for City Council's consideration as follows:

Chapter 18.22.30 and 18.24.30 – Use Tables

1. Require Minor Use Permit approval for cultivation and retail sales of Cannabis. The Minor Use Permit process would allow staff and/or the Planning Commission (if appealed) to develop special conditions, ensure compliance with Chapter 18.42 use requirements, and allow the City to rescind a minor use permit if an applicant does not comply with special conditions. (See Attachment 4, pages 1 & 2)
2. Set a limitation on the number of cannabis businesses by resolution not to exceed 3 total in the Central Business District.
3. In Table 2-10 for industrial zoning districts, modified “Cannabis Retail – Delivery” to become “Cannabis Accessory – Retail, Retail-Delivery.” Regulations and definitions for this accessory use are included in Chapters 4 and 10.

Chapter 18.42.055 – Cannabis Cultivation

4. Inserted appropriate section heading and text regarding applicability, definitions and standards so that the ordinance form matches the rest of the ILUDC. (See Attachment 4, top of pages 4, 5 & 6)
5. Set various operation requirements for commercial cannabis cultivation, including deleting the need for a log of visitors which would not be allowed in non-retail areas, as this creates an internal conflict in the ordinance. One cannot require logging of something which is not permitted. (Attachment 4, middle of page 4)
6. Defined accessory cannabis uses for commercial cultivation to include Cannabis Retail Delivery and Cannabis Retail. (Attachment 4, bottom of page 4)

Chapter 18.42.057 – Cannabis Retail

7. Set various operation requirements for Cannabis Retail, including adding regulations regarding odor, hours, screening, etc. (Attachment 4, middle of page 5)
8. Established location limitations for Cannabis Retail in order to minimize conflicts with uses that have a potential for incompatibility. Location limits include: 1) Cannabis businesses cannot be located within 150 feet of a youth center, school, church and/or day care facility; and 2) cannabis businesses are permitted only west of the center line of Franklin Street in all zoning districts. (Attachment 4, middle of page 2)
9. Defined standards for cannabis accessory uses and require a MUP for the addition of such uses to an existing cannabis business. (Attachment 4, bottom of page 5).

Chapter 18.100 - Definitions

10. Defined multiple terms for Cannabis regulations. New definitions include Cannabis Accessory Use and Craft Cannabis Manufacturing.

The Planning Commission is aware that City Council is seeking a more permissive ordinance than the one that they are recommending for adoption. Discussion was robust at the meeting and the Planning Commission was in near unanimous agreement with regard to their recommendation.

The Planning Commission provided the following concession for the City Council's consideration. The Planning Commission would be willing to forgo the request for a limit on the number of Minor Use Permits, if the City Council agrees with the limitation on location of new Retail Cannabis uses to west of Franklin Street.

It should be noted that a Minor Use Permit (MUP) provides the City with an important enforcement tool, which is the ability to require conformance with use standards found in section 18.42.057 and the ability to revoke the MUP if the facility does not comply with the standards and any special conditions unique to a specific property. It is more difficult to enforce use standards without requiring issuance of an MUP, as the only enforcement avenue would be code enforcement and the courts.

Please review Attachment 2 for a review of the proposed amendments in conformance with the Inland General Plan and ILUDC.

RECOMMENDED ACTION:

Direct staff to publish a Notice of Public Hearing for Introduction of Ordinance 979-2022 Amending Sections 18.22.30, 18.24.30, 18.42.055, 18.42.057, 18.42.059 and 18.100.020 of Title 18 (Inland Land Use and Development Code) of the Fort Bragg Municipal Code.

ALTERNATIVE ACTION(S):

Provide additional direction to staff regarding additional modifications to the proposed ordinance.

FISCAL IMPACT:

The proposed amendment will not have a significant impact on the City's budget as the cost to process Minor Use Permits is paid for by the applicant per the fee structure for Minor Use Permits. Additionally, as no special taxes are proposed for these businesses, the City may experience only a modest increase in sales taxes and TOT (via cannabis related increases in tourism) if the businesses are successful.

GREENHOUSE GAS EMISSIONS IMPACT:

The use of electricity for cultivation of cannabis both for commercial and retail cannabis uses has the potential to result in significant Green House Gas (GHG) emissions. However, the ordinance requires the purchase of 100% renewable electricity and/or onsite photovoltaics to meet all power needs for cultivation, the potential GHG impact is significantly reduced. Retail cannabis businesses that also engage in on-site cultivation will have a minor impact on GHG emissions because the ordinance provides for 100 SF maximum of on-site cultivation without requiring PV of 100% renewable energy.

CONSISTENCY:

The following provides a consistency analysis between the proposed ILUDC amendment and the General Plan and ILUDC.

GENERAL PLAN ANALYSIS

The proposed ordinance will allow Commercial Cannabis Cultivation in Inland industrial zoning districts. The Inland General Plan (IGP), defines the purpose of these zoning district as follows

Heavy Industrial (IH) This designation is intended for a range of heavy industrial uses including manufacturing, assembly and processing, and the storage and distribution of raw materials,

aggregate plants, and related heavy industrial uses which are generally incompatible with and require locations removed from residential and visitor serving uses.

Light Industrial (IL) This designation is intended for a variety of commercial, manufacturing, wholesale and distribution, and industrial uses which do not generate a significant amount of on-site customer traffic or high levels of noise, dust, odors, or other potential off-site nuisance characteristics. Manufacturing uses are permitted provided they occur within an enclosed structure. Other uses permitted in this designation include offices ancillary to permitted uses, agricultural product sales and services, construction yards, and automobile repair shops.

Cannabis Cultivation can be found to be consistent with these definitions, as crop production and cannabis manufacturing are already allowable uses in these districts. While Cannabis Cultivation is not spelled out in the General Plan purpose definitions for this zoning districts, it can be inferred by the uses that are allowed.

Likewise, the ILUDC provides the following purposes for the General Commercial, Central Business District and Highway Commercial zoning districts; respectively:

Central Business District (CBD) This designation applies to the core of the downtown which is the civic, cultural, and commercial center of the community. Uses and site development patterns in the Central Business District are typically pedestrian-oriented. This designation is intended to accommodate government and professional offices, retail stores, theaters, and other similar uses. Residential uses on upper floors or on the ground floor at the rear of buildings are encouraged at a density of up to 40 units per net acre.

General Commercial (CG) The General Commercial designation is intended for a less compact and intensive type of development than found in the Central Business District. Typical land uses in this designation depend more on vehicular than pedestrian access and include automotive and service-related outlets, retail sales, hardware, paint or carpeting sales, offices, apparel stores, and food stores. Shopping centers are allowed with approval of a conditional use permit. Residential uses are permitted above the ground floor or on the ground floor at the rear of buildings at a maximum density of up to 24 units per acre. Highway Visitor

Commercial (CH) This land use designation applies to land uses serving residents and visitors on sites which are located along Highway One and arterials at the entry points to the community. Typical uses allowed in this designation include motels and other lodging enterprises, restaurants, and retail outlets. Residential uses are permitted above the ground floor or on the ground floor at the rear of buildings at a maximum density of up to 24 units per acre.

Cannabis Retail and Cannabis Retail-Delivery can be found to be consistent with the purpose of these three zoning districts as both are retail uses, and the regulations as proposed would mitigate any potential impacts due to the nature of the products for sale.

As analyzed below, the proposed ordinance may be found to be consistent with the Inland General Plan as it does not conflict with any Policies in the Inland General Plan. In particular, the proposed ordinance is consistent with the following:

General Plan Consistency Analysis
<i>Policy LU-1.1 Implementation of the Land Use Designations Map: Implement the Land Use Designations Map by approving development and conservation projects consistent with the land use designations and ensure consistency between the Inland General Plan and the Inland Land Use and Development Code.</i>
CONSISTENT – commercial cannabis cultivation is less intensive than other allowed and conditionally allowable industrial uses including fish processing, agricultural processing, and light, medium, and heavy manufacturing. Only indoor commercial cannabis cultivation would be allowed which is similar to these activities and also similar to crop production which is a permitted use.
<i>Policy LU-3.1 Central Business District: Retain and enhance the small-scale, pedestrian friendly, and historic character of the Central Business District (CBD).</i>
CONSISTENT – the proposed ordinance would require a typical retail store front for Cannabis Retail uses in the CBD. Cannabis retail-Delivery would not be permitted in the CBD. Additionally, the maximum number of dispensaries in the Central Business District may be restricted by resolution to limit any potential inconsistencies which could result from over concentration.
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.
CONSISTENT – All commercial buildings in commercial areas are allowed to have retail businesses. The proposed regulations would limit Cannabis Retail businesses to the area west of the Centerline of Franklin Street in order to limit potential conflicts with residential areas located within and close to the CBD, CG and Ch zoning districts. Additionally, the proposed regulations would prohibit cannabis businesses within 150 feet of youth centers, churches, schools and day care facilities.
<i>Land Use Goal LU-5 Policy LU-5.2 Industrial Land Use Standards: Require that industrial development avoid or minimize creating substantial pollution, noise, glare, dust, odor, or other significant adverse impacts.</i>
CONSISTENT – the City’s existing codes, General Plan, and the environmental review process all protect against projects that would contribute to substantial pollution, noise, glare, dust, or other adverse impacts. Additionally, §18.42.055 Cannabis Cultivation provides protections for odor.
<i>Policy PF-2.2 Program PF-2.2.5 Continue to encourage water conservation techniques and water conserving fixtures in all new development projects</i>
CONSISTENT – Proposed Section 18.42.055(B)(3)(a) requires that commercial cannabis cultivations use the best available technologies for water systems and water recycling and encourages proposed projects to use alternate sources of water from the City’s potable water system.
<i>Open Space Goal OS-7 Improve air quality</i>
CONSISTENT –Cannabis cultivation is required to have odor control technology.
<i>Policy S-2.5 Use of Local and Renewable Energy: Buildings and infrastructure that create and/or use locally and renewably generated energy are encouraged. Photovoltaic and wind energy systems are encouraged. The installation of solar panels or other clean energy power generation sources over parking areas is preferred</i>
CONSISTENT – Proposed ILUDC §18.42.055(B)(3)(C) requires that electricity be exclusively provided by a renewable energy source.
<i>Policy S-3.1 Reduce Water Use: Minimize the use of potable water in new and existing development.</i>

CONSISTENT - Proposed ILUDC §18.42.055(B)(3)(a) requires that commercial cannabis cultivations use the best available technologies for water systems and water recycling and encourages proposed projects to use alternate sources of water from the City’s potable water system.

There are many additional Inland General Plan policies that would apply to future applications for permits. Specifically, the policies that regulate noise, odor, community design, and environmental impacts. Additionally, all future projects are discretionary as they require a Minor Use Permit and therefore would also require review under CEQA and licensing through the State’s Department of Cannabis Control.

ILUDC ANALYSIS

The proposed ordinance adds a new use to two Industrial zoning districts. In the ILUDC, the industrial zoning districts are defined as follows:

IL (Light Industrial) zoning district. The IL zoning district is applied to areas of the City that are appropriate for a variety of commercial, manufacturing, wholesale and distribution, and industrial uses that do not generate significant customer traffic or high levels of noise, dust, odors, or other potential off-site nuisance characteristics. Allowable manufacturing uses and activities must be entirely within enclosed structures. The maximum floor area ratio (FAR) is 0.40. The IL zoning district implements and is consistent with the IL land use designation of the General Plan.

IH (Heavy Industrial) zoning district. The IH zoning district is applied to areas of the City that are appropriate for a range of heavy industrial including manufacturing, assembly and processing, the storage and distribution of raw materials, aggregate plants, and related industrial uses that are generally compatible with and require locations removed from residential and visitor serving uses. The maximum floor area ratio (FAR) is 0.40. The IH zoning district implements and is consistent with the IH land use designation of the General Plan.

Commercial Cannabis Cultivation

Cannabis cultivation is consistent with other uses currently allowed in Table 2-10, Allowed Land Uses and Permit Requirements for Industrial Zoning. The following table shows the current permit requirements for some of the uses in the inland industrial zones:

Allowed Land Uses and Permit Requirements for Industrial Zoning

Land Use Type	Light Industrial Permit Requirements	Heavy Industrial Permit Requirements
Agricultural Product Processing	Conditional - Use Permit	Permitted Use
Brewery/Restaurant	Conditional - Use Permit	Conditional - Use Permit
Fish Processing	Permitted Use	Permitted Use
Manufacturing/Processing Light	Permitted Use	Permitted Use
Manufacturing/Processing Medium intensity	Conditional - Use Permit	Permitted Use

Manufacturing/Processing – Heavy	Not allowed	Conditional – Use Permit
Cannabis Cultivation	Conditional - MUP	Conditional - MUP

Indoor commercial cannabis cultivation is similar to other uses that are currently allowed uses in the industrial zoning districts. it would be compatible with other allowable uses in the industrial zoning districts because:

- Potential impacts of Commercial Cannabis Cultivation have been significantly mitigated with existing and proposed regulations for water, energy, and odor control in the Municipal Code and the Inland Land Use and Development Code.
- The proposed ordinances would only allow for indoor cultivation of cannabis in a fully enclosed and secured structure.
- Cannabis Cultivation would require a discretionary MUP and would undergo review to determine if the project would conflict with surrounding land uses.

Cannabis Retail

The existing ordinance section, §18.42.057, would be updated to address any potential use compatibility issues, with additional standards for operations (odor, hours, lighting, screening and on-site consumption) and additional requirements around location and accessory use. Taken together the proposed amendment will significantly reduce the potential for incompatibility between Cannabis Retail, Cannabis Retail-Delivery and other uses in the CBD, CG and CH zoning districts. The proposed amendments also require an MUP for both uses, which will allow staff, and if appealed, the Planning Commission, the opportunity to place additional special conditions on a specific proposed project, if warranted.

IMPLEMENTATION/TIMEFRAMES:

If the Ordinance is introduced on April 11, 2022 and adopted on April 25, 2022, it would become effective May 25, 2022. Based on Council direction regarding the contents of the ordinance, additional CEQA review may be necessary which could impact this timeframe.

ATTACHMENTS:

1. Resolution of the Fort Bragg Planning Commission recommending City Council approve Ordinance 979-2022 amending the Inland Land Use and Development Code to regulate commercial cannabis cultivation and amend regulations for cannabis retail in commercial zones
2. Ordinance 979-2022 amending Sections 18.22.30, 18.24.30, 18.42.055, 18.42.057, 18.42.059 and 18.100.020 of Title 18 (Inland Land Use and Development Code) of the Fort Bragg Municipal Code
3. Negative Declaration for ILUDC Amendment 1-22 Regulating Commercial Cannabis Cultivation and Amending Existing Regulations for Cannabis Businesses in Commercial Zones
4. Track Changes of Ordinance Language

NOTIFICATION:

1. Cannabis Legislation Notify Me Subscribers
2. Fort Bragg Downtown Businesses Notify Me Subscribers

RESOLUTION NO. PC05-2022

RESOLUTION OF THE FORT BRAGG PLANNING COMMISSION RECOMMENDING CITY COUNCIL APPROVE ORDINANCE 979-2022 AMENDING THE INLAND LAND USE AND DEVELOPMENT CODE TO REGULATE COMMERCIAL CANNABIS CULTIVATION AND AMEND REGULATIONS FOR CANNABIS RETAIL IN COMMERCIAL ZONES.

WHEREAS, the City of Fort Bragg’s (“City”) previously adopted ordinances governing cannabis businesses do not provide regulations for commercial cannabis cultivation; and

WHEREAS, in 1970, Congress enacted the Controlled Substances Act (21 U.S.C. Section 801 et seq.) which, among other things, makes it illegal to import, manufacture, distribute, possess, or use marijuana for any purpose in the United States and further provides criminal penalties for marijuana possession, cultivation and distribution; and

WHEREAS, the People of the State of California have enacted Proposition 215, the Compassionate Use Act of 1996 (codified at Health and Safety Code Section 11362.5 et seq.) (the “CUA”), which exempts qualified patients and their primary caregivers from criminal prosecution under enumerated Health and Safety Code sections for use of marijuana for medical purposes; and

WHEREAS, the California Legislature enacted Senate Bill 420 in 2003, the Medical Marijuana Program Act (codified at Health and Safety Code Section 11362.7 et seq.) (the “MMPA”), as amended, which created a state-wide identification card scheme for qualified patients and primary caregivers; and

WHEREAS, on October 11, 2015, the Governor signed into law Senate Bill 643, Assembly Bill 266, and Assembly Bill 243, collectively referred to as the Medical Cannabis Regulation and Safety Act (MCRSA) formerly known as (the Medical Marijuana Regulation and Safety Act or MMRSA), effective January 1, 2016, which established a state licensing system for medical marijuana cultivation, manufacturing, testing, delivery, and dispensing, regulating these activities with licensing requirements and regulations that are only applicable if cities and counties also permit marijuana cultivation, manufacturing, testing, dispensing, and delivery within their jurisdictions. Under the MCRSA, cities and counties may continue to regulate and/or prohibit medical marijuana cultivation, manufacturing, dispensing, and delivery, consistent with their respective police powers, in which case the new law would not allow or permit these activities within the cities and counties where such activities are not otherwise permitted; and

WHEREAS, on February 3, 2016, Assembly Bill 21 (Wood) was signed by the Governor, amending provisions of MCRSA pertaining to cultivation licenses by eliminating a March 1, 2016 deadline for local jurisdictions for the promulgation of cultivation regulations or cultivation bans, or local jurisdictions would lose the ability to regulate to the State. Assembly Bill 21 also modified language in Health & Safety Code section 11362.777(g), which pertained to exemptions from licensing requirements for qualified patients and caregivers. The prior language, which specifically stated that local governments retained the right to prohibit cultivation without exception, was revised to state: “Exemption from the

requirements of this section does not limit or prevent a city, county, or city and county from exercising its police authority under Section 7 of Article XI of the California Constitution;” and

WHEREAS, on November 8, 2016, the electorate of the State of California approved Proposition 64 (“Prop 64”) which enacted the Adult Use of Marijuana Act (“AUMA”), to be codified in California Health and Safety Code at various sections and in California Business and Professions Code at various sections. The AUMA allows adults 21 and over to use, possess, and cultivate limited amounts of marijuana, establishes a state licensing and regulatory scheme for marijuana businesses serving the recreational market; and expressly allows local jurisdictions to prohibit outdoor cultivation of marijuana for personal use, to regulate indoor cultivation of marijuana for personal use, and to prohibit all non-medical and recreational marijuana businesses from locating and operating within their jurisdictions; and

WHEREAS, on June 27, 2017, the Governor approved Senate Bill 94 which combined the regulatory schemes for MMRSA and AUMA into a single, comprehensive regulatory scheme known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”); and

WHEREAS, notwithstanding the CUA, MMPA, MMRSA, and MAUCRSA as amended, marijuana remains a schedule I substance pursuant to California Health & Safety Code § 11054 (d) (13); and

WHEREAS, the California Supreme Court has established that neither the CUA nor the MMPA preempt local cannabis regulation in the case of *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.*, 56 Cal.4th 729 (2013); and

WHEREAS, on February 25, 2019, the City Council of the City of Fort Bragg (“City Council”) sought to establish rules and regulations by which cannabis businesses may be permitted by considering an ordinance regulating retail, laboratory testing, manufacturing, and distribution cannabis businesses and accessory uses; and

WHEREAS, through multiple public meetings, the Public Safety Committee, Fort Bragg Police Department and City staff have received input from citizens and discussed various options for permitting cannabis businesses; and

WHEREAS, on November 21, 2019, the City Council of the City of Fort Bragg (“City Council”) adopted Ordinance 953-2019 which established rules and regulations by which cannabis businesses may be permitted; and

WHEREAS, on October 13, 2020, the City Council of the City of Fort Bragg (“City Council”) directed staff to develop regulations for commercial cannabis cultivation; and

WHEREAS, the Community Development Committee met on February 23, 2021 and March 23, 2021 to review recommended updates to the Municipal Code and Inland Land Use and Development Code to include cannabis cultivation and receive public input; and

WHEREAS, on May 3, 2021, the City Council received public input and directed staff to update the rules and regulations to streamline permitting under the Community Development Department and determined that specific regulations and requirements were necessary to allow the commercial cultivation of cannabis in the City of Fort Bragg; and

WHEREAS, on May 20, 2021, the City Council determined that additional regulations were necessary for conducting retail cannabis activities; and

WHEREAS, on September 27, 2021, the City Council placed a permitting moratorium on new cannabis businesses to provide time to amend City cannabis regulations for the Central Business District; and

WHEREAS, on October 25, 2021 and November 8, 2021, the City Council provided direction to staff regarding land use standards for retail cannabis, commercial cannabis cultivation, and cannabis microbusinesses; and

WHEREAS, on December 13, 2021, the City Council provided direction to staff on comprehensive updates to the City's cannabis regulations including Title 18 ("Inland Land Use and Development Code" of the City's Municipal Code; and determined that cannabis cultivation may impact City infrastructure and water availability; and

WHEREAS, a Negative Declaration and Initial Study was prepared and was circulated to the public on February 17, 2022.

WHEREAS, on February 28, 2022 the moratorium on cannabis businesses was renewed to allow for the completion of the aforementioned study; and

WHEREAS, on February 23, 2022, the Planning Commission held a duly noticed public hearing to make a recommendation regarding the adoption of the proposed amendments to Title 18 Inland Land Use and Development Code and continued the meeting to a date certain;

WHEREAS, on March 9, and March 23, 2022, the Planning Commission continued deliberations and made additional recommendation regarding proposed amendments to Title 18 Inland Land Use and Development Code and continued the meeting to a date certain;

WHEREAS, on March 23, 2022, the Planning Commission continued their deliberations and made the following recommendations to the City Council regarding the proposed amendments to Title 18 Inland Land Use and Development Code:

Chapter 18.22 – Use Tables

1. Require Minor Use Permit approval for cultivation and retail sales of Cannabis. The Minor Use Permit process would allow staff and/or the Planning Commission to set special conditions, ensure compliance with Chapter 18.42 use requirements, and allow the City to rescind a minor use permit if an applicant does not comply with special conditions. Sets a limitation on the number of cannabis businesses by resolution not to exceed 3 total in the Central Business District.

2. In Table 2-10 for industrial zoning districts, modified “Cannabis Retail – Delivery” to become “Cannabis Accessory – Retail, Retail-Delivery”.

Chapter 18.42.055 – Cannabis Cultivation

3. Insert appropriate section heading and text regarding applicability, definitions and standards so that the ordinance form matches the rest of the ILUDC.
4. Set various operation requirements for commercial cannabis cultivation, including deleting the requirement to log visitors which are not allowed in non-retail areas, as this creates an internal conflict in the ordinance. One cannot require logging of something which is not permitted.
5. Defined accessory cannabis uses for commercial cultivation to include Cannabis Retail Delivery and Cannabis Retail.

Chapter 18.42.057 – Cannabis Retail

6. Set various operation requirements for Cannabis Retail, including adding regulations regarding odor, hours, screening, etc.
7. Established location limitations for Cannabis Retail in order to minimize conflicts with uses that have a potential for incompatibility. Location limits include 1) Cannabis businesses cannot be located within 150 feet of a youth center, school, church and/or day care facility and 2) cannabis businesses are permitted only west of the center line of Franklin Street in all zoning districts.
8. Defined standards for cannabis accessory uses and require a MUP for the addition of such uses to an existing cannabis business.

Chapter 18.100

9. Defined multiple terms for Cannabis regulations.

WHEREAS, on March 23, 2022, the Planning Commission also established the following:

1. The proposed amendment is consistent with the General Plan and any applicable specific plan; and
2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.
3. The proposed amendment is internally consistent with other applicable provisions of this Development Code.

NOW, THEREFORE, the City of Fort Bragg Planning Commission, based on the entirety of the record before it, which includes without limitation, CEQA, Public Resources Code §21000, et seq. and the CEQA Guidelines, 14 California Code of Regulations §15000, et seq.; the Fort Bragg General Plan; the Fort Bragg Inland Land Use and Development Code; the draft ordinance, the draft code amendments; and public testimony submitted as part of the Planning Commission’s regular meetings of February 23, 2022, March 9, 2022 and March 23, 2022 and Planning Commission deliberations; the Planning Commission of the City of Fort Bragg hereby finds as follows:

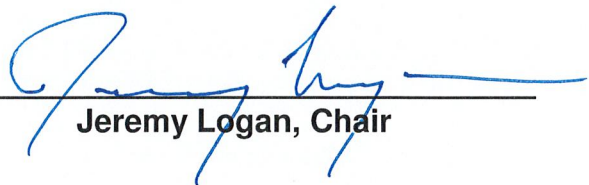
- a. The proposed amendment is consistent with the policies of the Inland General Plan.
- b. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

- c. The proposed amendment is internally consistent with other applicable provisions of this Development Code.

NOW, THEREFORE, BE IT RESOLVED that the Fort Bragg Planning Commission does hereby recommend that City Council adopt Ordinance 979-2022, as modified.

The above and foregoing Resolution was introduced by Commissioner Roberts, seconded by Commissioner Rogers, and passed and adopted at a regular meeting of the Planning Commission of the City of Fort Bragg held on the 23rd day of March 2022, by the following vote:

- AYES:** Miklose, Roberts, Rogers, Logan
- NOES:** Andreis
- ABSENT:** None
- ABSTAIN:** None
- RECUSED:** None



Jeremy Logan, Chair

ATTEST:



Sarah Peters, Administrative Assistant

BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

**AN ORDINANCE AMENDING SECTIONS
18.22.030, 18.24.030, 18.42.055,
18.42.057, 18.42.059 AND 18.100.020 OF
TITLE 18 (INLAND LAND USE AND
DEVELOPMENT CODE) OF THE FORT
BRAGG MUNICIPAL CODE RELATING
TO CANNABIS REGULATIONS**

ORDINANCE NO. 979-2022

WHEREAS, the City of Fort Bragg’s (“City”) previously adopted ordinances governing cannabis businesses do not provide regulations for commercial cannabis cultivation; and

WHEREAS, in 1970, Congress enacted the Controlled Substances Act (21 U.S.C. Section 801 et seq.) which, among other things, makes it illegal to import, manufacture, distribute, possess, or use marijuana for any purpose in the United States and further provides criminal penalties for marijuana possession, cultivation and distribution; and

WHEREAS, the People of the State of California have enacted Proposition 215, the Compassionate Use Act of 1996 (codified at Health and Safety Code Section 11362.5 et seq.) (the “CUA”), which exempts qualified patients and their primary caregivers from criminal prosecution under enumerated Health and Safety Code sections for use of marijuana for medical purposes; and

WHEREAS, the California Legislature enacted Senate Bill 420 in 2003, the Medical Marijuana Program Act (codified at Health and Safety Code Section 11362.7 et seq.) (the “MMPA”), as amended, which created a state-wide identification card scheme for qualified patients and primary caregivers; and

WHEREAS, on October 11, 2015, the Governor signed into law Senate Bill 643, Assembly Bill 266, and Assembly Bill 243, collectively referred to as the Medical Cannabis Regulation and Safety Act (MCRSA) formerly known as (the Medical Marijuana Regulation and Safety Act or MMRSA), effective January 1, 2016, which established a state licensing system for medical marijuana cultivation, manufacturing, testing, delivery, and dispensing, regulating these activities with licensing requirements and regulations that are only applicable if cities and counties also permit marijuana cultivation, manufacturing, testing, dispensing, and delivery within their jurisdictions. Under the MCRSA, cities and counties may continue to regulate and/or prohibit medical marijuana cultivation, manufacturing, dispensing, and delivery, consistent with their respective police powers, in which case the new law would not allow or permit these activities within the cities and counties where such activities are not otherwise permitted; and

WHEREAS, on February 3, 2016, Assembly Bill 21 (Wood) was signed by the Governor, amending provisions of MCRSA pertaining to cultivation licenses by eliminating a March 1, 2016 deadline for local jurisdictions for the promulgation of cultivation regulations or cultivation bans, or local jurisdictions would lose the ability to regulate to the State. Assembly Bill 21 also modified language in Health & Safety Code section 11362.777(g), which pertained to exemptions from licensing requirements for qualified patients and caregivers. The prior language, which specifically stated that local governments retained the right to prohibit cultivation without exception, was revised to state: “Exemption from the requirements of this section does not limit or prevent a city, county, or city and county from exercising its police authority under Section 7 of Article XI of the California Constitution;” and

WHEREAS, on November 8, 2016, the electorate of the State of California approved Proposition 64 (“Prop 64”) which enacted the Adult Use of Marijuana Act (“AUMA”), to be codified in California Health and Safety Code at various sections and in California Business and Professions Code at various sections. The AUMA allows adults 21 and over to use, possess, and cultivate limited amounts of marijuana, establishes a state licensing and regulatory scheme for marijuana businesses serving the recreational market; and expressly allows local jurisdictions to prohibit outdoor cultivation of marijuana for personal use, to regulate indoor cultivation of marijuana for personal use, and to prohibit all non-medical and recreational marijuana businesses from locating and operating within their jurisdictions; and

WHEREAS, on June 27, 2017, the Governor approved Senate Bill 94 which combined the regulatory schemes for MMRSA and AUMA into a single, comprehensive regulatory scheme known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”); and

WHEREAS, notwithstanding the CUA, MMPA, MMRSA, and MAUCRSA as amended, marijuana remains a schedule I substance pursuant to California Health & Safety Code § 11054 (d) (13); and

WHEREAS, the California Supreme Court has established that neither the CUA nor the MMPA preempt local cannabis regulation in the case of *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.*, 56 Cal.4th 729 (2013); and

WHEREAS, on February 25, 2019, the City Council of the City of Fort Bragg (“City Council”) sought to establish rules and regulations by which cannabis businesses may be permitted by considering an ordinance regulating retail, laboratory testing, manufacturing, and distribution cannabis businesses and accessory uses; and

WHEREAS, through multiple public meetings, the Public Safety Committee, Fort Bragg Police Department and City staff have received input from citizens and discussed various options for permitting cannabis businesses; and

WHEREAS, on November 21, 2019, the City Council of the City of Fort Bragg (“City Council”) adopted Ordinance 953-2019 which established rules and regulations by which cannabis businesses may be permitted; and

WHEREAS, on October 13, 2020, the City Council of the City of Fort Bragg (“City Council”) directed staff to develop regulations on commercial cannabis cultivation; and

WHEREAS, the Community Development Committee met on February 23, 2021 and March 23, 2021 to review recommended updates to the Municipal Code and Inland Land Use and Development Code to include cannabis cultivation and receive public input; and

WHEREAS, on May 3, 2021, the City Council of the City of Fort Bragg received public input and directed staff to update the rules and regulations to streamline permitting under the Community Development Department; and

WHEREAS, also on May 3, 2021, the City Council determined that specific regulations and requirements were necessary to allow the commercial cultivation of cannabis cultivation in the City of Fort Bragg; and

WHEREAS, on May 20, 2021, the City Council determined that additional regulations were necessary for conducting retail cannabis activities; and

WHEREAS, on September 27, 2021, the City Council put a moratorium on more cannabis businesses to study whether it would be appropriate to amend how the City regulates cannabis dispensaries in the Central Business District; and

WHEREAS, on October 25, 2021 and November 8, 2021, the City Council provided direction to staff on zoning and specific land use standards for retail cannabis, commercial cannabis cultivation, and cannabis microbusinesses; and

WHEREAS, on December 13, 2021, the City Council provided direction to staff on comprehensive updates to the City’s cannabis regulations including Title 18 (“Inland Land Use and Development Code” of the City’s Municipal Code; and

WHEREAS, a Negative Declaration and Initial Study was prepared and was circulated to the public on February 17, 2022.

WHEREAS, on February 23, 2022, and March 9, 2022 the Planning Commission held a duly noticed public hearing to review and make a recommendation on the adoption of the proposed amendments to Title 18 Inland Land Use and Development Code and continued the meeting to a date certain; and

WHEREAS, City Council has determined that Title 18 should be amended to regulate the commercial cannabis activities; and

WHEREAS, the City Council finds that the adoption of this ordinance will not have a significant impact on the environment under the California Environmental Quality Act (CEQA) as a Negative Declaration and Initial Study, that were prepared and circulated to the public on February 17, 2022, pursuant to the California Environmental Quality Act (“CEQA”), found no significant impacts.

NOW, THEREFORE, the City Council ordains as follows:

Section 1. Legislative Findings. The City Council hereby finds as follows:

1. The foregoing recitals are true and correct and are incorporated into this ordinance.
2. Amending Title 18 of the Fort Bragg Municipal Code in the manner described will ensure that cannabis businesses are effectively regulated so that they will not be detrimental to the public interest, health, safety, convenience or welfare of the City.
3. A Negative Declaration and Initial Study was prepared and circulated to the public on February 17, 2022, pursuant to the California Environmental Quality Act (“CEQA”) and the environmental review found no significant impacts.

Section 2. Sections 18.22.030 and 18.24.030 (“Inland Land Use and Development Code”) of the Fort Bragg Municipal Code are hereby amended to include the following specific additions and changes:

18.22.030 Commercial District Land Uses and Permit Requirements

TABLE 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	Permitted use, Zoning Clearance required					Specific Use Regulations
	PERMIT REQUIRED BY DISTRICT					
LAND USE (1)	CN	CO	CBD	CG	CH	
	P Permitted use, Zoning Clearance required Minor Use Permit required (see MUP § 18.71.060) UP Use Permit required (see § 18.71.060) S Permit requirement set by Specific Use Regulations — Use not allowed					

RETAIL TRADE

Cannabis retail & accessory cannabis uses	—	—	MUP(3,4)	MUP (4)	MUP (4)	18.42.057 Chapter 9.30
Cannabis retail - delivery only	—	—	—	MUP (4)	MUP (4)	18.42.057 Chapter 9.30

Notes:

(3) The number of permissible Cannabis Retail Businesses in the Central Business District shall be set by resolution of the City Council in an amount not to exceed 3 businesses.

(4) Retail Cannabis businesses shall be permissible only on parcels located west of the centerline of Franklin Street in the CBD, CG and CH districts.

18.24.030 - Industrial District Land Uses and Permit Requirements

TABLE 2-10 Allowed Land Uses and Permit Requirements for Industrial Zoning Districts	P	Permitted use, Zoning Clearance required	
	MUP	Minor Use Permit required (see § 18.71.060)	
	UP	Use Permit required (see § 18.71.060)	
S	Permit requirement set by Specific Use Regulations		
—	Use not allowed		
LAND USE (1)	PERMIT REQUIRED BY DISTRICT		Specific Use Regulations
	IL	IH	

AGRICULTURAL, RESOURCE AND OPEN SPACE USES

Cannabis – Indoor Cultivation (Nurser and/or, Mature Plants)	MUP	MUP	Chapter 9.30 and 18.42.055
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TABLE 2-10 Allowed Land Uses and Permit Requirements for Industrial Zoning Districts	P	Permitted use, Zoning Clearance required	
	MUP	Minor Use Permit required (see § 18.71.060)	
	UP	Use Permit required (see § 18.71.060)	
S	Permit requirement set by Specific Use Regulations		
—	Use not allowed		
LAND USE (1)	PERMIT REQUIRED BY DISTRICT		Specific Use Regulations
	IL	IH	

RETAIL TRADE

Cannabis retail – Delivery only Accessory Cannabis – Retail, Retail Delivery	MUP (2)	MUP (2)	18.42.057 Chapter 9.30
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Notes:

- (1) See Article 10 for land use definitions.
- (2) Use shall only be allowable as an accessory use to a cannabis business engaged in manufacturing, cultivation and/or distribution.

Section 3. Sections 18.42.055, 18.42.057 and 18.42.059 of the Inland Land Use and Development Code of the Fort Bragg Municipal Code are hereby replaced in their entirety with the following as noted below:

18.42.055 Commercial Cannabis Cultivation

A. **Applicability.** Where allowed by Article 2 (Zoning Districts and Allowable Land Uses) Commercial Cannabis Cultivation shall comply with the standards of this Section. These standards apply in addition to the other provisions of this Development Code and requirements imposed by Chapter 9.30 of the Municipal Code and any required State licenses prior to operation.

B. **Definitions.** Definitions of the Commercial Cannabis Cultivation facilities regulated by this Section are in Article 10 (Definitions) under “Cannabis.”

C. **Standards for Commercial Cannabis Cultivation.** A Minor Use Permit for Commercial Cannabis Cultivation shall be approved, if it complies with the following standards:

1. **Additional Permits and Licenses Required.** A cannabis cultivation business shall obtain a cannabis business permit subject to Chapter 9.30 of the Municipal Code and any required state licenses prior to operation.
2. **Operational requirements.** Operational requirements may include project specific conditions of approval, the requirements set forth in Chapter 9.30, and the following operational requirements:
 - a. **Employees.** The cannabis operator shall maintain a current register of the names of all employees and shall disclose such register for inspection by any City officer or official for purposes of determining compliance with the requirements of this Section and/or any project specific conditions of approval prescribed in the Minor Use Permit.
 - b. **Visitors.** Only employees, managers, owners, and government agency representatives are allowed in non-retail areas of the business.
 - c. **Utilities.** Commercial cannabis cultivation shall use the best available technologies for water systems and water recycling and are encouraged to use an alternate source of water from the City’s potable water system. Commercial cannabis cultivators shall use energy efficient lighting and equipment. A cannabis cultivator shall provide proof of the utility provider’s ability to provide reliable power to the cultivation site. Electricity must be exclusively provided by a renewable energy source(s), including but not limited to: 1) documented grid power supplied from a 100% renewable source, or 2) on-site renewable energy system.
 - d. **Environmentally Friendly Practices.** Cultivation projects shall use environmentally friendly practices, including integrative pest management and waste reduction.
 - e. **Odor.** Cannabis cultivations shall use the best available technology to ensure odors are not detected on adjacent or nearby property or areas open to the public.
3. **Cannabis Accessory uses to commercial cultivation.** Cannabis Retail-Delivery and Cannabis Retail and permissible as accessory uses with Minor Use Permit approval. Other accessory uses may be approved as noted in Table 2.10 of Article 2.

18.42.057 Cannabis Retail

A. **Applicability.** Where allowed by Article 2 (Zoning Districts and Allowable Land Uses) Cannabis Retail shall comply with the standards of this Section. These standards apply in addition to the other provisions of this Development Code and requirements imposed by Chapter 9.30 of the Municipal Code and any required State licenses prior to operation.

B. **Definitions.** Definitions of the Cannabis Retail facilities regulated by this Section are in Article 10 (Definitions) under “Cannabis.”

C. **Standards for Cannabis Retail.** A Minor Use Permit for Cannabis Retail shall be approved if it complies with the following standards:

1. **Additional Permits and Licenses Required.** A cannabis storefront retail business shall obtain a cannabis business permit subject to Chapter 9.30 of the Municipal Code and any required state licenses prior to operation.
2. **Operation Requirements.**
 - a. **Odor.** Cannabis cultivations shall use the best available technology to ensure odors are not detected on adjacent or nearby property or areas open to the public.
 - b. **Hours of Operation.** Cannabis retail may operate between the hours of 9:00 a.m. to 9:00 p.m. up to 7 days per week unless the review authority imposes more restrictive hours due to the particular circumstances of the application. The basis for any restriction on hours shall be specified in the permit. Cannabis retail uses shall only be permitted to engage in delivery services during hours that the storefront is open to the public, unless the review authority permits delivery outside these hours.
 - c. **Lighting and Screening.** Projects that are on properties adjacent to residential properties shall comply with §18.30.050(F) and §18.30.070.
 - d. **On-Site Consumption.** The consumption of cannabis at a cannabis retail use or within the parking lot or public right-of-way are prohibited.
 - e. **Drive-through services.** Drive-through or walk-up window services in conjunction with cannabis retail are prohibited.
3. **Location Requirements.** In order to avoid the concentration of Cannabis Retail land uses and maintain the downtown commercial character, and compatibility with adjacent residential uses, A cannabis retail business shall **not** be:
 - a. Located within 150 feet of a school providing instruction in kindergarten or any grades 1 through 12, a child day care center or facility, a youth center as defined in the State of California Health and Safety Code Section 11353.1(e)(2) a church, or a park. The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the school/youth center/day care facility/church to the closest property line of the lot on which the cannabis business is proposed.
 - b. Located east of the centerline of Franklin Street.
4. **Accessory Uses.** The primary use of a cannabis retail use shall be to sell products directly to on-site customers.
 - a. **Accessory Uses.** The following uses are permissible as accessory uses to Cannabis Retail. More than one accessory use is permissible however the combined accessory uses shall not exceed the total square footage of the primary use.
 - i. Central Business District & General Commercial zones: Office, Nursery (non-flowering) cultivation area of not more than 100 SF for on-site sales only; Retail Delivery; On-Site Distribution.

- ii. Highway Visitor Commercial: Office, Nursery (non-flowering) cultivation area of not more than 100 SF, Craft Cannabis Manufacturing – no volatile solvents permitted, Distribution, Wholesale, Retail Delivery, On-Site Distribution
- b. **Minor Use Permit Amendments.** If a permitted cannabis retail use chooses to provide an accessory use or services at a later date, an amendment to the Minor Use Permit shall be required.
- c. **Accessory Delivery.** Sales may also be conducted by delivery, subject to the requirements of Section 18.42.059:

18.42.059 - Cannabis Retail - Delivery Only

A. **Applicability.** Where allowed by Article 2 (Zoning Districts and Allowable Land Uses) Cannabis Retail-Delivery shall comply with the standards of this Section. These standards apply in addition to the other provisions of this Development Code and requirements imposed by Chapter 9.30 of the Municipal Code and any required State licenses prior to operation.

B. **Definitions.** Definitions of the Cannabis Retail-Delivery facilities regulated by this Section are in Article 10 (Definitions) under “Cannabis.”

C. **Standards for Cannabis Retail-Delivery.** A Minor Use Permit for Cannabis Retail shall be approved if it complies with the following standards:

D. **Operational requirements.** In addition to project specific conditions of approval and the requirements set forth in Chapter 9.30, cannabis retail - delivery only uses shall comply with the following operational requirements:

1. Cannabis retail - delivery only uses shall comply with the same operational requirements applicable to cannabis retail uses (section 18.42.057).
2. The application shall describe the operational plan and specific extent of such service, security protocols, and how the delivery services will comply with the requirements set forth in Chapter 9.30, this Section, and State law.

Section 4. Section 18.100 of the Inland Land Use and Development Code of the Fort Bragg Municipal Code is hereby amended to include the following additional definitions and definition revisions.

18.100.020 - Definitions of Specialized Terms and Phrases

Accessory Use. A use that is customarily incidental, related and clearly subordinate to a primary use on the same parcel and which does not alter the primary use, nor serve property other than the parcel where the primary use is located.

Accessory Use - Cannabis. See Cannabis Accessory Use.

Agricultural Accessory Structure. A structure for sheltering animals, or agricultural equipment, hay, feed, etc. Examples of these structures include barns, noncommercial greenhouses, coops, corrals, and pens. May also include the storage of petroleum products for an on-site agricultural use allowed by the applicable zoning district. Does not include pasture fencing, which requires no City approval when in compliance with § 18.30.050 (Fences, Walls, and Screening). Does not include structures for commercial cannabis cultivation (see Cannabis).

Agricultural Product Processing. The processing of harvested crops to prepare them for on-site marketing or processing and packaging elsewhere. Examples of this land use include the following:

- custom milling of flour, feed and grain
- pre-cooling and packaging of fresh or farm-dried fruits and vegetables
- dairies (but not feedlots, see instead “Livestock Operations, Sales Yards, Feedlots, Stockyards”)
- sorting, grading and packing of fruits and vegetables
- drying of corn, rice, hay, fruits and vegetables
- tree nut hulling and shelling
- grain cleaning and custom grinding
- wineries
- hay baling and cubing
- cannabis processing

Cannabis. The following terms and phrases are defined for the purposes of Chapters 18.2 and Chapter 18.4

1. **Cannabis.** As defined in Municipal Code 9.30.
2. **Cannabis Cultivation.** The planting, growing, harvesting, and/or drying of cannabis.
 - a. **Indoor Cultivation.** The cultivation of cannabis within a fully enclosed and secure permanent structure using exclusively artificial light or within any type of structure using artificial light at a rate above twenty-five watts per square foot.
 - b. **Nursery.** All activities associated with producing clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis. Nursery size is based on actual square footage, not on canopy size. A nursery shall not have mature plants. A nursery selling plants directly to consumers shall have a cultivation and retail license from the state.
 - c. **Outdoor Cultivation.** The cultivation of cannabis that is not within a fully enclosed and secure structure. Outdoor cultivation is unlawful in the city of Fort Bragg per Municipal Code 9.32.
3. **Cannabis Retail.** A cannabis business where cannabis or cannabis products are offered, either individually or in any combination, for retail sale directly to customers. The primary use of a cannabis retail business is to sell products directly to on-site customers. Sales may also be conducted by delivery. Also known as a cannabis “dispensary.” See also Cannabis Accessory uses and Chapter 9.30.
4. **Cannabis Retail - Delivery Only.** A cannabis business that is closed to the public and conducts sales exclusively by delivery.
5. **Craft Cannabis Manufacturing** – small scale, small batch manufacturing by hand, with or without the aid of tools. Craft Cannabis Manufacturing does not involve volatile chemicals.
6. **Cultivation Site.** A location where commercial cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where any combination of those activities occurs.
7. **Fully enclosed and secure structure.** A building or a space within a building that complies with the California Building Code, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, a foundation, slab or equivalent base to which the floor is secured, is secure against unauthorized entry, and is accessible only through one or more lockable doors. Walls and roofs must be constructed of solid materials that cannot be easily broken through.

If indoor grow lights or air filtration systems are used, they must comply with all applicable Building, Electrical, and Fire Codes.

8. **Greenhouse.** A completely enclosed structure whose structure members are made of pre-formed, rigid construction materials. The walls, roof, and ends are typically covered using a transparent material, often glass, that is fixed in place and which allows solar radiation to penetrate the surface and affect the growing environment of the plants inside.
9. **Hoop House.** A structure made of flexible construction materials, typically pvc pipe or similar material. The ends may be covered or left open and the material covering the structural is readily removable and is typically removed and re-affixed frequently. Hoop houses are considered outdoor cultivation.
10. **Immature plant or immature.** A cannabis plant that has a first true leaf measuring greater than one half inch long from base to tip (if started from seed) or a mass of roots measuring greater than one half inch wide at its widest point (if vegetatively propagated), but which is not flowering.
11. **Mature Plant or Mature.** A cannabis plant that is flowering.
12. **On-Site Distribution.** The movement of cannabis products from either nursery cultivation, processing, or manufacturing conducted on-site to a licensed retail-cannabis operation at the same site. Cannabis sold wholesale or distributed to offsite retail is classified under wholesale and distribution
13. **Process or processing.** All post-harvest activities associated with the drying, curing, grading, rolling, storing, packaging, and labeling of cannabis or non-manufactured cannabis products.
14. **Volatile solvent.** Any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. Examples of volatile solvents include, but are not limited to, butane, hexane, and propane.

Cannabis Accessory Use. A use that is customarily incidental related and clearly subordinate to the primary use on the same parcel and which does not alter the primary use, nor serve property other than the parcel where the primary use is located. Cannabis Accessory Uses are defined in Title 18.42. The following cannabis accessory uses are permissible, with a Minor Use Permit, as accessory uses to primary cannabis uses in the following districts:

1. **Central Business District:** Nursery (non-flowering) cultivation area of not more than 100 SF, for on-site sales only; Retail Delivery; On-Site Distribution.
2. **General Commercial zones:** Nursery (non-flowering) cultivation area of not more than 100 SF, for on-site sales only; Retail Delivery; On-Site Distribution.
3. **Highway Visitor Commercial:** Nursery (non-flowering) cultivation of area of not more than 100 SF, Craft Cannabis Manufacturing – no volatile solvents permitted, Distribution and Wholesale, Retail Delivery, On-Site Distribution
4. **Light and Heavy Industrial:** Retail Delivery and Cannabis Retail.

Crop Production, Horticulture, Orchard, Vineyard. Commercial agricultural production field and orchard uses, including the production of the following, primarily in the soil on the site and not in containers, other than for initial propagation prior to planting in the soil on the site:

- field crops
- ornamental crops
- flowers and seeds
- tree nuts
- fruits
- trees and sod

- grains
- vegetables
- melons
- wine and table grapes

Also includes associated crop preparation services and harvesting activities, such as mechanical soil preparation, irrigation system construction, spraying, crop processing and retail sales in the field, not including sales sheds, which are instead defined under “Produce Stand.” Does not include greenhouses which are instead defined under “Plant Nursery,” and “Residential Accessory Use or Structure,” or containerized crop production, which is instead defined under “Plant Nursery.” Does not include noncommercial home gardening, which is allowed as an accessory use in all zoning districts without City approval. Does not include cannabis cultivation or processing which is covered under the definition for Cannabis and regulated under Municipal Code 9.30, and for which specific land use regulations are provided in Chapter 18.42.055.

General Retail. Stores and shops selling many lines of merchandise. Examples of these stores and lines of merchandise include:

- antique stores
- art galleries
- art supplies
- bicycles
- books, magazines, and newspapers
- clothing, shoes, and accessories
- collectibles (cards, coins, comics, stamps, etc.)
- consignment stores
- department stores
- dry goods
- fabrics and sewing supplies
- florists and houseplant stores (indoor sales only; outdoor sales are “Building and Landscape Materials Sales”)
- hardware (not including building or landscape materials)
- health care supplies
- hobby materials
- jewelry
- luggage and leather goods
- musical instruments, parts and accessories
- religious goods
- small wares
- specialty shops
- sporting goods and equipment
- stationery
- toys and games
- variety stores

Does not include adult-oriented businesses, second hand stores, or cannabis retail which are separately defined.

L. Definitions, “L.”

Laboratory - Analytical, Testing. A facility for testing and analysis, and/or research. Examples of this use include soils and materials testing labs, medical service labs and forensic labs, and cannabis testing labs. See also “Research and Development (R&D).”

M. Definitions, “M.”

Manufacturing - Cannabis. A process where cannabis is transformed into a product (such as food, medicine, oil, clothing, textile, etc.), and the production, preparation, propagation, or compounding of cannabis or cannabis products, directly or indirectly.

Manufacturing/Processing - Heavy. A facility accommodating manufacturing processes that involve and/or produce basic metals, building materials, chemicals, fabricated metals, paper products, machinery, textiles,

and/or transportation equipment, where the intensity and/or scale of operations may cause significant impacts on surrounding land uses or the community. Also includes cannabis manufacturing and processing facilities with similar operational characteristics to the examples below. Examples of heavy manufacturing uses include the following:

1. **Chemical Product Manufacturing.** An establishment that produces or uses basic chemicals, and other establishments creating products predominantly by chemical processes. Examples of these products include: basic chemicals, including acids, alkalis, salts, and organic chemicals; chemical products to be used in further manufacture, including synthetic fibers, plastic materials, dry colors, and pigments; and finished chemical products to be used for ultimate consumption, including drugs/pharmaceuticals, cosmetics, and soaps; or to be used as materials or supplies in other industries including paints, fertilizers, and explosives. Also includes sales and transportation establishments handling the chemicals described above, except as part of retail trade.
2. **Concrete, Gypsum, and Plaster Product Manufacturing.** An establishment that produces bulk concrete, concrete building block, brick, and/or other types of precast and prefabricated concrete products. Also includes ready-mix concrete batch plants, lime manufacturing, and the manufacture of gypsum products, including plasterboard. A retail ready-mix concrete operation as an incidental use in conjunction with a building materials outlet is defined under "Building and Landscape Materials Sales."
3. **Glass Product Manufacturing.** An establishment that manufactures glass and/or glass products by melting silica sand or cullet, including the production of flat glass and other glass products that are pressed, blown, or shaped from glass produced in the same establishment. Artisan and craftsman type operations of a larger scale than home occupations are instead included under "Manufacturing/Processing - Light - Small-Scale Manufacturing."
4. **Paving and Roofing Materials Manufacturing.** The manufacture of various common paving and petroleum-based roofing materials, including bulk asphalt, paving blocks made of asphalt, creosote wood, and various compositions of asphalt and tar. Does not include the manufacture of wood roofing materials (shingles, shakes, etc.; see "Manufacturing/Processing - Medium Intensity - Lumber and Wood Product Manufacturing").
5. **Petroleum Refining and Related Industries.** Industrial plants for purifying petroleum, and the compounding of lubricating oils and greases from purchased materials. Also includes oil or gas processing facilities, liquefied natural gas (LNG) facilities, the manufacture of petroleum coke and fuel briquettes, tank farms, and terminal facilities for pipelines. Does not include petroleum pipeline surge tanks and pump stations ("Public Facility"), or petroleum product distributors ("Petroleum Product Storage and Distribution").
6. **Plastics, Other Synthetics, and Rubber Product Manufacturing.** The manufacture of rubber products including: tires, rubber footwear, mechanical rubber goods, heels and soles, flooring, and other rubber products from natural, synthetic, or reclaimed rubber. Also includes establishments engaged primarily in manufacturing tires; products from recycled or reclaimed plastics or Styrofoam; molding primary plastics for other manufacturers, manufacturing miscellaneous finished plastics products, fiberglass manufacturing, and fiberglass application services. Does not include establishments engaged primarily in recapping and retreading automobile tires ("Vehicle Services - Major Repair/Body Work").
7. **Primary Metal Industries.** An establishment engaged in: the smelting and refining of ferrous and nonferrous metals from ore, pig, or scrap; the rolling, drawing, and alloying of metals; the manufacture of castings, forgings, stampings, extrusions, and other basic metal products; and the manufacturing of nails, spikes, and insulated wire and cable. Also includes merchant blast furnaces and by-product or beehive coke ovens.
8. **Pulp and Pulp Product Manufacturing.** An establishment that manufactures pulp, paper, or paperboard. Includes pulp, paper, and paperboard mills. Does not include establishments primarily engaged in converting paper or paperboard without manufacturing the paper or paperboard, including envelope

manufacturing, converted paper products, paper coating and glazing, paper bags, assembly of paperboard boxes, wallpaper (“Manufacturing/Processing - Light - Paper Product Manufacturing”).

9. Textile and Leather Product Manufacturing. An establishment that converts basic fibers (natural or synthetic) into a product, including yarn or fabric, that can be further manufactured into usable items (“Manufacturing/Processing - Light - Clothing and Fabric Product Manufacturing”), and industries that transform hides into leather by tanning or curing. Includes:

- coating, waterproofing, or otherwise treating fabric
- manufacturing of woven fabric, carpets, and rugs from yarn
- dressed and dyed furs
- preparation of fiber and subsequent manufacturing of yarn, threads, braids, twine cordage
- dyeing and finishing fiber, yarn, fabric, and knit apparel
- leather - tanned, curried, and finished
- scouring and combing plants
- manufacture of knit apparel and other finished products from yarn
- upholstery manufacturing
- manufacture of felt goods, lace goods, nonwoven fabrics and miscellaneous textiles
- yarn and thread mills

Manufacturing/Processing - Light. A facility accommodating manufacturing processes involving and/or producing: apparel; food and beverage products; electronic, optical, and instrumentation products; ice; jewelry; and musical instruments. Light manufacturing also includes other establishments engaged in the assembly, fabrication, and conversion of already processed raw materials into products, where the operational characteristics of the manufacturing processes and the materials used are unlikely to cause significant impacts on surrounding land uses or the community. Also includes non-volatile cannabis manufacturing and processing and processing facilities with similar operational characteristics to the examples below. Examples of light manufacturing uses include the following:

1. Clothing and Fabric Product Manufacturing. An establishment that assembles clothing, draperies, and/or other products by cutting and sewing purchased textile fabrics, and related materials including leather, rubberized fabrics, plastics and furs. Does not include custom tailors and dressmakers not operating as a factory and not located on the site of a clothing store (see “Personal Services”). See also “Manufacturing/Processing - Heavy - Textile and Leather Product Manufacturing.”

2. Electronics, Equipment, and Appliance Manufacturing. An establishment that manufactures equipment, apparatus, and/or supplies for the generation, storage, transmission, transformation and use of electrical energy, including:

- appliances including stoves/ovens, refrigerators, freezers, laundry equipment, fans, vacuum cleaners, sewing machines
- motors and generators
- optical instruments and lenses
- photographic equipment and supplies
- aviation instruments
- radio and television receiving equipment
- computers, computer components, peripherals
- surgical, medical and dental instruments, equipment, and supplies
- electrical transmission and distribution equipment
- storage media, blank and pre-recorded, including magnetic, magneto-optical, and optical products such as compact disks (CDs), computer diskettes and hard drives, digital versatile disks (DVDs), magnetic tape products, phonograph records, etc.

- electronic components and accessories
- semiconductors, integrated circuits, related devices
- electrical welding apparatus
- lighting and wiring equipment such as lamps and fixtures, wiring devices, vehicle lighting
- surveying and drafting instruments
- telephone and telegraph apparatus
- transformers, switch gear and switchboards
- industrial controls
- instruments for measurement, testing, analysis and control, associated sensors and accessories
- watches and clocks
- miscellaneous electrical machinery, equipment and supplies such as batteries, X-ray apparatus and tubes, electromedical and electrotherapeutic apparatus, electrical equipment for internal combustion engines

Does not include testing laboratories (soils, materials testing, etc.) (see “Business Support Service”), or research and development facilities separate from manufacturing (see “Research and Development”).

3. Food and Beverage Product Manufacturing. Manufacturing establishments producing or processing foods and beverages for human consumption, and certain related products. Examples of these uses include:

- bottling plants
- fruit and vegetable canning, preserving, related processing
- breweries
- grain mill products and by-products
- candy, sugar, confectionery products manufacturing
- meat, poultry, and seafood canning, curing, byproduct processing
- catering services separate from stores or restaurants
- soft drink production
- miscellaneous food item preparation from raw products
- coffee roasting
- dairy products manufacturing
- fat and oil product manufacturing
- edible cannabis products

Does not include: bakeries, which are separately defined.

4. Furniture and Fixtures Manufacturing. Manufacturers producing: wood and metal household furniture and appliances; bedsprings and mattresses; all types of office furniture and public building furniture and partitions, shelving, lockers and store furniture; and miscellaneous drapery hardware, window blinds and shades. Does not include wood workers and custom cabinet shops, which are separately regulated under “Artisan/Craft Product Manufacturing.” Does not include sawmills or planing mills, which are instead included under “Manufacturing/Processing - Heavy.”

5. Small-Scale Manufacturing. Includes manufacturing establishments producing small products not classified in another major manufacturing group, including: brooms and brushes; buttons, costume novelties; pens, pencils, and other office and artists’ materials; sporting and athletic goods; toys; etc.

6. Metal Products Fabrication, Machine and Welding Shops. An establishment engaged in the production and/or assembly of metal parts, including the production of metal cabinets and enclosures, cans and shipping containers, doors and gates, duct work, forgings and stampings, hardware and tools, plumbing fixtures and products, tanks, towers, and similar products. Examples of these uses include:

- blacksmith and welding shops
- sheet metal shops
- plating, stripping, and coating shops
- machine shops and boiler shops

7. Paper Product Manufacturing. An establishment that converts pre-manufactured paper or paperboard into boxes, envelopes, paper bags, wallpaper, etc., and/or that coats or glazes pre-manufactured paper. Does not include the manufacturing of pulp, paper, or paperboard (see “Manufacturing/Processing - Heavy - Pulp and Pulp Product Manufacturing”).

Manufacturing/Processing - Medium Intensity. A facility accommodating manufacturing processes that involve and/or produce building materials, fabricated metal products, machinery, and/or transportation equipment, where the intensity and/or scale of operations is greater than those classified under “Manufacturing/Processing - Light,” but where impacts on surrounding land uses or the community can typically be mitigated to acceptable levels. Also includes cannabis manufacturing and processing facilities with similar operational characteristics to the examples below. Examples of intensive manufacturing uses include the following:

1. Lumber and Wood Product Manufacturing. Manufacturing, processing, and sales involving the milling of forest products to produce rough and finished lumber and other wood materials for use in other manufacturing, craft, or construction processes. Includes the following processes and products:
 - containers, pallets and skids
 - manufactured and modular homes
 - milling operations
 - trusses and structural beams
 - wholesaling of basic wood products
 - wood product assembly
2. Machinery Manufacturing. An establishment that makes or processes raw materials into finished machines or parts for machines. Does not include the manufacture of electronics, equipment, or appliances (“Electronics, Equipment, and Appliance Manufacturing”).
3. Motor Vehicles and Transportation Equipment. Manufacturers of equipment for transporting passengers and cargo by land, air and water, including motor vehicles, aircraft, spacecraft, ships, boats, railroad and other vehicles such as motorcycles, bicycles and snowmobiles. Includes manufacture of motor vehicle parts and accessories; trailers and campers for attachment to other vehicles; self-contained motor homes; and van conversions. Does not include mobile home and modular home assembly (listed under “Lumber and Wood Product Manufacturing”).
4. Stone and Cut Stone Product Manufacturing. An establishment that cuts, shapes, and/or finishes marble, granite, slate, and/or other stone for construction and miscellaneous uses. Does not include establishments engaged primarily in buying or selling partly finished monuments and tombstones (“Artisan/Craft Product Manufacturing”).
5. Structural Clay and Pottery Product Manufacturing. An establishment that produces brick and structural clay products, including pipe, china plumbing fixtures, vitreous china articles, and/or fine earthenware and porcelain products. Does not include artist/craftsman uses (see “Artisan/Craft Product Manufacturing,” “Home Occupation”).

P. Definitions, “P.”

Plant Nursery. A commercial agricultural establishment engaged in the production of ornamental plants and other nursery products, grown under cover either in containers or in the soil on the site, or outdoors in containers. The outdoor production of ornamental plants in the soil on the site is instead included under “Crop Production, Horticulture, Orchard, Vineyard.” Also includes establishments engaged in the sale of these products (e.g., wholesale and retail nurseries) and commercial-scale greenhouses (home greenhouses are included under “Residential Accessory Use or Structure”). The sale of house plants or other nursery products entirely within a

building is also included under "General Retail." Does not include cannabis nurseries which are defined separately under cannabis cultivation - nursery.

W. Definitions, "W."

Wholesaling and Distribution. An establishment engaged in selling merchandise to retailers; to contractors, industrial, commercial, institutional, farm, or professional business users; to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise, including cannabis products, to such persons or companies. Examples of these establishments include:

- agents, merchandise or commodity brokers, and commission merchants
- assemblers, buyers and associations engaged in the cooperative marketing of farm products
- merchant wholesalers
- stores primarily selling electrical, plumbing, heating and air conditioning supplies and equipment

Also includes storage, processing, packaging, and shipping facilities for mail order and electronic-commerce retail establishments.

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 and Publication. This ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage. Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause a summary of said Ordinance to be published as provided in Government Code §36933, in a newspaper of general circulation published and circulated in the City of Fort Bragg, along with the names of the City Council voting for and against its passage.

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

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:
- RECUSED:

BERNIE NORVELL
Mayor

ATTEST:

June Lemos, MMC
City Clerk

PUBLISH: _____ and _____ (by summary).
EFFECTIVE DATE: _____.



CITY OF FORT BRAGG
Incorporated August 5, 1889

Initial Study/Negative Declaration

Amendments to the City of Fort Bragg Municipal Code
Chapter 9.30 Cannabis Businesses and Title 18 Inland
Land Use Development Code to Regulate Cannabis
Businesses

February 16, 2022

Project title: Amendments to the City of Fort Bragg Municipal Code Chapter 9.30 Cannabis Businesses and Title 18 Inland Land Use Development Code to Regulate Cannabis Businesses.

Lead Agency Name and Address:
City of Fort Bragg
416 N. Franklin St.
Fort Bragg, CA 95437

Contact Person and Phone Number:
Heather Gurewitz, MCRP, AICP
Associate Planner
(707) 961-2827

Project Location: Inland Industrial (Light and Heavy) Zones and Inland Central Business District, General Commercial, and Highway Visitor Commercial Zones

Project Sponsor's Name and Address:
City of Fort Bragg
416 N. Franklin St. Fort Bragg, CA 95437

General Plan Designation: Industrial (Light and Heavy), Commercial (Central Business District, General and Highway Visitor Commercial)

Zoning: Industrial (Light and Heavy), Commercial (Central Business District, General and Highway Visitor Commercial)

Surrounding land uses and setting: The industrial and Commercial inland zones are surrounded by other zones including coastal and non-coastal zoning (See Figure 1).

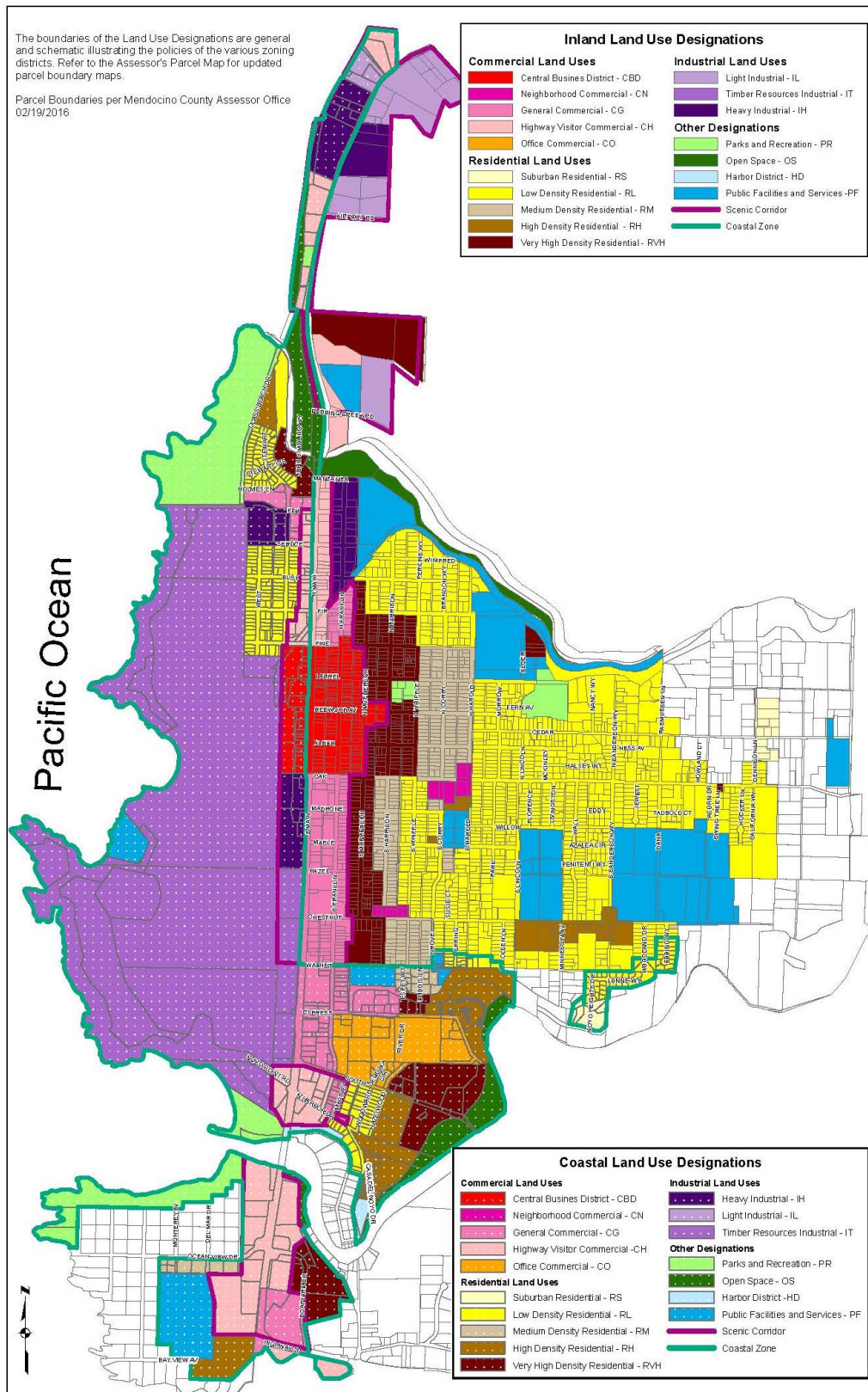
Other public agencies whose approval is required: None

Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1?

No, because this is a policy decision that does not affect a specific site.

This document was prepared by the City of Fort Bragg Community Development Department in consultation with Metropolitan Planning Group.

Figure 1: City of Fort Bragg Zoning Map



PROJECT DESCRIPTION:

The existing regulations for a CBP are established by Municipal Code Chapter 9.30. The proposed project establishes land use regulations pertaining to commercial cannabis cultivation (cannabis cultivation) in the industrial zones and makes minor modifications to existing regulations for commercial cannabis activity in commercial zones. These proposed changes only apply to the Inland Land Use and Development Code which regulates the inland area of Fort Bragg (see Figure 1). It also provides minor modifications to the City of Fort Bragg Municipal Code Chapter 9.30 Cannabis Businesses.

All commercial cannabis activity requires a discretionary Cannabis Business Permit (CBP) and will continue to be discretionary under the proposed municipal code changes. CBP applications are and will continue to be subject to review under the California Environmental Quality Act (CEQA). At the time an application is received and deemed complete, the City will conduct an Initial Study to determine the appropriate level of CEQA review. Some future Cannabis projects may qualify for one or more CEQA exemption pursuant to CEQA Guidelines Section 15300 provided that none of the exceptions set forth in 15300.2 apply.

The proposed project will amend four sections of the Inland Land Use and Development Code (ILUDC) to provide land use regulations for commercial cannabis cultivation and existing regulations for cannabis business activities in commercial zones. See the following attachments for the draft proposed amendments:

Attachment A	Proposed Amendments to City of Fort Bragg Municipal Code Chapter 9.30 Cannabis Businesses
Attachment B	Proposed Amendments to ILUDC Chapter 2 Including Revised Section 18.22.030 Commercial District Land Uses and Permit Requirements and Revised Section 18.42.030 Industrial Land Uses and Permit Requirements
Attachment C	Proposed Amendments to ILUDC Chapter 4 Including New §18.42.055 Cannabis Cultivation, Revised §18.42.057 Cannabis Retail, and New §18.42.058 Cannabis Microbusiness
Attachment D	Proposed Amendment to ILUDC Chapter 10 Definitions Including New and Revised Definitions in §18.100.020

The proposed changes to the Municipal Code Chapter 9.30 will:

- Add §9.30.130(H) which establishes a 100 foot buffer between schools and youth centers and cannabis dispensaries.
- Add §9.30.150 Retail Cannabis Retail Requirements which will:
 - Reduce allowable operating hours for cannabis retail to 7:00 am – 7:00 pm
 - Relocates existing regulations regarding employee, record keeping, photo identification, on-site consumption, and drive through operations from

ILUDC §18.42.057 to the Municipal Code Chapter 9.30 Cannabis Businesses.

The proposed changes to the ILUDC Chapter 2 §18.22.030 Commercial Districts include:

- The addition of Cannabis – Indoor Nursery Cultivation is added to Table 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts (Table 2-6) in the Central Business District, General Commercial, and Highway/Visitor Commercial. The permit requirements are set by specific use regulations in §18.42.055, §18.42.057, and §18.42.058.
- The addition of Cannabis Microbusiness as a new use to Table 2-6 and is allowed with a Minor Use Permit in the Central Business District, the General Commercial, and Highway Visitor Commercial zones in accordance with Chapter 9.30 of the Municipal Code and the standards for specific land uses in §18.42.058.
- Cannabis Retail is changed from Conditional Minor Use Permit to “Permit requirement set by Specific Use Regulations” for the Central Business District, General Commercial Zone, and Highway Visitor Commercial. The specific land use standards in §18.42.057 allow cannabis retail as a permitted use with an approved CBP.
- Foot note (3) is added to Table 2-6 Cannabis Retail in the Central Business District which limits the total number of cannabis dispensaries to three in the zone. There are no limitations to the number of dispensaries in other zones.

The proposed changes to the ILUDC Chapter 2 §18.24.030 includes the following changes to Table 2-10 Allowable Land Uses and Permit Requirements for Industrial Zoning Districts:

- Addition of Cannabis - Indoor Nursery Cultivation, Cannabis – Indoor Cultivation of Mature Plants, and Cannabis Microbusiness with a conditional Minor Use Permit in the Light Industrial and Heavy Industrial Zones.
- Cannabis Retail is added as an allowable accessory use in the Light and Heavy Industrial Zones.

The proposed changes to the ILUDC Chapter 4 includes:

- The addition of §18.42.055 which provides specific Land Use Standards for Cannabis Cultivation.
- Revisions to §18.42.057 Cannabis Retail:
 - Relocation of existing operating standards and requirements to the Municipal Code Chapter 9.30;
 - Cannabis retail is allowed as a permitted/allowable use (with a discretionary Cannabis Business Permit) in the Central Business District, General Commercial Zone, and Highway Visitor Commercial Zone;
 - Accessory use section is revised to provide necessary clarification on what accessory uses are allowed and how a retail business with an accessory use is distinguished from a microbusiness.

- The addition of §18.42.058 Cannabis Microbusinesses which provides specific land use standards for cannabis microbusinesses.

The proposed changes to ILUDC §18.100.020 adds definitions for cannabis cultivation, cannabis microbusiness, and other definitions necessary to support regulations of these activities.

The proposed project will amend Municipal Code Chapter 9.30 and the Inland Land Use and Development Code to add regulations for a new conditionally allowable use in industrial zones (cannabis cultivation), and will make minor modifications to the existing regulations for cannabis business activities in commercial zones.

Setting

The City of Fort Bragg is located on California's North Coast in Mendocino County. The proposed project is for the non-coastal zoned areas of the City, referred to as "inland."

The City lies within the Coastal Franciscan Ecological Subsection of California (Miles and Goudey, 1997). This subsection is a steep, mountainous area of the northern California Coast Ranges, near the coast, south from Humboldt Bay to the Russian River. There is substantial oceanic influence on climate, including summer fog. The subsection is particularly mountainous, with rounded ridges, steep and moderately steep sides, and narrow canyons. The mean annual precipitation in this subsection is about 40 to 110 inches, with mostly rain at lower elevations. Runoff is rapid and many of the smaller streams are dry by the end of summer. Natural lakes are absent from the Coastal Franciscan Ecological Subsection (Miles and Goudey, 1997).

Located in the far west of the Noyo River Basin, the inland area of the City is mostly north of the Noyo River and south of Pudding Creek, with a small portion of the inland zone extending north on the east side of Highway 1. (See Figure 1) The City is approximately 2.85 square miles, 1/3 of which is the former Georgia Pacific Mill site in the coastal zone.

The City sits atop the coastal bluffs and the vegetation is characterized by Redwood forests, riparian stream habitat, and coastal/dune grasslands. The City has a diversity of wildlife which may include deer, mountain lions, bear, coyotes, bats, frogs, newts, and several species of shore birds. The US Fish and Wildlife Service notes the potential presence of several endangered or threatened species including the Pacific Marten, the Marbled Murrelet, the Northern Spotted Owl, Western Snowy Plover, Yellow-Billed Cuckoo, California Red-legged Frog, the Tidewater Goby, Behren's Silverspot Butterfly, Lotis Blue Butterfly, and the Monarch Butterfly. There is one critical habitat identified in the City limits for the Tidewater Goby in the estuary of Pudding Creek. (USFW, 2022)

The population of Fort Bragg is approximately 7,000 people. While it is small, it is the largest city on the coast between San Francisco and Eureka and is a popular tourist and recreational destination. The City is considered an Urban Cluster by the US Census. The City's population density is 2,586 people per square mile.

Most areas in the inland industrial and commercial zones in the City limits, east of Highway 1, south of Pudding Creek and north of the Noyo River are developed. However, there are some ruderal vacant lots and some open space. The City's development is typically either redevelopment of existing lots or infill development on lots surrounded by urban uses. The exception is to the north of Pudding Creek and south of the Noyo River. The City purchased 90 acres on the former Georgia Pacific Mill site and converted the area to public access trails and open space in perpetuity.

Commercial land uses in the City are located along the State Highway 1 and Franklin Street corridors. The Central Business District, located between Oak Street and Pine Street, is the historic, civic and cultural core of the community. Industrial lands are located on the Georgia-Pacific mill property located west of State Highway 1, on North Franklin Street, north of the General Commercial, and on State Highway 1 north of Pudding Creek. Residential neighborhoods are located east of the commercial core and in the west Fort Bragg area. See Figure 1 for the City's Zoning Map.

Land Use Setting

Approximately 47% of the City's land is outside of the coastal zone and under the jurisdiction of the Inland General Plan and the Inland Land Use Development Code.

The Inland zone of the City has a full range of land uses including low to high density residential, retail and service commercial, manufacturing, public facilities, recreation, and open space. The Inland General Plan Land Use Element establishes policies and programs to maintain the existing pattern of land uses within the City while anticipating and providing for future growth and development.

The 2012 Inland General Plan Land Use Element includes the following land use designations for the Inland area of the City:

- Large Lot Rural Residential (RR5)
- Medium Lot Rural Residential (RR2)
- Rural Residential (RR1)
- Suburban Residential (RS)
- Low Density Residential (RL)
- Medium Density Residential (RM)
- High Density Residential (RH)
- Very High Density Residential (RVH)
- Central Business District (CBD)
- Neighborhood Commercial (CN)
- General Commercial (CG)
- Highway Visitor Commercial (CH)
- Office Commercial (CO)
- Heavy Industrial (IH)
- Light Industrial (IL)
- Parks and Recreation (PR)
- Agriculture (A)
- Open Space (OS)
- Public Facilities and Services (PF)

These land use designations are implemented by the City's zoning regulations established by the Inland Land Use and Development Code provided in Chapter 18 of the Fort Bragg Municipal Code and Zoning Map.

The City's current zoning designations including both coastal and inland include the following general categorizations of zones:

Zone Type	Geographic Coverage
Commercial	16%
Industrial	28%
Residential	35%
Open Space, parks, rec	11%
Public Facilities	9%

The following table shows the total square footage of each zone and the percentage of that zone located in the coastal zone versus the inland zone:

Zone	Total Area (sq ft)	Inland %	Coastal %
Central Business District	2,212,699	70%	30%
General Commercial	4,091,909	47%	53%
Highway Visitor Commercial	4,550,241	24%	76%
Neighborhood Commercial	293,009	100%	0%
Office Commercial	1,525,708	0%	100%
Light Industrial	2,069,224	90%	10%
Heavy Industrial	2,433,546	40%	60%
Timber Resources Industrial	18,210,066	0%	100%
Very High Density Residential	5,669,689	66%	34%
High Density Residential	2,718,734	25%	75%
Medium Density Residential	2,951,830	85%	15%
Low Density Residential	16,473,745	83%	17%
Suburban Residential	478,664	59%	41%
Open Space	5,186,303	59%	41%
Parks and Recreation	3,938,721	11%	89%
Public Facilities and Services	6,923,696	80%	20%
Harbor District	179,265	0%	100%

Regulatory Setting for Commercial Cannabis Cultivation

The regulatory environment for cannabis is complex. In 1937, the federal government enacted the Marihuana Tax Act which did not prohibit cannabis, but instead instituted a heavy tax. With the onset of the “war on drugs, Congress enacted the Comprehensive Drug Abuse Prevention and Control Act of 1970 which included Title II, the Controlled

Substances Act (CSA). This legislation established five schedules for controlled substances. It was under this act that cannabis was listed as a Schedule I Narcotic. (League of California Cities, 2021)

Cannabis is still considered a Schedule 1 Narcotic at the Federal Level, which limits the industry's ability to bank and participate in certain aspects of the financial system. Despite legalization, the CSA is still enforceable in California. Enforcement of the CSA has been dependent on the leadership of the executive administration. For example, the Cole Memo was issued by the Department of Justice in 2013. It provided policy guidance on where to focus federal enforcement and directed enforcement away from operations legalized by states. However, in 2018, a memo issued by a new administration under then Attorney General Jeff Sessions rescinded the Cole Memo and removed any "deprioritization" of operations legalized by states. (League of Cities, 2021)

Shortly after the Federal adoption of the CSA, the State of California passed the California Uniform Controlled Substances Act (USCA) in 1972. Article 2 of this legislation set criminal prohibitions and penalties for the possession, cultivation, transportation, and distribution of cannabis. (League of Cities, 2021)

In 1996, the voters of California passed the Compassionate Use Act, also known as Proposition 215, which allowed qualified patients and or caregivers to cultivate and or possess cannabis with a written or oral recommendation or approval from a physician. This act did not decriminalize cannabis. In 2003, the state passed the Medical Marijuana Program Act (MMPA) to provide for the safe and affordable distribution of medical marijuana. (League of Cities, 2021)

In 2015, AB 243, AB 266, and SB 643, cumulatively known as Medical Marijuana Regulation and Safety Act (MMRSA), was passed. The legislation was intended to provide a regulatory framework for the medicinal cannabis industry that would begin in 2018.

In 2016, the Adult-Use Marijuana Act (AUMA) was passed in a general election. AUMA created a regulatory framework for commercial cannabis activities and most notably decriminalized medicinal and recreational use.

In order to harmonize the two codes, the State adopted SB 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MACURSA). The act also amended other state codes to include provisions for cannabis, including the Food and Agriculture Code and the Health and Safety Code. (League of Cities, 2021)

Commercial Cannabis Cultivation is regulated by the State of California Business and Professions Code Division 10. Cannabis [26000-26260] which is implemented and enforced by the Department of Cannabis Control (DCC). In September of 2021, the DCC adopted updates to the Medical and Adult-Use Commercial Cannabis Regulations California Code of Regulations Title 4 Division 19. Department of Cannabis Control. In order for any business to be able to conduct any type of legal cannabis activity in the City of Fort Bragg, they must get a license from the State of California through the DCC

and comply with State law and regulations. (DCC, 2022) This includes §16304. General Environmental Protection Measures which says:

(a) All licensed cultivators shall comply with all of the following environmental protection measures:

(1) Principles, guidelines, and requirements adopted pursuant to section 13149 of the Water Code and implemented by the State Water Resources Control Board, Regional Water Quality Control Boards, or California Department of Fish and Wildlife;

(2) Any conditions of licensure included pursuant to section 26060.1(b)(1) of the Business and Professions Code;

(3) Requirements of section 7050.5(b) of the Health and Safety Code if human remains are discovered during cultivation activities;

(4) Requirements for generators pursuant to section 16306;

(5) Requirements for pesticides pursuant to section 16307;

(6) Outdoor lights used for safety or security purposes are shielded and downward facing; and

(7) Lights used for indoor or mixed-light cultivation are shielded from sunset to sunrise to reduce nighttime glare.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26060, 26066 and 26201, Business and Professions Code.

The City of Fort Bragg Municipal Code regulates Cannabis Businesses in Chapter 9.30. The Code allows for cultivation, processing, manufacturing, distribution, and retail cannabis activity with a discretionary Cannabis Business Permit. Currently, the Coastal Land Use Development Code does not allow cannabis cultivation in the coastal zone, and the proposed changes only apply to the inland zones in Fort Bragg. Commercial cannabis manufacturing is currently allowed in the industrial zones, as is wholesaling and distribution. The proposed amendments to the code will only allow for indoor commercial cannabis cultivation, outdoor commercial cultivation will not be allowed.

The City of Fort Bragg Inland General Plan describes the following Industrial Zones:

Heavy Industrial (IH) - This designation is intended for a range of heavy industrial uses including manufacturing, assembly and processing, and the storage and distribution of raw materials, aggregate plants, and related heavy industrial uses which are generally incompatible with and require locations removed from residential and visitor serving uses.

Light Industrial (IL) - This designation is intended for a variety of commercial, manufacturing, wholesale and distribution, and industrial uses which do not generate a significant amount of on-site customer traffic or high levels of noise, dust, odors, or other potential off-site nuisance characteristics. Manufacturing uses are permitted provided they occur

within an enclosed structure. Other uses permitted in this designation include offices ancillary to permitted uses, agricultural product sales and services, construction yards, and automobile repair shops.

Furthermore, the Inland General Plan provides the following description of Industrial Land:

The lumber and fishing industries have played an important role in the formation and growth of Fort Bragg. Both of these industries are in transition, and the local economy is evolving from a natural resource-based economy to a more service-oriented economy. Fort Bragg is the commercial, educational, medical, and professional service center for a large portion of the Mendocino coast. Future growth in the local economy is projected to occur in the retail, tourism, and service sectors.

The Inland General Plan is intended to support the growth and vitality of existing industries while ensuring that the community is prepared to actively participate in the decision-making process as new industries develop in Fort Bragg and as current industrial lands transition to other uses.

The Inland Land Use and Development Code §18.24.010 provides the following purposes for IL and IH which are consistent with the Inland General Plan:

A. IL (Light Industrial) zoning district. The IL zoning district is applied to areas of the City that are appropriate for a variety of commercial, manufacturing, wholesale and distribution, and industrial uses that do not generate significant customer traffic or high levels of noise, dust, odors, or other potential off-site nuisance characteristics. Allowable manufacturing uses and activities must be entirely within enclosed structures. The maximum floor area ratio (FAR) is 0.40. The IL zoning district implements and is consistent with the IL land use designation of the General Plan.

B. IH (Heavy Industrial) zoning district. The IH zoning district is applied to areas of the City that are appropriate for a range of heavy industrial including manufacturing, assembly and processing, the storage and distribution of raw materials, aggregate plants, and related industrial uses that are generally compatible with and require locations removed from residential and visitor serving uses. The maximum floor area ratio (FAR) is 0.40. The IH zoning district implements and is consistent with the IH land use designation of the General Plan.

As stated in §9.30.140(A) of the City's Municipal Code, *Commercial cannabis shall be cultivated only in a fully enclosed and secured structure (FESS). Commercial cannabis cultivation that occurs within a greenhouse that meets the criteria for a FESS shall not be visible from any public right-of-way.*

Commercial indoor cultivation of cannabis shall be fully contained in indoor sites. This type of cultivation is consistent with the purpose and currently allowable activities in industrial zones. It is comparable with other permissible uses (no conditional permit

required) for which industrial zoned land could be developed. For example, both fish processing is permitted by right in both Industrial Light and Industrial Heavy Zones as is light manufacturing (defined in the Inland Land Use and Development Code Chapter 10):

*Manufacturing/Processing - Light. A facility accommodating manufacturing processes involving and/or producing: apparel; food and beverage products; electronic, optical, and instrumentation products; ice; jewelry; and musical instruments. Light manufacturing also includes other establishments engaged in the assembly, fabrication, and conversion of already processed raw materials into products, where the operational characteristics of the manufacturing processes and the materials used are unlikely to cause significant impacts on surrounding land uses or the community. Also includes cannabis manufacturing and processing facilities with similar operational characteristics to the examples below... (see **ATTACHMENT D** ILUDC §18.100.020 Definition for Manufacturing for complete definition.)*

ILUDC Chapter 18.72 Environmental Impact Assessment and Mitigation Monitoring implements the requirement to CEQA by providing the City with criteria, objectives, principles, and procedures for applying the requirements of CEQA to proposed projects. §18.72.040 notes that *the chapter is not intended to replace CEQA, and full compliance with CEQA is required regardless of the provisions of the chapter.*

This confirms that any project involving cannabis, which requires a cannabis business permit, is a discretionary action and subject to CEQA §21080(a) which states that:

“Except as otherwise provided in this division, this division shall apply to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits, and the approval of tentative subdivision maps unless the project is exempt from this division.”

Local Regulatory Setting for Retail and Microbusiness

The proposed amendments to cannabis retail do not change what activities are allowable, but rather makes minor modifications to existing regulations for cannabis business activities in commercial zones. While the proposed changes create a definition for a cannabis microbusiness, the original intention of the existing code was to allow this activity. The current Accessory Use description in the ILUDC §18.42.057(E) states:

Accessory uses. As defined in Article 10, accessory uses are customarily incidental to, related and clearly subordinate to a primary use on the same parcel, which does not alter the primary use. Uses accessory to cannabis retail facilities may be allowable pursuant to the permitting requirements in Article 2. Accessory uses may include activities that require multiple State cannabis licenses, including, but not limited to, manufacturing, distribution, cultivation and/or processing. In no instance shall cannabis manufacturing using volatile solvents be allowable as uses accessory to cannabis retail uses.

The proposed modification to accessory uses does not change which uses are allowed but clarify the regulation of these uses. The proposed revisions to the accessory use definition as forth in §18.42.057(C) (formerly (E)) states:

Accessory uses. *As defined in Article 10, an accessory use is customarily incidental to, related and clearly subordinate to a primary use, on the same parcel, which does not alter the primary use as defined in Article 10. A cannabis business with more than one accessory use, or with another use that does not qualify as accessory, shall be considered a microbusiness and subject to section 18.42.058. A retail business may still be considered retail with two accessory uses only if one of the uses is “onsite distribution” as defined in Article 10. Accessory uses are determined by the definitions in Article 10.*

1. *The following uses are allowable as accessory uses to cannabis retail:*

Zone	Allowable Accessory Uses
<i>Central Business District</i>	<i>Nursery (non-flowering) cultivation; Artisan/craft manufacturing of cannabis products; Retail Delivery; On-Site Distribution;</i>
<i>Highway Visitor Commercial</i>	<i>Nursery (non-flowering) cultivation; Processing; Manufacturing (non-volatile); Distribution and Wholesale; Retail Delivery; On-Site Distribution;</i>
<i>General Commercial</i>	<i>Nursery (non-flowering) cultivation; Processing; Distribution and Wholesale; Manufacturing (non-volatile); Retail Delivery; On-Site Distribution;</i>

2. *In no instance shall cannabis manufacturing using volatile solvents be allowable as an accessory use to cannabis retail.*

The definition for “on-site distribution” is proposed for Article 10 as:

On-Site Distribution. *The movement of cannabis products from either nursery cultivation, processing, or manufacturing conducted on-site to a licensed retail-cannabis operation at the same site. Cannabis sold wholesale or distributed to offsite retail is classified under wholesale and distribution.*

The uses are the same, so there are no new uses, the change in the section provides clarifications. The allowable accessory uses remain unchanged, rather the language is more detailed to provide necessary clarification.

In addition to clarifying the difference between a retail business with accessory uses and a cannabis microbusiness, the conditional use permit requirements originally established in §18.42.057 Cannabis Retail would be relocated to Municipal Code Chapter 9.30 Cannabis Businesses. The change reflects the fact that Cannabis Business Permits (CBP) have to be renewed annually, whereas a land use permit runs with the land in perpetuity. The relocation of this criteria does not change the existing regulations, but instead changes where they are applied and further protects the public by including these requirements in the annual inspection. By moving the regulations to Chapter 9.30, the City is better able to monitor and enforce operating standards and ensure that projects are following the rules established to protect the health and safety of the public.

Additionally, there have been two retail cannabis dispensaries approved in the City of Fort Bragg. Neither of the existing dispensaries have had impacts on the surrounding area. As reported to Community Development staff by the staff of the Police Department, there have been no elevated reported complaints, calls for service, or otherwise increased demands for city services relative to other types of businesses. The presence of the existing cannabis dispensaries demonstrate compatibility with the general plan designation and zoning for commercial activity.

The addition of §18.42.058 Cannabis Microbusinesses creates regulations for cannabis businesses in commercial and industrial zones. While this is a new classification, all uses are already in the code under Section 18.42.057(E) for retail, with the exception of the classification for industrial zones where mature cannabis cultivation is allowed. The difference, as mentioned above, is the distinction between retail with an accessory use and a microbusiness. A microbusiness may allow for a greater portion of a commercial building to be used for non-retail cannabis activity, but it also requires that there is a primary retail frontage and that the microbusiness shall not create significant noise, odor, traffic, or any other kind of public nuisance. These regulations ensure that the non-retail components of a retail cannabis business or microbusiness will not have impacts on the zone or create compatibility issues.

The proposed project will amend the City of Fort Bragg's Municipal Code Chapter 9.30 Cannabis Businesses, and Chapter 2, Chapter 4, and Chapter 10 of the Inland Land Use and Development Code to regulate commercial cannabis cultivation in the City of Fort Bragg and to make minor modifications to existing regulations for cannabis business activities in commercial zones. It will not change the physical nature (size or location) of the zones where the uses are currently or would be allowed under the proposed municipal code amendment. This project does not propose any changes to the standards established to protect the health and safety of the public, or the environment, and it does not propose any physical development.

References

Association of Environmental Professionals. (2021). 2021 California Environmental Quality Act Statute & Guidelines. AEP.

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City of Fort Bragg. *Zoning Map*. 2016

League of California Cities. (2021, September). *Seed to Sale: A Guide to Regulating Cannabis in California Cities*. Sacramento, CA.

US Fish and Wildlife Service (2022, January 7). *IPaC Resource List*. Retrieved from: <https://ecos.fws.gov/ipac/location/PUQUU2RY6VBSHEYTA7KLYSNVQM/resources>

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a “Potentially Significant Impact” as indicated by the checklist on the following pages.

- | | | |
|--|---|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture and Forestry Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Energy |
| <input type="checkbox"/> Geology /Soils | <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Hazards & Hazardous Materials |
| <input type="checkbox"/> Hydrology / Water Quality | <input type="checkbox"/> Land Use / Planning | <input type="checkbox"/> Mineral Resources |
| <input type="checkbox"/> Noise | <input type="checkbox"/> Population/Housing | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Recreation | <input type="checkbox"/> Transportation | <input type="checkbox"/> Tribal Cultural Resources |
| <input type="checkbox"/> Utilities Service Systems | <input type="checkbox"/> Wildfire | <input type="checkbox"/> Mandatory Findings of Significance |

DISCUSSION:

(See following document)

DETERMINATION:

On the basis of this initial evaluation:

I find that the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION** will be prepared.

I find that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.

I find that the proposed project **MAY** have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.

I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or **NEGATIVE DECLARATION** pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or **NEGATIVE DECLARATION**, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.



Signature

February 17, 2022

Date

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Aesthetics

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>i. AESTHETICS. Except as provided in Public Resources Code Section 21099, would the project:</p>				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Regulatory Setting

Visual character is a description (not evaluation) of a site, and includes attributes such as form, line, color, and texture. Visual quality is the intrinsic appeal of a landscape or scene due to the combination of natural and built features in the landscape. Visual sensitivity is the level of interest or concern that the public has for maintaining the visual quality of a particular aesthetic resource and is a measure of how noticeable proposed changes might be in a particular scene and is based on the overall clarity, distance, and relative dominance of the proposed changes in the view, as well as the duration that a particular view could be seen.

The State of California's Public Resources Code §21081.3 (CEQA Statute) provides regulatory authority for the aesthetic impacts of a proposed project. (AEP, 2021)

Additionally, for cannabis businesses the Department of Cannabis Control Medicinal and Adult Use Commercial Cannabis Regulations §16304(a)(6,7) require that *outdoor*

lights used for safety or security purposes are shielded and downward facing; and lights used for indoor or mixed-light cultivation are shielded from sunset to sunrise to reduce nighttime glare. (DCC, 2021)

The City's Inland General Plan, Inland Land Use Development Code, and Citywide Design Guidelines provide the regulatory framework for aesthetics. Specifically, the City of Fort Bragg Inland Land Use and Development Code §18.71.050 Design Review provides the regulatory framework for reviewing the visual aspects of a project. The purpose of design review is *to ensure that the design of proposed development and new land uses assist in maintaining and enhancing the small-town, coastal, historic, and rural character of the community.*

Applications for Design Review must meet the following criteria:

1. *Complies with the purpose and requirements of this Section;*
2. *Provides architectural design, building massing, and scale appropriate to and compatible with the site surroundings and the community;*
3. *Provides attractive and desirable site layout and design, including building arrangement, exterior appearance and setbacks, drainage, fences and walls, grading, landscaping, lighting, signs, etc.;*
4. *Provides efficient and safe public access, circulation, and parking;*
5. *Provides appropriate open space and landscaping, including the use of water efficient landscaping;*
6. *Is consistent with the General Plan, any applicable specific plan; and*
7. *Complies and is consistent with the City's Design Guidelines.*

The Citywide Design Guidelines complement the standards contained in the City of Fort Bragg Inland Land Use and Development Code by providing good examples of appropriate design solutions, and by providing design interpretations of the various regulations. The guidelines are less quantitative and rigid than the mandatory development standards of the Development Code, and may be interpreted with some flexibility in the application to specific projects.

Additional regulations for historic features noted in the Cultural Resources section of this document also provide additional regulations that may also regulate aesthetics.

Discussion

The adoption of the proposed ordinances would not change the design guidelines or design review process outlined in the City's Inland Land Use and Development Code 18.71.050, which is intended to ensure that the design of proposed development and redevelopment maintain and compliment the small-town, coastal, historic, and rural character of the community. Under the proposed code amendments, a new cannabis business that proposes to construct a new structure will be subject to design review and the design guidelines. If a cannabis business proposes substantial changes to the exterior of an existing building it will also be subject to design review. The proposed code specifies that the cultivation of cannabis must take place in a fully enclosed and secure structure and cannabis shall not be visible from a public right of way, and the

cultivation should not appear any different from other buildings in the same district as it will have to conform to the design guidelines or be an already existing structure.

The City's design review process requires adherence to established design guidelines and provides that the review authority can support findings demonstrating conformance with identified project review criteria. Therefore, the proposed changes to the Inland Land Use and Development Code, establishing regulation for Cannabis Cultivation, will not have a significant impact on the aesthetics of the City of Fort Bragg.

In order to reduce energy uses, some future CBP applications may propose to do a mixed-light cultivation allowing natural light to enter via a greenhouse style ceiling, clearstory, or skylights. This type of architectural design allows for indoor spaces to be readily viewable from outside, and could potentially result in "light pollution" at night if indoor lighting is used past sunset. CBP applications proposing a mixed light cultivation, will be required to address lighting through the plan review process to ensure that the project does not result in light or glare that will impact nighttime views resulting in significant environmental impacts per the CEQA Statute §21081.3(a)(5).

Each cannabis business application will be reviewed under the City's Design Review process which includes regulations on "outdoor lighting" in ILUDC §18.30.070. Further, all future proposed cannabis cultivations are subject to a conditional use permit, which is a fully discretionary process and will be subject to CEQA including an analysis of the individual project to determine whether it will adversely affect day or nighttime views in the area. Of consideration will be the proposed lighting plan including the use of artificial lights in operations, the type of lighting, and the extent of lighting. If a future Cannabis Cultivation application has the potential to conflict with the City's outdoor lighting regulation, it would be considered a potentially significantly impact due to excessive light pollution, and the project application would be required to be revised and mitigation imposed. The effectiveness of the mitigation addressing light pollution on a future CBP application would be assessed at that time. Applications that comply with the City's outdoor lighting standards would result in less than significant impacts due to light pollution.

The proposed change in the Inland Land Use and Development Code establishes regulation for commercial cannabis cultivation uses in the industrial zones and makes minor modifications to the existing regulations for cannabis business activity in the commercial zones. The new language does not alter or otherwise change the City's policies regarding lighting and screening of new development including cannabis cultivation projects. Therefore, adoption of the proposed ordinances will have a less than significant impact on the aesthetics of the City of Fort Bragg.

References

Association of Environmental Professionals (AEP). (2021). 2021 California Environmental Quality Act Statute & Guidelines.

California Department of Cannabis Control. *Medicinal and Adult-Use Commercial Cannabis Regulations, California Code of Regulations Title 4 Division 19*. September, 2021.

City of Fort Bragg “*Title 18 Inland Land Use and Development Code.*” March, 2014.

City of Fort Bragg, “*Citywide Design Guidelines.*” July, 2004.

City of Fort Bragg, “Inland General Plan: Element 6 – Community Design.” 2013

City of Fort Bragg, (2021, November). Municipal Code Chapter 9.30 Cannabis Businesses. Retrieved from:

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California Department of Cannabis Control. *Medicinal and Adult-Use Commercial Cannabis Regulations, California Code of Regulations Title 4 Division 19.* September, 2021.

Agricultural and Forestry Resources

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>II. AGRICULTURE AND FORESTRY RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:</p>				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

d) Result in the loss of forest land or conversion of forest land to non-forest use?

e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

Regulatory Setting

The cultivation of cannabis was originally regulated by the California Department of Food and Agriculture (CDFA). In 2021, CDFA’s CalCannabis program merged with the Bureau of Cannabis Control to form the Department of Cannabis Control. In September of 2021, updates to the California Code of Regulations for Medicinal and Adult-Use Commercial Cannabis (CCR Title 4 Division 19) were published. The statutory authority for the regulation of cannabis cultivation is under the California Business and Professions Code Division 10 [26000-26260], which is implemented under CCR Title 4, Division 19. (DCC, 2021)

Discussion

The inland industrial and commercial zones of Fort Bragg are presented in Figure 2 below. There are no forest lands nor timberland production zones in the Inland Zone. While agriculture is allowed in all zones of the City, none of the industrial lands are designated as “Prime Farmland” and none are currently under agricultural uses. There are no sites in the City of Fort Bragg that are covered under the Williamson Act.

In the event that a cannabis business is proposed for development on a vacant parcel, it would be subject to all application regulations and review under CEQA, which would include an assessment of potential impacts on farmland and forestland. The City relies on the State of California Department of Land Conservation Mapping tool to determine if a site contains important farmland and/or forestland.

Figure 3 shows the City of Fort Bragg industrial zones in the Inland Zone of Fort Bragg with the California Department of Conservation’s Important Farmland Layer from 2018. (Department of Conservation, 2022) There are two classifications in these areas; urban/built up land and land on which the existing vegetation is suited to the grazing of livestock. While there are some portions of the industrial zone which the State indicates as suitable livestock cultivation, this is not an allowable use in the industrial zone so there is no conflict. The commercially zoned parcels in the Inland Zone are considered urban/built up.

Figure 2: Inland Industrial and Commercial Zones in the City of Fort Bragg

Fort Bragg Commercial and Inland Industrial Zoned Parcels

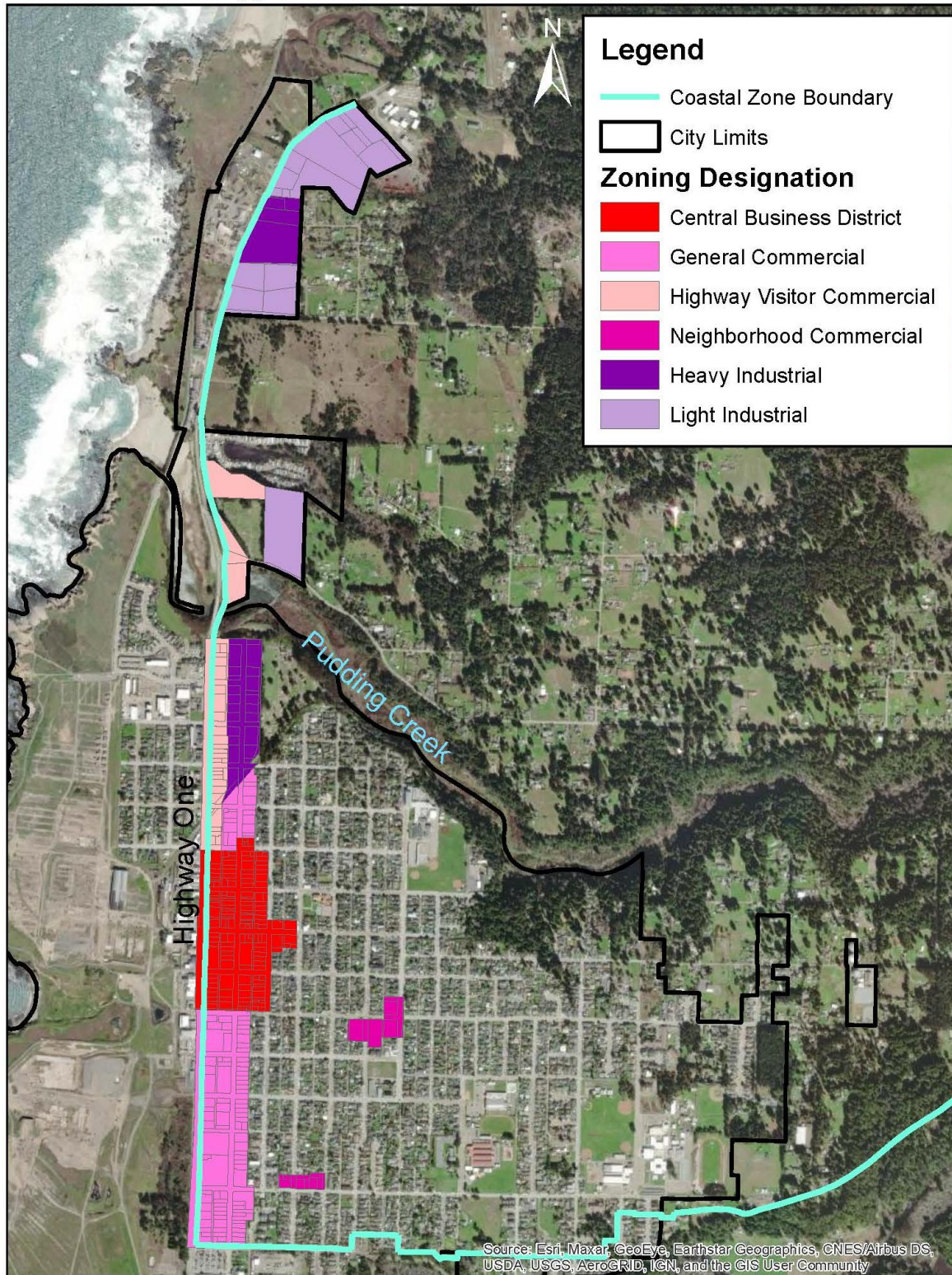
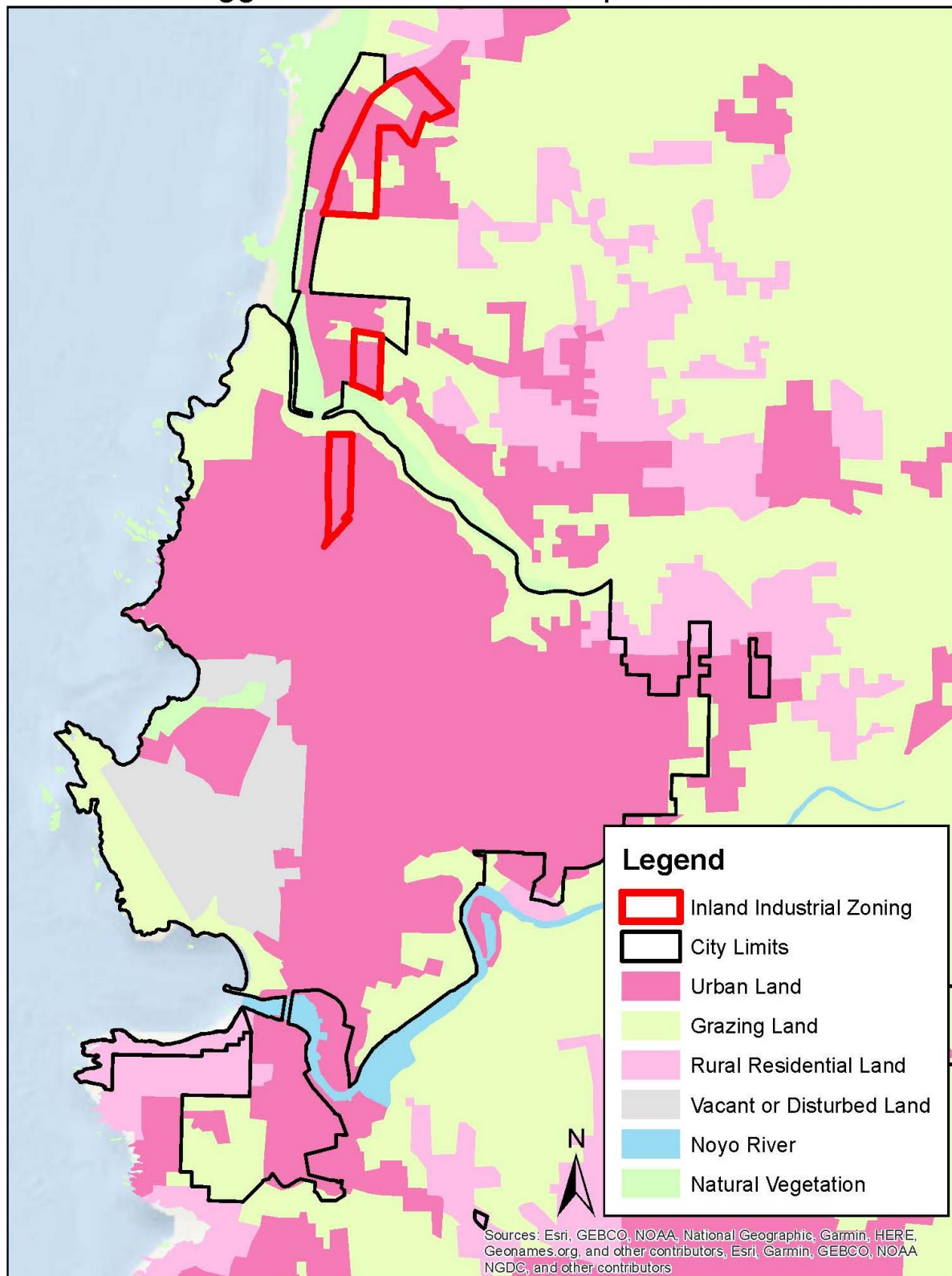


Figure 3: Industrial Zones and Important Farmland

Fort Bragg Inland Industrial & Important Farmland



The proposed change in the Inland Land Use and Development Code establishes regulation for cannabis cultivation uses in the industrial zones and makes minor modifications to uses that are currently allowable in commercial zones. The proposed change in code does not in and of itself impact agricultural or forestland and because new cannabis cultivation projects are limited to industrially zoned properties, which do not have prime agricultural or forestlands and the proposed changes do not change the size or location of industrial or commercial zones nor propose any physical development. Therefore, the proposed amendments to the Inland Land Use and Development Code will have no impact on agricultural or forestlands.

References

California Department of Conservation - CA Farmland Conservancy.(2021, August 30)

California Important Farmland Finder. Retrieved from:

<https://maps.conservation.ca.gov/DLRP/CIFF/>

California Department of Cannabis Control. *Medicinal and Adult-Use Commercial Cannabis Regulations, California Code of Regulations Title 4 Division 19*.

September, 2021.

City of Fort Bragg Zoning Map, 2016.

City of Fort Bragg “*Title 18 Inland Land Use and Development Code*.” March, 2014.

Air Quality

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>III. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. Would the project:</p>				
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Regulatory Setting

On the federal level, the Clean Air Act (CAA) and the 1990 CAA Amendments govern air quality in the United States and are administered by the Environmental Protection Agency (EPA). The EPA sets limits on concentrations of certain air pollutants and places limits on emission sources. Additionally, the EPA has established National Ambient Air Quality Standards (NAAQS) for six major air pollutants, known as criteria air pollutants including Ozone, Particulate Matter (PM10 and PM 2.5), carbon monoxide, nitrogen dioxide, sulfur dioxide, and lead.

The federal government also sets national emission standards for hazardous air pollutants in Title 40 of the Code of Federal Regulations Part 61 and Part 63. These standards regulate 194 hazardous air pollutants.

Corporate Average Fuel Economy Standards regulate car manufacturers and require that they meet established gas mileage and fuel economy standards that are set by the National Highway Traffic Safety Administration.

The California Ambient Air Quality Standards (CAAQS) are the California state equivalent of the NAAQS. An air basin is in “attainment” (compliance) when the levels of the pollutant in that air basin are below NAAQS and CAAQS thresholds shown in the table below.

Table 0-1. NAAQS and CAAQS

Pollutant	NAAQS		CAAQS		
	Averaging time	Concentration Threshold	Averaging time	Concentration Threshold	
Carbon monoxide (CO)	8 hours	9 ppm	8 hours	0.09 ppm	
	1 hour	35 ppm	1 hour	0.070 ppm	
Lead (Pb)	Rolling 3-month average	0.15 µg/m ³	1.5 hour	0.15 µg/m ³	
Nitrogen dioxide (NO ₂)	1 hour	100 ppb	1 hour	0.18 ppm	
	1 year	53 ppb	Annual mean	0.030 ppm	
Ozone (O ₃)	8 hours	0.070 ppm	8 hours	0.09 ppm	
			1 hour	0.070 ppm	
Particulate matter (PM)	PM _{2.5}	1 year	12.0 µg/m ³	Annual mean	12.0 µg/m ³
		24 hours	35 µg/m ³	n/a	n/a
	PM ₁₀	24 hours	150 µg/m ³	24 hours	50 µg/m ³
				Annual mean	20 µg/m ³
Sulfur dioxide (SO ₂)	1 hour	75 ppb	1 hour	0.25 ppm	
	3 hours	0.5 ppm	24 hours	0.04 ppm	
Visibility reducing particles	n/a	n/a	9 hours	Extinction of 0.23 per kilometer	
Sulfates	n/a	n/a	24 hours	25 µg/m ³	
Hydrogen sulfide	n/a	n/a	1 hour	0.03 ppm	
Vinyl chloride	n/a	n/a	24 hours	0.01 ppm	

Source:USEPA, 2016; CARB, 2020

ppm = parts per million, ppb = parts per billion, µg/m³ = micrograms per cubic meter, n/a = not applicable

Additionally, at the State level, the California Air Resource Board is responsible for implementing the CCAA and other air quality regulations which include:

- Truck and Bus Regulation
- Commercial Vehicle Idling Regulation
- Heavy-Duty On-Board Diagnostic System Regulations
- Heavy-Duty Vehicle Inspection Program
- California Standards for Diesel Fuel Regulations
- In-Use Off-Road Diesel Vehicle Regulation
- Assembly Bill 1803 which establishes a two-step process of risk identification and risk management to address the potential health effects from airborne toxic substances.
- Portable Engine Airborne Toxic Control Measure
- Portable Equipment Registration Program
- California Toxic Air Containment Act
- California Department of Pesticide Regulation Air Program Activities

The City of Fort Bragg is located within the North Coast Air Basin (NCAB) and is under the jurisdiction of the Mendocino County Air Quality Management District (MCAQMD).The MCAQMD is responsible for enforcing federal and state air quality

standards and establishes CEQA thresholds for Mendocino County and local jurisdictions within the County, including the City of Fort Bragg.

Mendocino County is currently in non-attainment for the State PM₁₀ standard (particulate matter less than 10 microns in size) (CARB, 2019). The primary manmade sources of PM₁₀ pollution in the County are from wood combustion (woodstoves, fireplaces and outdoor burning), fugitive dust, automobile traffic and industry (Mendocino County, 2021). Both the NCAB and Mendocino County are in attainment for all other State and Federal criteria air pollutants (US EPA 2016; CARB, 2020).

In addition to the Federal, State, and County regulations, air quality is also addressed in the City's Open Space Element of the Inland General Plan which includes the following policy and associated programs:

Open Space Goal OS-7 Policy OS-7.2 Air Quality Standards: Seek to comply with State and Federal standards for air quality
Open Space Goal OS-7 Policy OS-7.2 Program OS-7.2.1 Review new project proposals for consistency with MCAQMD regulations and guidelines
Open Space Goal OS-7 Policy OS-7.2 Program OS-7.2.2 Work with the Mendocino County Air Quality Management District to ensure that all new industrial projects include Best Available Control Technologies (BACTs) to control emissions of air pollutants to the maximum extent permitted by law.
Open Space Goal OS-7 Policy OS-7.2 Program OS-7.2.4 Prohibit unpaved driveways of more than 50 feet and unpaved roads in all new development.

Furthermore, odors are regulated in the City by ILUDC §18.30.080(J) which says: *No obnoxious odor or fumes shall be emitted that are perceptible without instruments by a reasonable person at the property line of the site.* The existing Municipal Code §9.30.050(N)(8) requires that applicants for a CBP submit *an odor prevention plan, illustrating how the cannabis business will be consistent with § 17.30.080(J) and/or § 18.30.080(J). The odor prevention plan may include an odor absorbing ventilation and exhaust system or other measures to ensure the use does not produce odors which are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public.*

Discussion

The proposed ordinances will establish regulations for commercial cannabis cultivation in inland industrial zones and make minor modifications to existing regulations for cannabis business activity in commercial zones. Indoor cannabis cultivation as a land use is comparable in intensity to other allowable and conditionally allowed uses in the industrial zone, namely heavy manufacturing, fish processing, or agricultural product processing. The proposed amendment to the code in and of itself will not have significant impacts on air quality as it establishes regulations and does not propose any physical development.

All future proposed cannabis cultivation projects would require a Cannabis Business Permit and be subject to discretionary review to determine if it would conflict with or obstruct the implementation of an applicable air quality plan or result in cumulatively considerable net increase of any criteria air pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard.

When the City receives a discretionary project application, the project is sent for review to the MCAQMD for comments. Additionally, if an initial study is required and an air quality analysis warranted, construction and operational emissions are estimated using an acceptable modeling program, such as the California Emissions Estimator Model (CalEEMod). The results of the air quality modeling is used to determine if a proposed project would result in air quality impacts. The MCAQMD published "Adopted Air Quality CEQA Thresholds of Significance" on June 2, 2010 (see **Attachment E**). The City uses these thresholds to determine if discretionary projects would have an impact on air quality and would apply this same review process to discretionary actions under the proposed ordinances including all CBP applications.

Furthermore, if a proposed CBP application was found to have the potential to create substantial concentrations of either criteria air pollutants or Hazardous Air Pollutants, the project would be assessed to determine if it would expose sensitive receptors to substantial pollutant concentrations.

The City of Fort Bragg's Inland General Plan defines Sensitive Receptors as:

"Members of the population who are most sensitive to air quality include children, the elderly, the acutely ill, and the chronically ill. The term "sensitive receptors" can also refer to the land use categories where these people live or spend a significant amount of time. Such areas include residences, schools, playgrounds, child care centers, hospitals, retirement homes, and convalescent homes."

The existing Municipal Code Section 9.30.050(N)(8) requires that applicants for Cannabis Business Permits provide an odor prevention plan that shows how the project will comply with Chapter 18.30.080(J) which states "No obnoxious odor or fumes shall be emitted that are perceptible without instruments by a reasonable person at the property line of the site." Any project that does not comply would be subject to the City's Municipal Code for Nuisances, Chapter 6.12. Additionally, the proposed changes to Section 18.42.055(B)(4) includes the following language:

Cannabis cultivations shall use the best available technology to ensure odors are not detected on adjacent or nearby property or areas open to the public.

The introduction of a new conditionally allowable use for cannabis cultivation in the industrial zone, in and of itself will not result in new or more severe impacts to the air quality of the area because it does not include any physical development and the conditional uses would be subject to all federal, state, and local air quality regulations. Therefore, the proposed amendments to the municipal code including the addition of commercial cannabis cultivation as a conditionally allowable use to the industrial zones and minor modifications to the existing regulations for cannabis activity in the commercial zones will have no impact to air quality.

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Biological Resources

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
IV. BIOLOGICAL RESOURCES: Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan,	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

Regulatory Setting

At the federal level, the Endangered Species Act of 1973 provides regulations for the conservation of species that are endangered or threatened throughout all or a significant portion of their range. It also protects the habitat of threatened or endangered species. The Migratory Bird Treaty Act (MBTA) provides additional protections for migratory birds. (USFW, 2022)

At the state level, the California Endangered Species Act (CESA) created the policy that State agencies should not approve projects that would jeopardize the continued existence of a species listed under CESA as endangered or threatened or result in the destruction or adverse modification of habitat essential to the continued existence of those species, if reasonable and prudent alternatives are available consistent with conserving the species or its habitat that would prevent jeopardy. (CDFW, 2022)

Sensitive biological communities include habitats that fulfill special functions or have special values, such as wetlands, streams, or riparian habitat. These habitats may be protected under federal regulations such as the Clean Water Act; state regulations such as the Porter-Cologne Act, and the California Department of Fish and Wildlife (CDFW) Streambed Alteration Program. Other sensitive biological communities include habitats that fulfill special functions or have special values. Natural communities considered sensitive are those identified by CDFW. CDFW ranks sensitive communities as “threatened” or “very threatened” and keeps records of their occurrences in its California Natural Diversity Database (CNDDDB). Sensitive plant communities are also provided in list format by CDFW. CNDDDB vegetation alliances are ranked 1 through 5 based on NatureServe’s methodology, which those alliances ranked globally (G) or statewide (S) with status of 1 through 3 considered to be of special concern as well as imperiled.

On the local level, the City of Fort Bragg Inland General Plan has the following policies that address biotic resources:

Land Use Goal LU-5 Support industrial development which is consistent with the protection, enhancement, and restoration of natural and scenic resources.

Land Use Goal LU-5 Policy LU-5.1 Siting New Industrial Development: Site new industrial development so that it is contiguous with, or in close proximity to, existing developed areas able to accommodate it, or where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects on natural and scenic resources, either individually or cumulatively.

Land Use Goal LU-5 Policy LU-5.2 Industrial Land Use Standards: Require that industrial development avoid or minimize creating substantial pollution, noise, glare, dust, odor, or other significant adverse impacts.

Land Use Goal LU-5 Policy LU-5.2 Program LU-5.2.1: Continue to enforce, and revise as needed, Inland Land Use and Development Code standards with regard to noise, glare, dust, odor, and other potentially adverse impacts of industrial activity.
Open Space Goal OS-1 Policy OS-1.2 Preserve Natural Resources: Require that sensitive natural resources in Special Review Areas be preserved and protected to the maximum degree feasible.
Open Space Goal OS-1 Policy OS-1.2 Program OS-1.2.1: Review projects requesting discretionary approvals to determine whether the project is located in an area with potentially sensitive natural resources.
Open Space Goal OS-1 Policy OS-1.3 Biological Report Required for Special Review Areas: Permit applications for development within or adjacent to Special Review Areas which have the possibility of containing sensitive habitat shall include a biological report prepared by a qualified biologist which identifies the resources and provides recommended measures to ensure that the requirements of CEQA, the Department of Fish and Wildlife, and the City of Fort Bragg's Inland General Plan are fully met. The required content of the biological report is specified in the Inland Land Use and Development Code.
Open Space Goal OS-1 Policy OS-1.4 Maintain Open Space: Require site planning and construction to maintain adequate open space to permit effective wildlife corridors for animal movement between open spaces.
Open Space Goal OS-2: Program OS-2.4.1 Establish a tree planting and replacement program to assure continuing stands of trees throughout the City.
Open Space Goal OS-2: Policy OS-2.1 Native Landscaping: All development shall be conditioned to require that 50% of all plantings are native plants and shall prohibit the planting of any plant species that is (a) listed as problematic and/or invasive by the California Invasive Plant Council, and/or by the State of California, or (b) listed as a 'noxious weed' by the State of California or the U.S. Federal Government
Open Space Goal OS-2: Policy OS-2.2 Prohibit Invasive Species: Condition development projects requiring discretionary approval to prohibit the planting of any species of broom, pampas grass, gorse, or other species of invasive non-native plants deemed undesirable by the City
Open Space Goal OS-2: Policy OS-2.3 Preserve Native Vegetation and Trees: To the maximum extent feasible and balanced with permitted use, require that site planning, construction, and maintenance of development preserve existing healthy trees and native vegetation on the site.
Open Space Goal OS-2: Policy OS-2.4 Forested Areas: Maintain existing forested areas and reforest parks and streetscapes with new trees as needed. Projects proposed in forested areas are required to meet the requirements of the Special Review Areas.
Open Space Goal OS-5 Policy OS-5.1 Streams and Creeks: To the maximum extent feasible, preserve, protect, and restore streams and creeks to their natural state.

Open Space Goal OS-5 Policy OS-5.2 Riparian Habitat: Prevent development from destroying riparian habitat to the maximum feasible extent. Preserve, enhance, and restore existing riparian habitat in new development unless the preservation will prevent the establishment of all permitted uses on the property.

Open Space Goal OS-5 Policy OS-5.3 No Net Loss of Wetlands: Ensure no net loss of wetlands, as defined by the U.S. Army Corps of Engineers.

Open Space Goal OS-6 Policy OS-6.4 Maintain and Restore Biological Productivity and Water Quality: Development shall maintain and, where feasible, restore the biological productivity and the quality of streams and wetlands to maintain optimum populations of aquatic organisms and for the protection of human health.

General Plan Map OS-2 (see Figure 4) identifies wetlands, open space, and areas for water recharge in the City of Fort Bragg. There are some industrial sites along Highway 1 north of Pudding Creek that may have wetland/riparian habitat, but the inland industrial and commercial zoned sites south of Pudding Creek are mostly developed or ruderal.

Additionally, the City's ILUDC §18.50.050 regulates Special Review Areas: Biologically Sensitive Areas and provides the following General Development Standards:

C. General development standards.

1. Performance standards. All development adjacent to or within Biologically Sensitive Areas shall comply with the following requirements, to the maximum extent feasible.

a. New development shall be designed, sited, constructed, and maintained so as to not significantly disrupt the resource.

b. Where feasible, damaged habitats shall be restored as a condition of development approval.

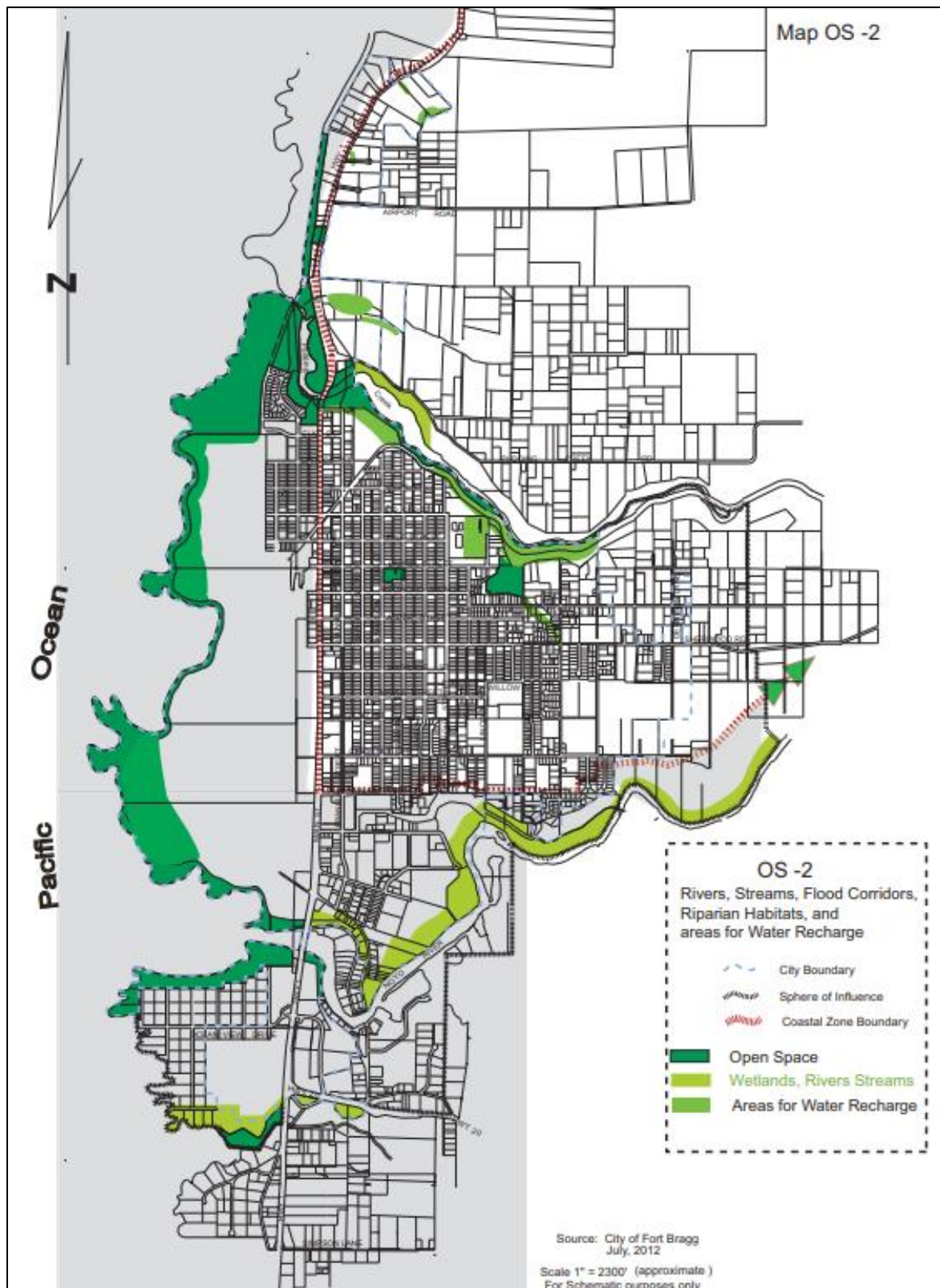
c. Development shall be consistent with the biological continuance of the habitat.

2. Vegetation removal. Existing native vegetation shall not be removed within a Biologically Sensitive Area, as part of a development project, unless authorized through Section 7, 404 permit or CEQA (California Environmental Quality Act) approval to accommodate proposed construction.

3. Landscaping. A landscaping plan shall be submitted to the City for approval prior to construction for any site where development will disturb existing or potential native plant habitat. The plan shall provide for vegetation restoration in compliance with Subsection C.2 above. Landscaping with exotic plants shall be limited to outdoor living space immediately adjacent to the proposed development. Invasive non-native plants including Pampas grass, Acacia, Genista, and non-native iceplant

pose a threat to indigenous plant communities and shall not be approved as part of any proposed landscaping.

Figure 4: Inland General Plan Map OS-2



4. *Resource protection during construction. Habitat areas containing vegetation that is essential to the maintenance of the habitat and/or rare or endangered plant or animal species shall be protected from disturbance by construction activities. Temporary wire mesh fencing shall be placed around habitat prior to construction, and protected areas shall not be used by workers or for the storage of machinery or materials. Inspections for compliance shall occur during construction.*

5. *Resource protection after construction. After construction, unpaved areas shall be replanted to provide for the reestablishment of a 100 percent vegetation cover within two years. At five years, the site should support the same habitat removed. Remedial actions (e.g., planting of native species and removal of invasive horticultural species) shall be implemented as necessary to ensure that the site will consist of at least 75 percent native species at the end of five years.*

6. *Herbicide use. The use and disposal of any herbicides for invasive species removal shall follow the written directions of the manufacturer, shall comply with all conditions imposed by the City, and shall be accomplished in a manner that will fully protect adjacent native vegetation.*

Discussion

The proposed ordinances will establish regulations for commercial cannabis cultivation in inland industrial zones and make minor modifications to existing regulations for cannabis business activity in commercial zones. Indoor cannabis cultivation as a land use is comparable in intensity to other allowable and conditionally allowed uses in the industrial zone, namely light, medium, and heavy manufacturing, fish processing, or agricultural product processing. Outdoor cultivation is not allowed, and only indoor cultivation is conditionally allowed, which will have no more significant impacts than other industrial uses that are currently allowable. The proposed amendment to the code in and of itself will not have significant impacts on biotic resources as it does not involve any physical development, changes in allowable lot coverage, or other regulations that protect biological resources, such as creek setbacks, tree replacement requirements, and construction controls. Furthermore, all CBP applications are fully discretionary and subject to CEQA review, including an evaluation of potential impacts to biological resources from the specific application.

There is one Critical Habitat area identified by the US Fish and Wildlife IPaC website. As seen in the map below the red area is critical habitat identified for the Tidewater Goby (see Figure 5). In the event that a future CBP application is located within close proximity and may impact this habitat area, the project would be subject to review and compliance with both the federal and state Endangered Species Act (ESA) and the City's Environmentally Sensitive Habitat Area (ESHA) regulations.

Discretionary projects in the inland zone are evaluated using Map OS-2 to determine if the project is in a special review area and needs to comply with Policy OS-1.3 Biological Report Required for Special Review Areas. See Figure 2 above. CBP applications that are located in a Special Review Area are required to provide a

biological Report. Biological reports for discretionary projects including CBP applications are either reviewed by staff or by an independent biologist, as warranted. If future CBP applications are determined to result in potentially significant impacts to biotic resources, redesign and mitigation will be considered to avoid or minimize impacts. The efficacy of redesign and mitigation will be assessed on the project level once a complete CBP application is received and is in process by the City.

In the case of a proposed nursery cultivations as an accessory use to a retail cannabis business in the commercial zone, even though permitted by right for land use purposes, the project would still require a discretionary Cannabis Business Permit which requires that a project comply with the Inland Land Use and Development Code and is subject to CEQA review. If the project is proposed on a site with important biotic resources, it would be subject to ILUDC §18.50.050.

The regulatory environment for biotic resources will not be changed by the proposed project. The proposed project will add a new conditionally allowable use to industrial zones and make minor modifications to existing regulations for commercial cannabis activity in commercial zones. There will be no change in the designation of industrial or commercial lands and there is no physical development proposed for this project. Therefore, the project will have no impacts on biological resources.

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Figure 5: Critical Habitat of the Tidewater Goby

Fort Bragg Critical Habitat Areas



Cultural Resources

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
V. CULTURAL RESOURCES. Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource pursuant to § 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Historical Setting

Native Americans have inhabited the North Coast of Mendocino County for at least 10,000 years. The Pomo people were hunter-gatherers with a close relationship to the land and the sea. Seasonal Native American villages were located along the coast with permanent villages located north of Ten Mile River. (City of Fort Bragg, 2022)

In 1857, the Fort Bragg military post was established on the Mendocino Indian Reservation approximately 1.5 miles north of the Noyo River. Its purpose was to maintain order on the reservation. Also in 1857, a lumber mill was established on the Noyo River starting what would become the major industry of the region. The military post was short-lived. In 1865, after 300 Native Americans were marched forcibly from the Reservation to a reservation in Round Valley, and Fort Bragg as a military post was abandoned. (City of Fort Bragg Website)

On August 5, 1889, Fort Bragg was incorporated as a city. C.R. Johnson, president of the Fort Bragg Redwood Company, was the first mayor. His company laid out the town much as it exists today; with a uniform street grid and mid-block alleys. In 1893, the Union Lumber Company was created by absorbing some of the smaller lumber companies in the area.

The Great 1906 Earthquake resulted in a fire at the lumber mill that threatened the entire city. Brick buildings throughout the city were damaged, if not destroyed completely, and many frame homes were knocked off their piers. The fire burned the entire downtown area bordered by Franklin Street, Redwood Avenue, and McPherson Street. Within 12 months following the earthquake, all downtown reconstruction was

completed. The earthquake brought prosperity to Fort Bragg as the mills furnished lumber for the rebuilding of San Francisco.

By 1916, Fort Bragg had become a popular place to visit and settle. Commercial fishing also played an important role in the formation of the economic base of Fort Bragg. Noyo Harbor was once a major commercial fishing port well-known for producing quality fish products that were distributed to major metropolitan markets. (City of Fort Bragg Website)

Fort Bragg prospered in the post-World War II era as a hub for logging and fishing through the heavy extraction of natural resources. With the exhaustion of these resources and necessary environmental protections in the later years of the 20th Century, the traditional economic activity in Fort Bragg fell into a steady decline. In recent history, the City has transitioned to a service industry mainly generated by tourism.

Cannabis was officially banned by the Federal Government in 1937. Locally, the 1960's and 1970's marked a significant "Back to Land Movement" in Mendocino County. Cannabis was very much a part of the culture of the community that developed as part of the movement. Since that time, cannabis has had a complicated history in Mendocino County, characterized by the war on drugs, criminalization, and enforcement at the local, state, and federal level. While there was limited cannabis activity inside the City limits, cannabis significantly impacted the cultural development of Fort Bragg in the later 20th Century. The shift to legalized cannabis began with the adoption of the Compassionate Use Act (Proposition 215) in 1996. The City had no dispensaries during this period, and it was not until the passage of the Adult Use of Marijuana Act that the City instituted regulations allowing cannabis businesses. In 2019 regulations were adopted to allow retail cannabis and it was not until 2020 that the first commercial cannabis dispensaries were established within the City limits. For 50 years cannabis has had a presence in the City.

Regulatory Setting

Cultural Resources are archaeological and historic sites, architectural resources, and traditional cultural properties, as well as the physical evidence of past human activity on the landscape. Cultural resources, along with Native American and historic human remains and associated grave goods, must be considered under various federal, state, and local regulations, including CEQA and the National Historic Preservation Act of 1966. In general, any trace of human activity more than 50 years in age is required to be treated as a potential cultural resource.

The National Historic Preservation Act (NHPA) is the primary regulatory framework for the protection of cultural resources. The NHPA created the authority for the creation of the State Historic Preservation Office, National Register of Historic Places, and for the Secretary of the Interior Standards for Historic Preservation.

At the state level, the California Register of Historical Resources in PRC Section 5020.1(j) includes "*any object, building, structure, site, area, place, record, or manuscript which is historically or archaeologically significant, or is significant in the*

architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California.” The regulations state the criteria for eligibility and guidelines for determining historical integrity and resources of special consideration.

A cultural resource that is listed in, or eligible for inclusion in, the California Register of Historical Resources (CRHR) is referred to as an Historical Resource. A resource may be eligible for inclusion in the CRHR if it is:

- 1) *associated with events that have made a significant contribution to the broad patterns of California’s history and cultural heritage;*
- 2) *associated with the lives of persons important in our past;*
- 3) *embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or*
- 4) *has yielded, or may be likely to yield, information important in prehistory or history. (CRHR, 2022)*

On September 25, 2014, then Governor Brown signed Assembly Bill 52 (AB 52), which created a new category of environmental resources, tribal cultural resources, to be evaluated as part of the CEQA review process. Tribal cultural resources are defined as follows:

- (1) *sites, features, places cultural landscapes, sacred places and objects with cultural value to a California Native American tribe” that are included in the state register of historical resources or a local register of historical resources, or that are determined to be eligible for inclusion in the state register; or*
- (2) *resources determined by the lead agency, in its discretion, to be significant based on the criteria for listing in the state register. (AEP, 2021)*

AB 52 requires lead agencies to provide notice to tribes that are traditionally and culturally affiliated with the geographic area of a proposed project if tribal entities, organizations or individuals have requested to be notified. The City of Fort Bragg routinely issues AB 52 notifications to the following local tribes as part of the CEQA review process:

- Sherwood Valley Rancheria of Pomo Indians of California
- Coyote Valley Band of Pomo Indians of California
- Manchester Band of Pomo Indians
- Cahto Tribe of the Laytonville Rancheria
- Hopland Band of Pomo Indians
- Guidiville Rancheria
- Pinoleville Pomo Nation
- Potter Valley Tribe

At the local level, the City of Fort Bragg addresses historic resources in the General Plan, ILUDC, and in Citywide Design Guidelines. In the General Plan, the Central

Business District is identified as the civic, cultural, and commercial center of the community and the following apply: Land Use Goal LU-3 Ensure that the Central Business District remains the historic, civic, cultural, and commercial core of the community.
Land Use Goal LU-3 Policy LU-3.1 Central Business District: Retain and enhance the small-scale, pedestrian friendly, and historic character of the Central Business District (CBD).
Land Use Goal LU-3 Policy LU-3.1 Program LU-3.1.1: Utilize City-owned land at City Hall and Bainbridge Park for historic and cultural uses, public assembly, and entertainment.
Land Use Goal LU-3 Policy LU-3.3 Historic Buildings and Mixed Uses: In the Central Business District and in other commercial areas with historic residential structures, encourage residential uses, mixed residential, and commercial uses, and the preservation of historic structures
Land Use Goal LU-3 Policy LU-3.6 Program LU-3.6.1: Consider establishing incentives such as low-interest loans for rehabilitation and installation of fire sprinklers in buildings to encourage the reuse of upper floors of existing buildings in the Central Business District for housing, offices, and other uses.
Land Use Goal LU-4 Policy LU-4.2 Large-Scale Commercial Development: To maintain scenic views along Main Street and to ensure that building sizes at the City's gateways are in scale with the community, no commercial building shall exceed the following limitations on the gross floor area: a) between the Noyo River and Pudding Creek Bridges - maximum 50,000 square feet b) east of Highway One and north of Pudding Creek Bridge - maximum 30,000 square feet

The City maintains a list of potentially significant historic structures in the City limits. Most of the non-residential structures are concentrated in the Central Business District and ILUDC Chapter 18.74 regulates Cultural Resource Protection in the City of Fort Bragg.

Projects that will change the outward appearance of an existing non-residential building are required to undergo design review in compliance with Chapter 18.71.050.

Design Review is intended to ensure that the design of proposed development and new land uses assists in maintaining and enhancing the small-town, coastal, historic, and rural character of the community. This is applied to all new structures, any relocation, exterior addition(s), or changes of or to existing structures, and any other physical improvements shall be subject to Design Review, whether or not a Building Permit is required, unless exempt in compliance with Subsection (B)(3) of this Section (Improvements exempt from Design Review). Design Review shall be required in addition to all other planning permit or approval requirements of this Development Code and the Municipal Code. (City of Fort Bragg, 2022)

The Citywide Design Guidelines complement the standards contained in the City of Fort Bragg Inland Land Use and Development Code by providing good examples of appropriate design solutions, and by providing design interpretations of the various regulations. The guidelines are less quantitative and rigid than the mandatory

development standards of the Development Code, and may be interpreted with some flexibility in the application to specific projects.

The City's ILUDC §18.50.030 provides regulations for Archaeological Resource Preservation. *The requirements of this Section are intended to ensure that appropriate safeguards are established and followed in order to protect archaeological and paleontological resources, as well as sacred sites and/or traditional cultural properties (TCPs) whose potential location is identified, or which are discovered as a result of development activity within the City.*

ILUDC Section 18.50.030 states that before commencing any digging, grading, or any other ground disturbing activity in advance of construction of an approved development project within the following areas:

1. *Noyo River. All of the areas located adjacent to the Noyo River;*
2. *Special review Areas. Identified on map LC-2; and/or*
3. *Other areas identified by the Director. Other areas identified by the environmental review process (Chapter 18.72), or brought to the attention of the City through special studies performed after the enactment of this Section, as having the potential for containing archaeological or paleontological resources.*

Additionally, the following procedures are outlined for reporting and mitigation:

1. *Report required. Where development proposals are for an area in which there are known archaeological or paleontological resources or sacred sites or TCPs on the site or in the vicinity, or where there is a moderate to high probability for previously unidentified archaeological, paleontological, and/or TCP resources to be encountered during the development activity, and where it is determined by the Director that no adequate prior assessment of on-site resources has been completed, a report shall be prepared by a qualified archaeologist before the issuance of other discretionary permit approvals.*

- a. *At a minimum, the report shall identify and evaluate all archaeological and paleontological resources, including sacred sites and TCPs, in the areas of the site proposed to be disturbed by the project, assess the effects of the proposed development on those resources, and recommend appropriate resource preservation and/or mitigation measures to adequately address the identified effects.*

- b. *If cultural resources are identified, a copy of the report shall also be transmitted to the State Historical Preservation Officer, and any federally-recognized Native American tribes who have expressed interest in the project for review and comment.*

The Director may waive the requirement for a report if the Director determines that an existing report satisfies this requirement.

2. Mitigation measures required. Under both CEQA and NHPA, avoidance of historic resources is the preferred course of action. When avoidance of the resources is not feasible, mitigation measures shall be adopted under CEQA.

a. Where proposed development activity will adversely affect archaeological or paleontological resources, including sacred sites and/or TCPs, the City shall require reasonable and necessary mitigation measures.

b. Mitigation shall be designed in compliance with CEQA Guidelines and the guidance of the State Office of Historic Preservation, and the State Native American Heritage Commission.

ILUDC §18.50.030(D) provides requirements regarding discovery or archaeological resources. All permits issued are conditions with the following from this section:

1. When, in the course of digging, grading, or any other activity in advance of construction of an approved development project, evidence of archaeological, paleontological, or other potentially significant historic resources is discovered, all work which could potentially damage or destroy the resources shall cease immediately.

2. The Director shall be notified immediately of the discovery and engage an archaeologist to determine if the discovery is significant and the correct course of action to avoid, minimize and/or mitigate damage to the resource

3. The Director shall notify the State Historic Preservation Officer and federally-recognized Native American tribes who have expressed an interest in the project of the discovery.

4. All work which could potentially damage or destroy the resources shall be halted until appropriate avoidance, minimization, and/or mitigation measures can be developed and implemented.

Discussion

The proposed ordinances would establish regulation for cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones. The proposed regulation for cannabis cultivation would not impact known or undiscovered cultural resources since no physical development is proposed.

In the future, at the time that a cannabis cultivation project is proposed, City staff would review whether it is on a developed or undeveloped site. The discretionary nature of future cannabis cultivation projects requires a review of potential impacts to cultural resources under CEQA. If a future project is proposed for an existing structure, it would be determined whether the structure is potentially a historic resource as defined in the CEQA Guidelines Section 15064.5 and identified in the City's list of historic structures. If the future project involves a historic structure, it will have to comply with CEQA Guidelines and with the City's ILUDC Chapter 18.74.

Additionally, if a future project involves new construction, the application is referred, through the AB 52 notification process, to the Tribal Historic Preservation Officer for the Sherwood Valley Band of Pomo Indians and other tribes. A tribe may request consultation, an archaeological review, site visit, and/or tribal monitor on site during excavation and construction. In the event that a future cultivation project site has the potential for cultural resources, a cultural resources report would be required by ILUDC §18.50.030, or if requested by the tribe. As part of the discretionary review process, the City will review individual cultivation projects, as is done for all development applications, to determine if there's a potential to have significant impacts on cultural resources and to inform the environmental review process.

As noted above, the subject project is limited to revisions in the municipal code including the addition of a conditionally allowable use in the industrial zones and minor modifications to existing regulations for cannabis business activities in the commercial zones. All future cannabis cultivation applications require a discretionary permit (CBP) and future cultivation applications would be reviewed accordingly. The subject amendments to the codes do not include any physical development and do not modify, alter, or otherwise change existing regulation governing the protection and preservation of historical and cultural resources. Therefore, the project will have no impact on historic and cultural resources.

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Energy

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
VI. ENERGY. Would the project:				
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Regulatory Setting

The California Energy Commission (CEC) is the agency responsible for regulating energy usage and developing the Title 24, Parts 6 and 11 also known as the Building Energy Efficiency Standards in the California Code of Regulations. On August 11, 2021, the CEC adopted the 2022 Energy Code which was presented to the California Building Standards Commission (CBSC) for approval into the California Building Standards Code in December 2021. The 2022 Energy Code will go into effect on January 1, 2023. Among the recommended amendments to the code were energy efficiency standards for controlled environment horticulture which includes indoor cannabis cultivation. (CEC, 2022)

The DCC has renewable energy requirements for commercial cannabis cultivations including the State of California Department of Cannabis Control Regulations §16305. Renewable Energy Requirements (See Attachment F):

(a) Beginning January 1, 2023, all holders of indoor, tier 2 mixed-light license types of any size, and all holders of nursery licenses using indoor or tier 2 mixed-light techniques shall ensure that electrical power used for commercial cannabis activity meets the average electricity greenhouse gas emissions intensity required by their local utility provider pursuant to the California Renewables Portfolio Standard Program in division 1, part 1, chapter 2.3, article 16 (commencing with section 399.11) of the Public Utilities Code.

(b) If a licensed cultivator's average weighted greenhouse gas emission intensity, as calculated and reported upon license renewal pursuant to section 15020, is greater than the local utility provider's greenhouse gas emission intensity, the licensee shall obtain carbon offsets to cover the

excess in carbon emissions from the previous annual licensed period. The carbon offsets shall be purchased from one or more of the following recognized voluntary carbon registries:

- (1) American Carbon Registry;*
- (2) Climate Action Reserve; or*
- (3) Verified Carbon Standard. (DCC, 2021)*

Additionally, the DCC’s existing Medicinal and Adult-Use Commercial Cannabis Regulations, California Code of Regulations Title 4 Division 19 §15020 provides the following requirements for license renewals:

(f) Beginning January 1, 2022, an application for renewal of a license to engage in commercial cannabis cultivation shall include the following records, for each power source indicated on the application for licensure for the previous annual licensed period:

- (1) Total electricity supplied by local utility provider, name of local utility provider, and greenhouse gas emission intensity per kilowatt hour reported by the utility provider under section 398.4(c) of the Public Utilities Code for the most recent calendar year available at time of submission;*
- (2) Total electricity supplied by a zero net energy renewable source, as set forth in section 398.4(h)(5) of the Public Utilities Code, that is not part of a net metering or other utility benefit;*
- (3) Total electricity supplied from other unspecified sources, as defined in section 398.2(e) of the Public Utilities Code, and other onsite sources of generation not reported to the local utility provider (e.g., generators, fuel cells) and the greenhouse gas emission intensity from these sources; and*
- (4) Average weighted greenhouse gas emission intensity considering all electricity use in subsections (f)(1)-(f)(3).*

The City’s Inland General Plan has the following Goals, Policies, and Programs to address energy usage:

Sustainability Goal S-1 Policy S-1.2 Program S-1.2.3 Promote the use of building materials that maintain healthy indoor air quality in an effort to reduce irritation and exposure to toxins and allergens for building occupants. Promote the use of building materials, furniture and paint that maintain healthy indoor air quality, and discourage the use of materials that degrade indoor air quality.
Sustainability Goal S-2 Encourage development that minimizes the demand for non-renewable energy and reduces Green House Gas (GHG) emissions.
Sustainability Goal S-2 Policy S-2.1 Passive Solar Design Strategies: All building and site design shall use passive solar design strategies for space heating and lighting to reduce energy demand to the extent feasible.

Sustainability Goal S-2 Policy S-2.3 Reduce Energy Demand with a goal of Net Zero Energy in New Construction. All new construction shall minimize energy use. Net zero buildings and homes are encouraged. These homes produce as much energy (through conservation, photovoltaic panels, solar hot water, wind, and geothermal) as they consume and have a net zero impact on greenhouse gas production.
Sustainability Goal S-2 Policy S-2.4 Require passive solar design in new construction, where feasible, as part of Design Review.
Sustainability Goal S-2 Policy S-2.4 Program S-2.4.1: Modify the Citywide Design Guidelines to include guidelines that require passive solar design for residential and commercial new construction projects.
Sustainability Goal S-2 Policy S-2.5 Use of Local and Renewable Energy: Buildings and infrastructure that create and/or use locally and renewably generated energy are encouraged. Photovoltaic and wind energy systems are encouraged. The installation of solar panels or other clean energy power generation sources over parking areas is preferred

Additionally, the City’s current Municipal Code Chapter 9.30 Cannabis Businesses §9.30.140(D) requires that *commercial cannabis cultivation shall either enroll in a community choice aggregate energy provider or install solar panels.*

Discussion

As previously noted, the proposed project will establish regulation for cannabis cultivation in industrial zones and make minor modifications to the existing regulations for currently allowable cannabis business activities in commercial zones. The subject amendments to the code in and of itself precludes physical development and would not result in the use of energy. Therefore, there would no impacts associated with wasteful, inefficient, or unnecessary consumption of energy resources.

Any future application received for a proposed commercial cultivation project would be subject to a CBP and reviewed to determine if the project would have significant impacts on energy. While indoor cannabis cultivation typically uses significantly more energy than other commercial and industrial activities, the State’s updates to Title 24 California Energy Code provide ministerial guidelines for indoor cultivation. A building permit would be required to construct the Fully Enclosed and Secure Structure as imposed by the City of Fort Bragg Municipal Code §9.30.140(A) and any equipment would be required to meet the guidelines in Title 24. Furthermore, cannabis cultivators, are required to secure state licenses which includes review for compliance with energy regulation.

Additionally, the City’s Municipal Code §9.30.140(D) currently requires that *Commercial cannabis cultivation shall either enroll in a community choice aggregate energy provider or install solar panels.* This regulation remains applicable under the proposed updates.

Furthermore, the proposed amendments for ILUDC §18.42.055 Commercial Cannabis Cultivation subsection (B)(3)(b) states the following: *Commercial cannabis cultivations*

shall use the energy efficient lighting and equipment. A cannabis cultivator shall provide proof of the utility provider's ability to provide reliable power to the cultivation site.

There are currently two energy providers for the City of Fort Bragg, Sonoma Clean Power and Pacific Gas and Electric. Under the proposed ordinances, indoor commercial cultivation projects require a discretionary permit and must obtain proof and furnish documentation to the City demonstrating that one of the local electrical utility companies can adequately serve their business.

The proposed project creates regulations for a new use in the industrial zones and makes minor modifications to existing regulations for cannabis business activities in commercial zones. It does not propose any physical development, nor does it result in the use of consumption of energy. Future projects would be reviewed in compliance with CEQA and the Department of Cannabis Control's Licensing Requirements, California Building Codes, the City's Municipal Code Chapter 9.30, the Inland General Plan, and the Inland Land Use and Development Code. Therefore, the proposed amendments to the code would have no impact on energy.

References

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Geology and Soils

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
VII. GEOLOGY AND SOILS. Would the project:				
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Setting

The City of Fort Bragg is located in the Coastal Range geomorphic province of California in an area of relatively steep and mountainous topography. The City itself is built on uplifted marine terrace deposits. Soils in the City of Fort Bragg are variations of sand dune, sandy loams, and the like. (See Figure 6)

There are no mines nor identified mineral resources in the City limits.

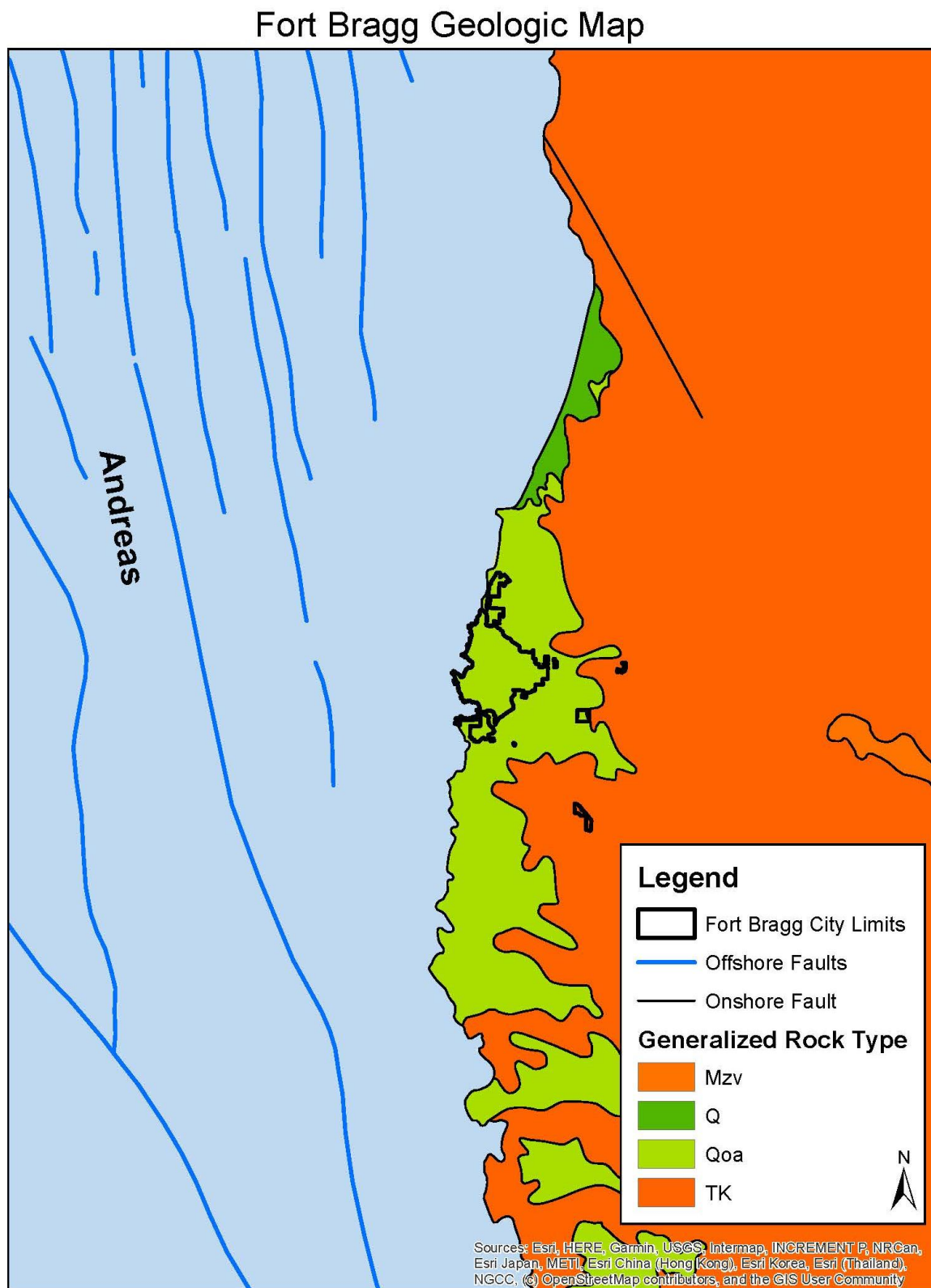
Regionally, the University of California Museum of Paleontology (UCMP) database lists 513 fossil localities within Mendocino County (UCMP, 2020). Of the known fossil localities, 63 are from the Cretaceous period and 2 are from the Jurassic Period. A review of the Mendocino County fossil record indicates that 10 early Cretaceous fossils have been discovered within the County and no late Jurassic fossils have been discovered. (UCMP, 2020)

Seismically, the City is located between two major fault systems, the Mayacamas Fault is 20 miles east of the City and runs north-south roughly along Highway 101. The San Andreas Fault network runs is approximately 5 miles offshore from the City as seen in Figure 6.

According to the Department of Conservation’s Earthquake Zones of Required Investigation (EZRI), the City of Fort Bragg does not contain any EZRIs nor any Alquist Priolo fault traces or zones. The Department of Conservation’s “Earthquake Shaking Potential for California” shows the relative intensity of ground shaking anticipated from future earthquakes. The City of Fort Bragg is shown as moderate level of intensity for 1.0 second earthquake shaking as seen in Figure 7.

The City also has some areas that have potential for landslides. There are areas along the Noyo River and Pudding Creek that may present a higher risk for landslide due to steep slopes. The landslide inventory map in Figure 8 shows the locations with solid lines and points to indicate historic slide activity. (DOC, 2022)

Figure 6: Geology of the City of Fort Bragg



Source: <https://maps.conservation.ca.gov/cgs/gmc/>

Figure 7: Earthquake Shaking Potential Map

Earthquake Shaking Potential for Fort Bragg

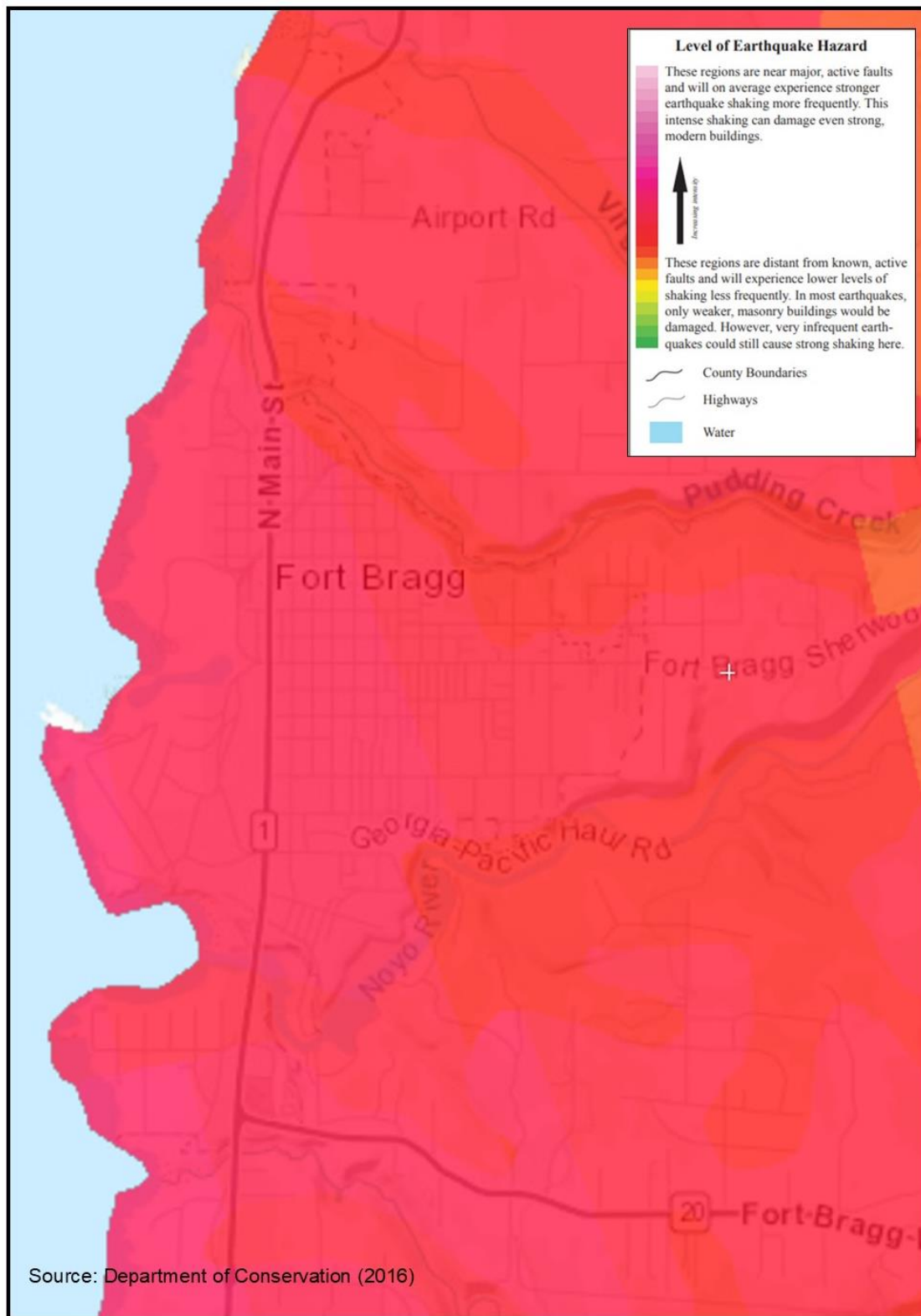


Figure 8: Map of Historic Landslides and Potential Landslide Areas in Fort Bragg

Landslides Identified by the California Landslide Inventory



Regulatory Setting

Regulations at the federal and state level require planning and development standards for seismic, geologic, and soil activity.

At the federal level, the Robert T. Stafford Disaster Relief and Emergency Assistance Act constitutes the statutory authority for most federal disaster response activities and established the presidential disaster declaration process. The Disaster Mitigation Act amended the Stafford Act and requires hazard mitigation plans as a pre-requisite for certain kinds of non-emergency disaster assistance. The Disaster Mitigation Act of 2000 also created the Pre-Disaster Mitigation Program and added incentives for states deemed “enhanced” who demonstrate increased coordination and integration of mitigation activities. In accordance with the Disaster Mitigation Act of 2000, the State of California has a Hazard Mitigation Plan that addresses earthquakes and geologic hazards. The City of Fort Bragg has a Hazard Mitigation Plan in conjunction with the County of Mendocino that addresses potential hazards related to seismic activities, landslides, and other geologic hazards.

The State of California has a long history of seismic activity. In 1972, the Alquist-Priolo Earthquake Fault Zoning Act was signed into law. The purpose of the act was to address the hazards posed by seismic activity. Amended in 1993, the Alquist Priolo Earthquake Fault Zoning Act *provides for the adoption and administration of zoning laws, ordinances, rules, and regulations by cities and counties in implementation of the general plan that is in effect in any city or county. The Legislature declares that this chapter is intended to provide policies and criteria to assist cities, counties, and state agencies in the exercise of their responsibility to prohibit the location of developments and structures for human occupancy across the trace of active faults. Further, it is the intent of this chapter to provide the citizens of the state with increased safety and to minimize the loss of life during and immediately following earthquakes by facilitating seismic retrofitting to strengthen buildings, including historical buildings, against ground shaking.*” (PRC 2621.5)

“Alquist-Priolo earthquake fault zones are regulatory zones surrounding the surface traces of active [faults](#) in California. (A trace is a line on the earth's surface defining a fault.) Wherever an active fault exists, if it has the potential for surface rupture, a structure for human occupancy cannot be placed over the fault and must be a minimum distance from the fault (generally fifty feet).

Earthquake fault zones were conceived in the [Alquist-Priolo Earthquake Fault Zoning Act](#) (Alquist-Priolo Act). The intent of the Alquist-Priolo Act is to reduce losses from surface fault rupture. California created this law following the destructive 1971 San Fernando earthquake (magnitude 6.6), which was associated with extensive surface fault ruptures that damaged numerous structures.

*An **active fault**, for the purposes of the Alquist-Priolo Act, is one that has ruptured in the last 11,000 years.”* (DOC, 2022)

Additionally, “The 2019 California Building Standards Code (CBC) (Cal. Code Regs., Title 24) was published July 1, 2019, with an effective date of January 1, 2020. Information Bulletin 19-04 and Information Bulletin 19-05 provide detailed information concerning the 2019 publication.” (Building Standards Commission, 2021) The CBC regulates the construction of buildings to ensure public safety in the event of seismic activity.

At the local level, the Inland General Plan policies and programs that address geology and soils include:

<p>Safety Goal SF-1 Policy SF-1.1 Minimize Hazards: New development shall: (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard; and (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs</p>
<p>Safety Goal SF-1 Policy SF-1.1 Program SF-1.1.1 Continue to comply with the provisions of the State Alquist-Priolo Act.</p>
<p>Safety Goal SF-1 Policy SF-1.1 Program SF-1.1.2 Require professional inspection of foundations and excavations, earthwork, and other geotechnical aspects of site development during construction on those sites specified in soils, geologic, and geotechnical studies as being prone to moderate or high levels of seismic hazard.</p>
<p>Safety Goal SF-1 Policy SF-1.1 Program SF-1.1.3 Monitor and review existing critical, high priority buildings to ensure structural compliance with seismic safety standards.</p>
<p>Safety Goal SF-1 Policy SF-1.1 Program SF-1.1.7 Continue to comply with State law regarding reinforcement of unreinforced masonry structures.</p>
<p>Safety Goal SF-1 Policy SF-1.2 Geotechnical report required: Applications for development located in or near an area subject to geologic hazards, including but not limited to areas of geologic hazard shown on Map SF-1, shall be required to submit a geologic/soils/geotechnical study that identifies all potential geologic hazards affecting the proposed project site, all necessary mitigation measures, and demonstrates that the project site is suitable for the proposed development and that the development will be safe from geologic hazard. Such study shall be conducted by a licensed Certified Engineering Geologist (CEG) or Geotechnical Engineer (GE). Refer to Map SF-1: Geologic Hazards. Refer to the General Plan Glossary for definitions of these terms.</p>
<p>Safety Goal SF-1 Policy SF-1.4 Identify Potential Hazards: Identify potential hazards relating to geologic and soils conditions during review of development applications.</p>
<p>Safety Goal SF-1 Policy SF-1.4 Program SF-1.4.1 Evaluate slopes over 15 percent, unstable land, and areas susceptible to liquefaction, settlement, and/or soil expansion for safety hazards prior to issuance of any discretionary approvals and require appropriate measures to reduce any identified hazards.</p>

Safety Goal SF-1 Policy SF-1.4 Program SF-1.4.2 Require that development in areas with identified slope stability constraints as shown on Map SF-1 or other areas where City staff determines there is potential slope stability issues be supervised and certified by a geologist, geotechnical engineer, or engineering geologist.

Safety Goal SF-1 Policy SF-1.4 Program SF-1.4.3 Require repair, stabilization, or avoidance of active or potentially active landslides, areas of soil creep, or areas with possible debris flow as a condition of project approval.

As referenced in Map SF-1 in the Inland General Plan shows the known Geologic Hazards in the City of Fort Bragg. (See Figure 9)

The ILUDC Chapter 18.62 provides standards for grading, erosion, and sediment control. A proposed project that creates ground disturbance would have to be in compliance with any applicable section of this chapter including §18.62.030 Erosion and Sediment Control, §18.62.070 Revegetation and Slope Surface Stabilization, §18.62.090 Setbacks for Cut and Fill Slopes, and any other section that regulates erosion.

Also of relevance to this section, paleontological resources are the fossilized evidence of organisms preserved in the geologic (rocks) record. Fossils are considered nonrenewable resources that are protected by federal, state, and local environmental laws and regulations.

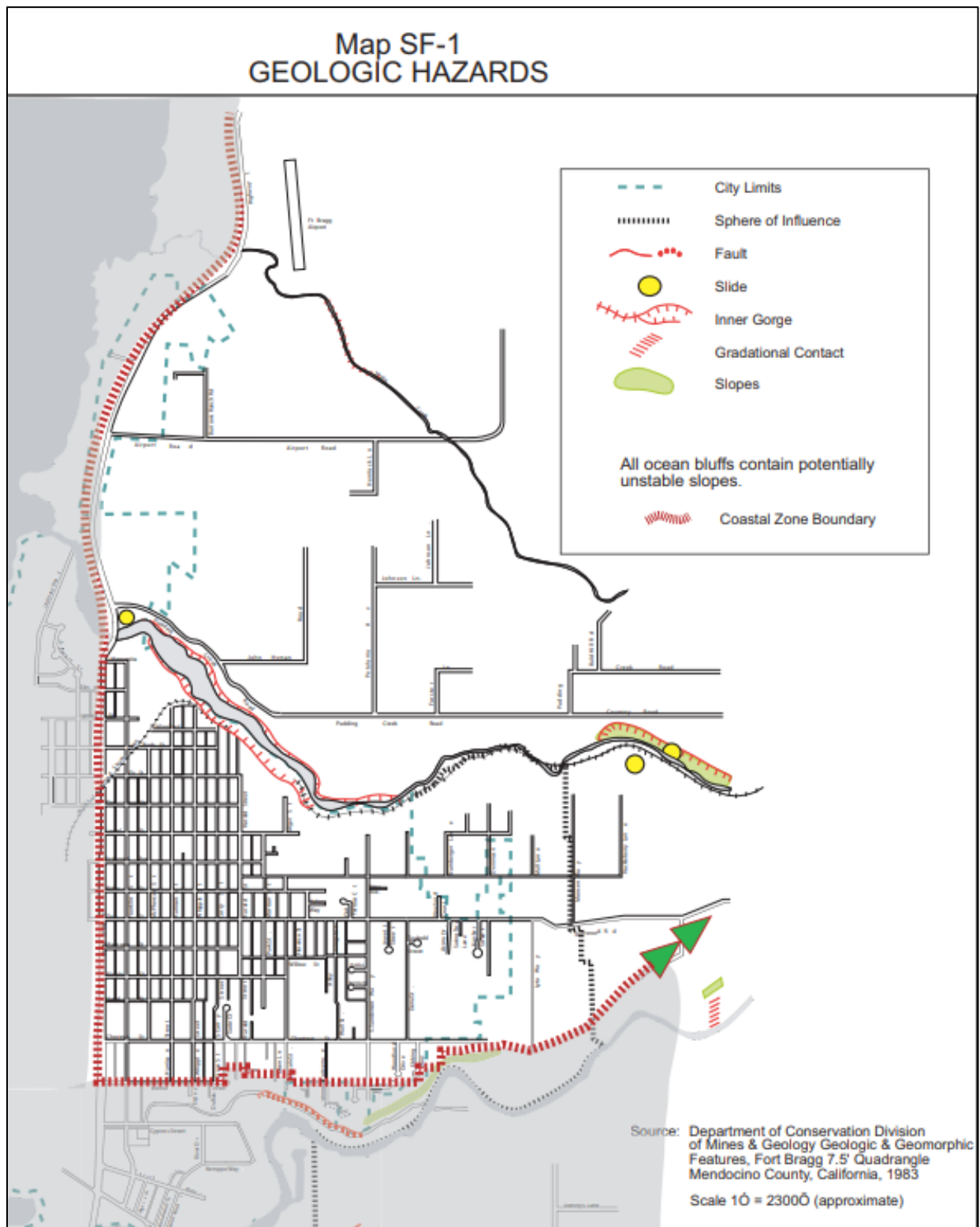
Discussion

As previously noted, the proposed amendments to the Municipal Code and the Inland Land Use and Development Code will not change the general requirements for development in the City. The project would establish regulations for a new use, commercial cannabis cultivation in the industrial zone and make minor modifications to existing regulations for cannabis business activities in the commercial zone. All existing and future CBP applications are subject to discretionary review and must comply with CEQA.

The construction of any new facilities and any structural changes to existing commercial or industrial buildings received under as part of a CBP application under the proposed ordinances, would require a building permit and demonstrate compliance with the Title 24 Building Code and meet current seismic standards, and the City's regulations for grading, erosion, and sediment control.

The proposed the project, changes to the City's codes regulating cannabis cultivation, would not result in any new buildings or structures and does not involve any physical development. Further, there are no changes proposed that would alter the City's established regulation governing the protection of public health and safety related to geology and soils. Therefore, the proposed project will have no impact on geologic and soil resources in the City of Fort Bragg.

Figure 9: General Plan Map SF-1 Geologic Hazards in the City of Fort Bragg



References

Branum, D., Chen, R., Petersen, and C. Wills, "Earthquake Shaking Potential for California." State of California Department of Conservation and California Geological Survey. Map Sheet 489, Revised 2016.

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State of California Public Resources Code, Division 2, Chapter 7.5 Earthquake Fault Zoning [2621-2630] https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=PRC&division=2.&title=&part=&chapter=7.5.&article=

State of California, Governor's Office of Planning and Research. (2022, January 5) OPR General Plan Guidelines Tool. Retrieved from: <http://maps.gis.ca.gov/cageneralplan/map.aspx>

Greenhouse Gases

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
VIII. GREENHOUSE GAS EMISSIONS.				
Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Regulatory Setting

Greenhouse Gas (GHG) is used to describe atmospheric gases naturally contained within the earth's atmosphere that absorb solar radiation and subsequently emit radiation in the thermal infrared region of the energy spectrum, trapping heat in the Earth's atmosphere. These gases include carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), and water vapor, among others. A growing body of research attributes long-term changes in temperature, precipitation, and other elements of the earth's climate to large increases in GHG emissions since the mid-nineteenth century, particularly from human activity related to fossil fuel combustion. Anthropogenic GHG emissions of particular interest include CO₂, CH₄, N₂O, and fluorinated gases. CO₂e represents CO₂ plus the additional warming potential from CH₄ and N₂O. The common unit of measurement for CO₂e is metric tons (MTCO₂e).

In 2007, the United States Supreme Court ruled that Greenhouse Gas Emissions (GHGs) are air pollutants under the Clean Air Act. In 2009, the National Highway Traffic Safety Administration and US EPA issued the first Corporate Fuel Economy (CAFE) Standards to improve fuel economy and reduce GHGs. These standards were updated in 2021 and expected to be updated again in the coming year(s).

The State of California regulates GHGs through the California Air Resources Board (CARB) and has permitting and reporting requirements for large stationary producers of GHGs. However, emissions related to cultivation are typically below the level that requires mandatory reporting.

California Assembly Bill 1493 was passed in 2002 which required CARB to develop and implement regulations to reduce automobile and light truck GHG emissions. Also, the Governor's Executive Order S-03-05 in 2005 called for reductions of GHGs to 2000 levels by 2010 and 1990 levels by 2020, and 80% of 1990 levels by 2050. These goals

were affirmed by Executive Order B-16-2012 in 2012 and an additional target was established for 40% below 1990 levels by 2030 via Executive Order B-30-15.

Additionally, the State of California passed AB 32, the Global Warming Solutions Act in 2006 to set a statewide target to reduce emissions to 1990 levels by 2020. An update to the plan to achieve the reductions was updated by CARB in 2017 which aims at achieving goals by 2030. Currently, CARB is developing a 2022 Scoping Plan Update which aims at achieving Carbon Neutrality by 2045.

The State of California has continued to develop rules and regulations on GHGs including:

- Senate Bill 32 and Assembly Bill 197 – follow ups to the California Global Warming Solutions Act.
- Executive Order S-1-07 - Low Carbon Fuel Standard
- Senate Bill 375 – Sustainable Communities and Climate Protection Act of 2008
- Renewable Portfolio Standards established by SB 1078, Executive Order S-14-08, SB X1-2 and SB 350.

Specifically for cannabis cultivation, the Department of Cannabis Control's Medicinal and Adult-Use Commercial Cannabis Regulations, California Code of Regulations Title 4 Division 19 §15020 provides the following requirements for cannabis businesses:

(f) Beginning January 1, 2022, an application for renewal of a license to engage in commercial cannabis cultivation shall include the following records, for each power source indicated on the application for licensure for the previous annual licensed period:

(1) Total electricity supplied by local utility provider, name of local utility provider, and greenhouse gas emission intensity per kilowatt hour reported by the utility provider under section 398.4(c) of the Public Utilities Code for the most recent calendar year available at time of submission;

(2) Total electricity supplied by a zero net energy renewable source, as set forth in section 398.4(h)(5) of the Public Utilities Code, that is not part of a net metering or other utility benefit;

(3) Total electricity supplied from other unspecified sources, as defined in section 398.2(e) of the Public Utilities Code, and other onsite sources of generation not reported to the local utility provider (e.g., generators, fuel cells) and the greenhouse gas emission intensity from these sources; and

(4) Average weighted greenhouse gas emission intensity considering all electricity use in subsections (f)(1)-(f)(3).

Also, the State of California Department of Cannabis Control Regulations §16305. Renewable Energy Requirements (**See Attachment F**):

(a) Beginning January 1, 2023, all holders of indoor, tier 2 mixed-light license types of any size, and all holders of nursery licenses using indoor or tier 2 mixed-light techniques shall ensure that electrical power used for commercial cannabis activity meets the average electricity greenhouse gas

emissions intensity required by their local utility provider pursuant to the California Renewables Portfolio Standard Program in division 1, part 1, chapter 2.3, article 16 (commencing with section 399.11) of the Public Utilities Code.

(b) If a licensed cultivator’s average weighted greenhouse gas emission intensity, as calculated and reported upon license renewal pursuant to section 15020, is greater than the local utility provider’s greenhouse gas emission intensity, the licensee shall obtain carbon offsets to cover the excess in carbon emissions from the previous annual licensed period. The carbon offsets shall be purchased from one or more of the following recognized voluntary carbon registries:

- (1) American Carbon Registry;*
- (2) Climate Action Reserve; or*
- (3) Verified Carbon Standard.*

Locally, the City of Fort Bragg’s Inland General Plan Element 9 - Sustainability provides goals and policies on GHG reductions. These include:

Sustainability Goal S-2 Encourage development that minimizes the demand for non-renewable energy and reduces Green House Gas (GHG) emissions.
Sustainability Goal S-2 Policy S-2.1 Passive Solar Design Strategies: All building and site design shall use passive solar design strategies for space heating and lighting to reduce energy demand to the extent feasible.
Sustainability Goal S-2 Policy S-2.3 Reduce Energy Demand with a goal of Net Zero Energy in New Construction. All new construction shall minimize energy use. Net zero buildings and homes are encouraged. These homes produce as much energy (through conservation, photovoltaic panels, solar hot water, wind, and geothermal) as they consume and have a net zero impact on greenhouse gas production.
Sustainability Goal S-2 Policy S-2.4 Require passive solar design in new construction, where feasible, as part of Design Review.
Sustainability Goal S-2 Policy S-2.4 Program S-2.4.1: Modify the Citywide Design Guidelines to include guidelines that require passive solar design for residential and commercial new construction projects.
Sustainability Goal S-2 Policy S-2.5 Use of Local and Renewable Energy: Buildings and infrastructure that create and/or use locally and renewably generated energy are encouraged. Photovoltaic and wind energy systems are encouraged. The installation of solar panels or other clean energy power generation sources over parking areas is preferred

Furthermore, in the City’s Municipal Code, Chapter 9.30 Cannabis Business §9.30.140(D) currently says that “*the Commercial cannabis cultivation shall either enroll in a community choice aggregate energy provider or install solar panels.*”

Discussion

As previously noted, the proposed ordinances would establish regulations for commercial cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones. This project in and of itself does not propose any physical development and any future proposed cultivation application would be subject to discretionary review, at which time it would be determined if the project would have significant impacts on Greenhouse Gas Emissions. The proposed amendments do not change the land use designations for any properties and conditionally allows the introduction of cannabis cultivation in industrial zones and makes minor modifications to existing regulations for commercial zones. It does not change any of the plans or regulations for reducing greenhouse gas emissions. Therefore, the proposed project, limited to the proposed amendments to the Municipal Code and Inland Land Use and Development Code, will have no impacts on Greenhouse Gas Emissions.

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Hazards and Hazardous Materials

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
IX. HAZARDS AND HAZARDOUS MATERIALS. Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Regulatory Setting

Hazardous materials, including hazardous substances and wastes are regulated by state and federal laws. Statutes govern the generation, treatment, storage and disposal of hazardous materials, substances, and waste, and also the investigation and mitigation of waste releases, air and water quality, human health and land use.

Federally, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) regulates the effects of past hazardous waste disposal activities and new hazardous spills. It created a tax on chemical and petroleum industries to support funding for clean-up of abandoned or uncontrolled hazardous waste sites with no responsible party. This was amended in 1986 by Superfund Amendments and Reauthorization Act to increase the focus on human health problems posed by hazardous waste.

The Resource Conservation and Recovery Act (RCRA) was adopted in 1976. This provided national goals for protecting human health and the environment from the potential hazards related to waste disposal. It also provided for conservation of energy and natural resources, reductions in the amount of waste generated, and ensured that waste is managed in an environmentally sound manner.

Additionally, the Emergency Planning and Community Right-to-Know Act included Section 313, the Toxic Release Inventory (TRI). This is a publicly available database that contains information on disposal and other releases of toxic chemicals from industrial facilities. Facilities that release toxic chemicals above a certain threshold are required to submit information through the TRI database.

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) was adopted in 1947 and amended in 1972 and 1996. It mandates that the EPA regulate the use and sale of pesticides.

To create workplace safety and protect the health of workers, the Occupational Safety and Health Act was adopted in 1970. It created the Occupational Safety and Health Administration (OSHA) which creates and enforces regulations on worker safety.

Other federal laws regulating hazardous materials include:

- Community Environmental Response Facilitation Act (CERFA) of 1992
- Clean Water Act
- Clean Air Act
- Safe Drinking Water Act
- Atomic Energy Act
- Toxic Substances Control Act (TSCA)

In addition to the acts listed above, Executive Order (EO) 12088, Federal Compliance with Pollution Control Standards, mandates that necessary actions be taken to prevent and control environmental pollution when federal activities or federal facilities are involved.

At the state level, California regulates hazardous materials, waste, and substances under the authority of the California Health and Safety Code and is also authorized by the federal government to implement RCRA. California law also addresses specific handling, storage, transportation, disposal, treatment, reduction, cleanup and emergency planning of hazardous waste. The Porter-Cologne Water Quality Control Act also restricts disposal of wastes and requires clean-up of wastes that are below hazardous waste concentrations but could impact ground and surface water quality. California regulations that address waste management and prevention and clean up contamination include Title 22 Division 4.5 Environmental Health Standards for the Management of Hazardous Waste, Title 23 Waters, and Title 27 Environmental Protection.

The California Department of Toxic Control Substances regulates toxic substances in California. Additionally, the North Coast Regional Water Quality Control Board regulates the cleanup of contaminated sites.

Under 3 CCR Division 6, the California Department of Pesticide Regulation (CDPR) oversees state and federal laws for regulating pesticides. Under MACURSA, CDPR is responsible for:

1. *Providing statewide guidance on the use of pesticides in the cultivation of cannabis*
2. *Providing guidance to the Bureau of Cannabis Control on testing for pesticides*
3. *Requiring that pesticides being applied to cannabis comply with food and agriculture standards* (California Department of Pesticide Regulation, 2022)

Additionally, the following state laws regulate hazards and hazardous waste:

- California Accidental Release Prevention Program (CalARP) (CCR Title 19, Division 2, Chapter 4.5) provides requirements for businesses that handle more than a threshold quantity of regulated substances.
- California Fire Code—Hazardous Materials Management Plans and Hazardous Materials Inventory Statements – California Fire Code (29 CCR Part 9) provides requirements and regulations for businesses that handle more than a threshold quantity of hazardous material(s).
- California Emergency Services Act – requires the state to develop a statewide toxic disaster contingency plan that can facilitate an effective, multi-agency response to a situation in which toxic substances are dispersed.
- Pesticide Contamination Prevention Act (Sections 13145-13152 of the Food and Agricultural Code)

- Safe Drinking Water and Toxic Enforcement Act (Proposition 65)
- The California Fire Code (24 CCR Part 9) – minimum requirements to safeguard the public health, safety, and general welfare from the hazards of fire, explosion, or dangerous conditions in new and existing buildings.

The State of California Department of Cannabis Control (DCC) has specific waste management regulations for cannabis businesses in §17223 of the Medicinal and Adult-Use Commercial Cannabis Regulations, California Code of Regulations.

§15011. Additional Information. (a) A commercial cannabis business applying for a license to cultivate cannabis shall provide the following information:... (12) For all cultivator license types except processor, a signed attestation that states the commercial cannabis business shall contact the appropriate County Agricultural Commissioner regarding requirements for legal use of pesticides on cannabis prior to using any of the active ingredients or products included in the pest management plan and shall comply with all pesticide laws.

§15408. Sale of Live Plants and Seeds... (b) A licensed retailer shall not apply or use any pesticide on live plants. A licensed retailer shall not cause any pesticide to be applied or used on live plants.

§16307. Pesticide Use Requirements

§17209. Grounds, Building, and Manufacturing Premises. (C) Poisonous or toxic materials such as cleaning compounds, sanitizing agents, and pesticide chemicals that are necessary for premises and equipment maintenance and operation shall be handled and stored in a manner that meets the requirements of Health and Safety Code sections 114254.1, 114254.2 and 114254.3

At the local level, the following policies and programs from the Inland General Plan address hazards and hazardous waste:

Safety Goal SF-4 Policy SF-4.1 Minimize Fire Risk in New Development: Review all development proposals for fire risk and require mitigation measures to reduce the probability of fire.
Safety Goal SF-4 Policy SF-4.1 Program SF-4.1.1: Continue to consult the Fort Bragg Fire Protection Authority in the review of development proposals to identify the projected demand for fire protection services and implement measures to maintain adequate fire protection services. Mitigation measures may include levying fire protection impact fees for capital facilities, if warranted.
Safety Goal SF-7 Policy SF-7.1 Protection from Hazardous Waste and Materials: Provide measures to protect the public health from the hazards associated with the transportation, storage, and disposal of hazardous wastes (TSD Facilities).

Safety Goal SF-7 Policy SF-7.1 Program SF-7.1.1 Continue to ensure that use, transportation, and disposal of hazardous materials are in accordance with the local, State, and Federal safety standards.
Safety Goal SF-7 Policy SF-7.1 Program SF-7.1.2 Continue to support and participate in Mendocino County's Hazardous Materials Business Plan which requires all businesses using hazardous materials to list the types, quantities, and locations of hazardous materials with the County's Department of Environmental Health.
Safety Goal SF-7 Policy SF-7.1 Program SF-7.1.3 Require, as a condition of City approvals of non-residential projects, that the Fire Protection Authority be notified of all hazardous substances that are transported, stored, treated, or could be released accidentally into the environment.
Safety Goal SF-7 Policy SF-7.1 Program SF-7.1.4 Require that applications for discretionary development projects that will generate hazardous waste or utilize hazardous materials include detailed information on hazardous waste reduction, recycling, transportation, and storage, and prepare a plan for emergency response to a release or threatened release of a hazardous material.
Safety Goal SF-7 Policy SF-7.1 Program SF-7.1.5 Revise the Zoning Ordinance to require secondary containment facilities and a buffer zone adequate to protect public health and safety on properties with hazardous materials storage and/or processing activities.
Safety Goal SF-7 Policy SF-7.2 Support Environmental Review of Hazardous Waste Transportation, Storage and Disposal Facilities: Support a thorough environmental review for Hazardous Waste Transportation, Storage and Disposal (TSD) Facilities, including waste to energy projects, proposed in the Fort Bragg area
Safety Goal SF-7 Policy SF-7.2 Program SF-7.2.1 Require that the environmental review of proposed Hazardous Waste TSD facilities shall, at a minimum, contain the following analysis and information:

The City's Municipal Code Title 6 Health and Sanitation Chapter 6.24 regulates hazardous materials in the City Limits and Municipal Code Chapter 14.16 Sanitary Code, regulates potential introduction of pollutants into the sanitary sewer network and storm drains. §14.16.090 prohibits pollutants and provides a list. §14.16.090(A)(21) lists a table of toxicants and the maximum allowable concentration in milligrams/liter.

Discussion

The proposed ordinances would establish regulation for cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones. Indoor cannabis cultivation as a land use is comparable in intensity to other allowable/conditionally allowed uses in the industrial zone, namely manufacturing, fish processing, or agricultural product processing. The proposed ordinances do not change the regulatory environment for hazardous materials, nor does it expand the size or locations of zones for industrial or commercial land uses.

All future cultivation applications would be subject to discretionary review and subject to CEQA, including an evaluation of potential hazards and hazardous waste. The current Municipal Code §9.30.050(N) requires detailed operating procedures for:

- How the business will comply with applicable state regulations;
- Product safety and quality assurances;

If a future application is received for a proposed commercial cannabis cultivation it would be reviewed to determine if the project would be 1) located on an existing site requiring remediation and/or 2) using substances or materials that may be hazardous. If a proposed application were to have either of these situations potential impacts would be evaluated through the CEQA review process.

The proposed code amendments do not change the regulatory framework or procedures for conducting development review and ensure that future cultivation application are discretionary and subject to CEQA. As an amendment to the existing codes, the project does not propose any physical development and would not result in environmental impact. Therefore, the proposed project will have no impact on hazards and hazardous materials.

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Hydrology and Water Quality

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>X. HYDROLOGY AND WATER QUALITY. Would the project:</p>				
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) result in substantial erosion or siltation on- or off-site;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Setting

The City of Fort Bragg is located along the Pacific Ocean, in the Mendocino Coast Hydrologic Unit in the Noyo River Hydrologic Area (NCRWQCB, 2022). The City of Fort Bragg spans three watersheds, including the Pudding Creek Watershed, and the Hare Creek Watershed.

The City of Fort Bragg’s water supply comes from three main sources including Waterfall Gulch, Newman Gulch, and the Noyo River. Raw water from the Noyo River is conveyed from the Madsen Hole intake structure, located to the east of the water treatment plant (WTP), and is pumped via 10-inch and 14-inch diameter pipelines directly to the WTP.

According to OPR’s General Plan Guideline Tools, both Pudding Creek, the Noyo River, and the river mouth at Hare Creek are all listed as 303d Waters (see Figure 10). *These waters on the list do not meet water quality standards, even after point sources of pollution have installed the minimum required levels of pollution control technology.* (OPR, 2022)

Flood Zones

Figure 11 shows the areas of the City at risk for flooding. There are no inland industrial or commercial lands in these areas.

Tsunami Zones

There are areas of the City of Fort Bragg that are potentially within a Tsunami Hazard Zone as seen in Figure 12. However, as seen in this map, the areas subject to Tsunami Hazard are not in the inland zones of the City of Fort Bragg.

Figure 10: 303d Listed Waterways in the City of Fort Bragg

Fort Bragg 303d Impaired Waters



Figure 11: Flood Risk Map of the City of Fort Bragg

Fort Bragg 100 Year Flood Map

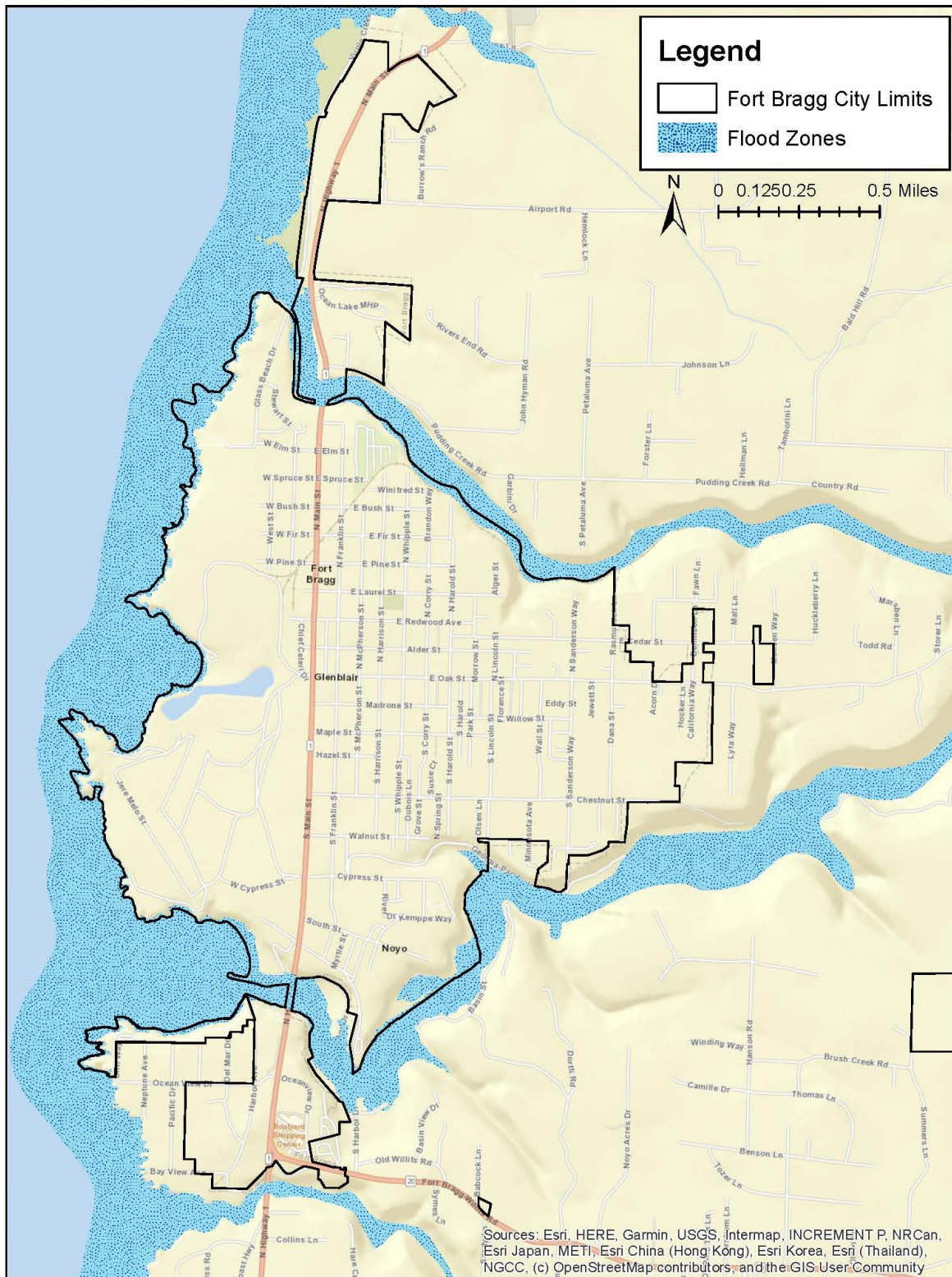
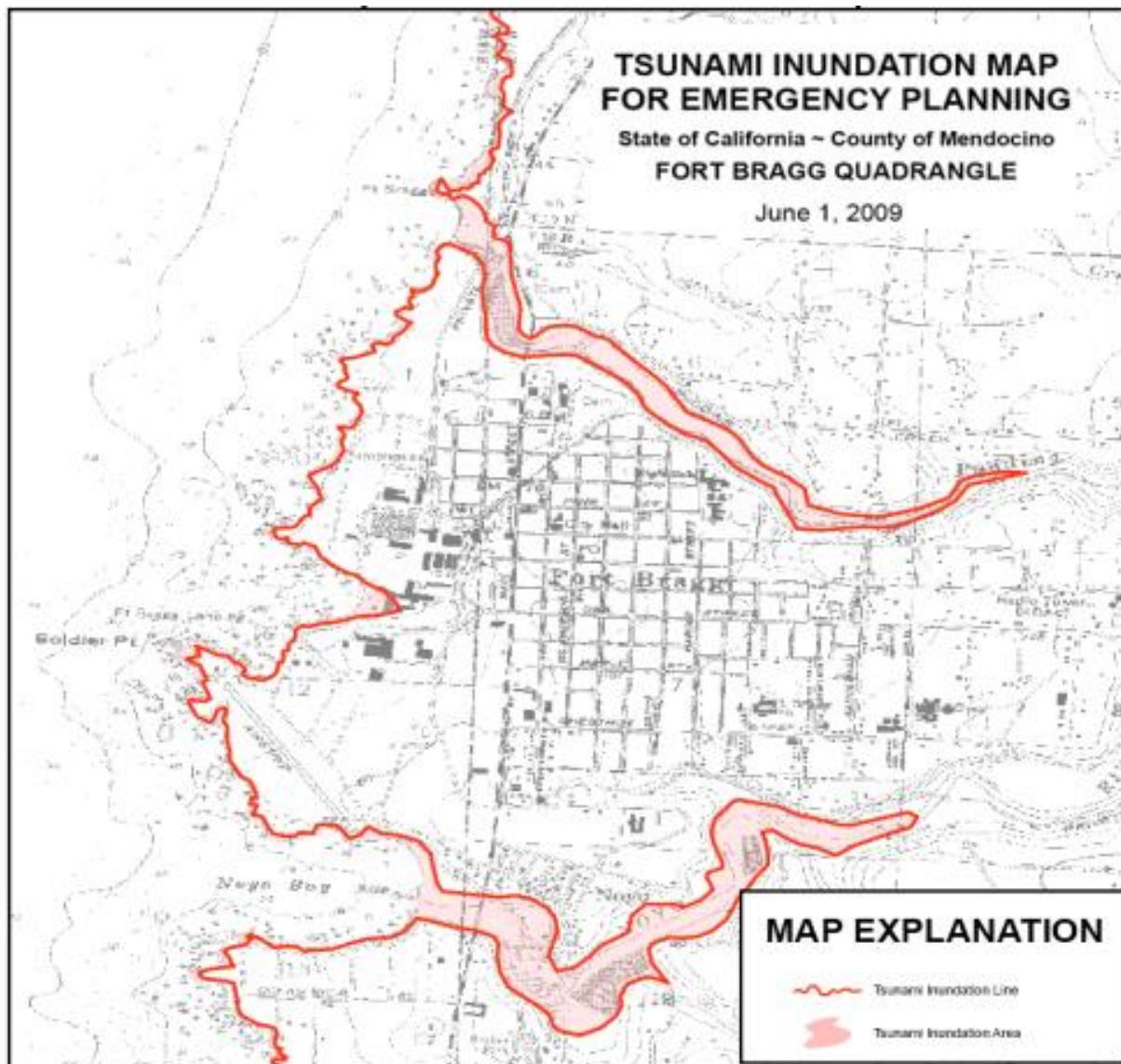


Figure 12: General Plan Map SF-3 Tsunami Inundation Map for Emergency Planning



Source: City of Fort Bragg Inland General Plan

Regulatory Setting

In 1972 Congress amended the Federal Water Pollution Control Act, making the addition of pollutants to the waters of the United States (U.S.) from any point source unlawful unless the discharge is in compliance with a NPDES permit. Known today as the Clean Water Act (CWA), Congress has amended it several times. In the 1987 amendments, Congress directed dischargers of stormwater from municipal and industrial/construction point sources to comply with the NPDES permit program. Important CWA sections are:

- Sections 303 and 304 require states to promulgate water quality standards, criteria, and guidelines.
- Section 401 requires an applicant for a federal license or permit to conduct any activity, which may result in a discharge to waters of the U.S., to obtain certification from the State that the discharge will comply with other provisions of the act. (Most frequently required in tandem with a Section 404 permit request. See below).
- Section 402 establishes the NPDES, a permitting system for the discharges (except for dredge or fill material) of any pollutant into waters of the U.S. The Federal Environmental Protection Agency delegated to the California State Water Resources Control Board (SWRCB) the implementation and administration of the NPDES program in California. The SWRCB established nine RWQCBs. The SWRCB enacts and enforces the Federal NPDES program and all water quality programs and regulations that cross Regional boundaries. The nine RWQCBs enact, administer and enforce all programs, including NPDES permitting, within their jurisdictional boundaries. Section 402(p) requires permits for discharges of stormwater from industrial, construction, and Municipal Separate Storm Sewer Systems (MS4s).
- Section 404 establishes a permit program for the discharge of dredge or fill material into waters of the U.S, including wetlands. This permit program is administered by the U.S. Army Corps of Engineers (Corps).

The objective of the CWA is “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.”

At the State level, the California’s Porter-Cologne Water Quality Control Act, enacted in 1969, provides the legal basis for water quality regulation within California. This Act requires a “Report of Waste Discharge” for any discharge of waste (liquid, solid, or gaseous) to land or surface waters that may impair beneficial uses for surface and/or groundwater of the State. It predates the CWA and regulates discharges to waters of the State. Waters of the State include more than just waters of the U.S., such as groundwater and surface waters not considered waters of the U.S. Additionally, it prohibits discharges of “waste” as defined and this definition is broader than the CWA definition of “pollutant”. Discharges under the Porter-Cologne Act are permitted by WDRs and may be required even when the discharge is already permitted or exempt under the CWA.

The State Water Resources Control Board (SWRCB) adjudicates water rights, sets water pollution control policy, and issues water board orders on matters of statewide application, and oversees water quality functions throughout the state by approving Basin Plans, TMDLs, and NPDES permits. RWCQBs are responsible for protecting beneficial uses of water resources within their regional jurisdiction using planning, permitting, and enforcement authorities to meet this responsibility. (SWRCB, 2022)

The SWRCB and for Fort Bragg, the North Coast Regional Water Quality Control Board (NCRWQCB) are responsible for establishing the water quality standards (objectives and beneficial uses) as required by the CWA and regulating discharges to protect beneficial uses of water bodies. Details regarding water quality standards in a project

area are contained in the applicable NCRWQCB Basin Plan. The NCRWQCB designates beneficial uses for all water body segments in the North Coast Region, and then set standards necessary to protect these uses. Consequently, the water quality standards developed for particular water body segments are based on the designated use and vary depending on such use. Water body segments that fail to meet standards for specific pollutants are included in a Statewide List in accordance with CWA Section 303(d). In the case of the Noyo River, the listing is because of sediment and temperature. Hare Creek is listed due to the presence of indicator bacteria, and Pudding creek is listed because of indicator bacteria and temperature. (NCRWQCB, 2018)

Under the National Pollutant Discharge Elimination System (NPDES) Program is the Municipal Separate Storm Sewer Systems (MS4). Section 402(p) of the CWA requires the issuance of NPDES permits for five categories of stormwater dischargers, including MS4s. The U.S. EPA defines an MS4 as “any conveyance or system of conveyances (roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels, and storm drains) owned or operated by a state, city, town, county, or other public body having jurisdiction over storm water, that are designed or used for collecting or conveying stormwater.”

Construction General Permit (CGP) (NPDES No. CAS000002, SWRCB Order No. 2009-0009-DWQ, adopted on November 16, 2010) became effective on February 14, 2011 and was amended by Order No. 2010-0014-DWQ and Order No. 2012-0006-DWQ. The permit regulates stormwater discharges from construction sites which result in a disturbed soil area of one acre or greater, and/or are smaller sites that are part of a larger common plan of development.

For all projects subject to the CGP, the applicant is required to hire a Qualified Storm Water Pollution Prevention Plan (SWPPP) Developer (QSD) to develop and implement an effective SWPPP. All Project Registration Documents, including the SWPPP, are required to be uploaded into the SWRCB’s on-line Stormwater Multiple Application and Report Tracking System (SMARTS), at least 30 days prior to construction.

Projects that disturb over 1.0 acre but less than 5 acres of soil, may qualify for waiver of CGP coverage. This occurs whenever the R factor of the Watershed Erosion Estimate ($=R \times K \times LS$) in tons/acre is less than 5. Within this CGP formula, there is a factor related to when and where the construction will take place. This factor, the ‘R’ factor, may be low, medium or high. When the R factor is below the numeric value of 5, projects can be waived from coverage under the CGP, and are instead covered by the Caltrans Statewide MS4.

Construction activity that results in soil disturbances of less than one acre is subject to this CGP if there is potential for significant water quality impairment resulting from the activity as determined by the NCRWQCB. Operators of regulated construction sites are required to develop a SWPPP, to implement soil erosion and pollution prevention control measures, and to obtain coverage under the CGP. (SWRCB, 2022)

In some cases, the NCRWQCB may have specific concerns with discharges associated with a project. As a result, the NCRWQCB may prescribe a set of requirements known

as WDRs under the State Water Code (Porter-Cologne Act). WDRs may specify the inclusion of additional project features, effluent limitations, monitoring, and plan submittals that are to be implemented for protecting or benefiting water quality. WDRs can be issued to address both permanent and temporary discharges of a project. The project would need CWA Section 404 permit for construction of various Segments of the project.

Also at the state level, CDFW Lake and Streambed Alteration Program or Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following:

- *Substantially divert or obstruct the natural flow of any river, stream or lake.*
- *Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or*
- *Deposit debris, waste or other materials that could pass into any river, stream or lake.* (CDFW, 2022)

According to CDFW, "any river, stream or lake" includes those that are episodic (they are dry for periods of time) as well as those that are perennial (they flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water.

CDFW requires a Lake or Streambed Alteration (LSA) Agreement when it determines that the activity, as described in a complete LSA Notification, may substantially adversely affect existing fish or wildlife resources. An LSA Agreement includes measures necessary to protect existing fish and wildlife resources. CDFW may suggest ways to modify your project that would eliminate or reduce harmful impacts to fish and wildlife resources. Before issuing an LSA Agreement, CDFW must comply with the CEQA. (CDFW, 2022)

The City’s Inland General Plan Open Space Element contains the following relevant policies:

Open Space Goal OS-6 Policy OS-6.3 Minimize Increases in Stormwater Runoff: Development shall be designed and managed to minimize post project increases in stormwater runoff volume and peak runoff rate, to the extent feasible.
Open Space Goal OS-6 Policy OS-6.3 Program OS-6.3.1: Develop and implement Low Impact Development requirements in the Inland Land Use and Development Code. Remove regulatory barriers to Low Impact Development from the Inland LUDC where feasible.
Open Space Goal OS-6 Policy OS-6.4 Maintain and Restore Biological Productivity and Water Quality: Development shall maintain and, where feasible, restore the biological productivity and the quality of streams and wetlands to maintain optimum populations of aquatic organisms and for the protection of human health.

<p>Open Space Goal OS-6 Policy OS-6.5 Municipal Activities to Protect and Restore Water Quality: The City shall promote both the protection and restoration of water quality. Water quality degradation can result from a variety of factors, including but not limited to the introduction of pollutants, increases in runoff volume and rate, generation of non-stormwater runoff, and alteration of physical, chemical, or biological features of the landscape.</p>
<p>Open Space Goal OS-6 Policy OS-6.5 Program OS-6.5.2 BMPS for Municipal Maintenance Activities. The City shall ensure that municipal maintenance activities and other public projects integrate appropriate BMPs to protect water quality.</p>
<p>Safety Goal SF-2 Policy SF-2.1 Flood Hazards: Ensure adequate standards for development in the 100-year floodplain.</p>
<p>Safety Goal SF-2 Policy SF-2.1 Program SF-2.1.1 Maintain and update as necessary the zoning and building code standards and restrictions for development in identified floodplains and areas subject to inundation by a 100-year flood. Use the Federal Emergency Management Agency's Flood Insurance Rate Map (FIRM) in the review of development proposals</p>
<p>Safety Goal SF-2 Policy SF-2.1 Program SF-2.1.2: Ensure all development in flood prone areas meet Federal, State, and local requirements.</p>
<p>Safety Goal SF-2 Policy SF-2.2 Storm Drainage: Continue to maintain effective flood drainage systems and regulate construction to minimize flood hazards.</p>
<p>Safety Goal SF-2 Policy SF-2.2 Program SF-2.2.1: Continue to update the City's Storm Drain Master Plan.</p>
<p>Safety Goal SF-2 Policy SF-2.3 Require development to pay for the costs of drainage facilities needed to drain project-generated runoff.</p>
<p>Safety Goal SF-2 Policy SF-2.3 Program SF-2.3.1 Update and utilize the City's Drainage Development Impact Fees to ensure that development pays for its proportional share of drainage facilities.</p>
<p>Safety Goal SF-2 Policy SF-2.4 Require, where necessary, the construction of siltation/detention basins to be incorporated into the design of development projects.</p>
<p>Safety Goal SF-2 Policy SF-2.5 Require, as determined by City staff, analysis of the cumulative effects of development upon runoff, discharge into natural watercourses, and increased volumes and velocities in watercourses and their impacts on downstream properties. Include clear and comprehensive mitigation measures as part of project approvals to ensure that new development does not cause downstream flooding of other properties.</p>

Safety Goal SF-2 Policy SF-2.6 Analyze the impacts of and potential flooding issues resulting from Climate Change and rising sea levels on proposed projects located within the 100-year Sea-Level Rise Inundation Area (see Map SF-4).

Additionally, Article 5 Resource Protection of the ILUDC contains Chapter 18.52 which provides standards for the protection of watercourse and riparian resources within the City and Chapter 18.58 Wetland Protection and Restoration.

Discussion

There are numerous laws in place at the federal, state, and local level that regulate and protect hydrology and water quality from construction, development, and ongoing municipal and private operating activities. The proposed ordinances would establish regulation for commercial cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones. The proposed ordinances would not change regulatory setting for hydrology or water quality and no physical development is proposed.

Any future CBP applications proposed in compliance with the proposed amended codes would require a discretionary permit subject to review under CEQA. When a proposed project application is received, it would be reviewed for compliance with all state, regional, and local regulations regarding hydrology and water quality. Activities that involve actions that could potentially affect Waters of the State are subject to discretionary review by the NCRWQCB and compliance with the National Pollution Discharge Elimination System (NPDES) provisions. At the time future cannabis cultivation applications are received, the City's Public Works/Engineering Department will review proposals and impose conditions or refinements to demonstrate compliance with hydrology and water quality regulation, as warranted.

The project at hand is limited to updating the City's Municipal Code and Inland Land Use and Development Code to include regulation for commercial cannabis cultivation use in areas of the City where similar types of industrial and commercial uses are conditionally allowed. All existing development standards for industrial and commercial uses established to protect the environment including hydrology and water quality will remain applicable. There is no physical development or other physical changes to the environment that would occur under the proposed code amendments. Therefore, the proposed project will have no impacts on water quality or hydrology.

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Land Use and Planning

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XI. LAND USE AND PLANNING. Would the project:				
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Regulatory Setting

Land use planning is the long-range planning for the desirable use of land in a City (or other jurisdiction) for the purpose of guiding the development and changes in the use of lands to protect the community health, well-being, and enjoyment of private property. Early land-use planning authority came from a local government's ability to enforce nuisance laws until the US Department of Commerce published the States Zoning Enabling Act published in 1924 and the Standard City Planning Enabling Act (SCPEA) published in 1928.

The SZEA had nine sections. It included a grant of power, a provision that the legislative body could divide the local government's territory into districts, a statement of purpose for the zoning regulations, and procedures for establishing and amending the zoning regulations. A legislative body was required to establish a zoning commission to advise it on the initial development of zoning regulations...

The SCPEA covered six subjects:

1. *the organization and power of the planning commission, which was directed to prepare and adopt a "master plan"*
2. *the content of the master plan for the physical development of the territory*
3. *provision for adoption of a master street plan by the governing body*
4. *provision for approval of all public improvements by the planning commission*
5. *control of private subdivision of land*
6. *provision for the establishment of a regional planning commission and a regional plan (APA, 2022)*

In addition to Land Use Planning, there are other types of planning enabled through federal legislation mentioned in the appropriate corresponding sections of this report such as hazard mitigation planning and the housing element of the general plan.

At the State level, Planning and Land Use authorities and regulations are detailed in the California Government Code Title 7 Planning and Land Use [65000 - 66499.58] (Heading of Title 7 amended by Stats. 1974, Ch. 1536.) The Governor's Office of Planning and Research is the responsible state agency for regulating and enforcing this code. (OPR, 2022)

California state regulation SB 94 allows for local jurisdiction in California to regulate land use and zoning in relation to cannabis. The Medicinal and Adult-Use Cannabis Regulation and Safety Act provides the authority to control and regulate cultivation, distribution, transport, storage, manufacturing, and processing of cannabis. (CCR, 2022) The Department of Cannabis Control (DCC) is responsible for regulating cannabis businesses to ensure that operations are safe, products are contaminant free and labeled appropriately. (DCC, 2021)

The City of Fort Bragg's inland zones are under the jurisdiction of the City's Inland General Plan and Title 18 Inland Land Use and Development Code(ILUDC). The inland zones consist of areas outside of the City's coastal zone and are not under the jurisdiction of the California Coastal Commission.

Element 2 of the Inland General Plan (IGP) is the Land Use Element. The IGP *establishes goals, policies and programs to maintain the existing pattern of land uses within the City's Inland Area while anticipating and providing for future growth and development.* (IGP, 2013) The IGP identifies the physical locations of the zones on Map LU-1 (see Figure 13).

The City's goals, policies, and programs are implemented through the standards and regulations established in the ILUDC. The city's commercial, industrial, residential, and other zones are established in Article 2 which also provides the land use tables that describe allowable uses, conditionally allowable uses, and uses that are not allowed. Standards for specific land uses are regulated by Article 4 and Article 10 provides definitions and terminology necessary for interpreting the code.

The City's Municipal Code and ILUDC currently provide regulation for cannabis retail uses in §18.22.030 and §18.42.057 of the ILUDC which allows for retail cannabis with accessory uses. While the City's Municipal Code Chapter 9.30 allows for cannabis cultivation, it is not currently defined in the ILUDC or listed as a use in Article 2. Retail cannabis activity currently requires a Cannabis Business Permit and a conditional Minor Use or Use Permit.

Site planning, design standards, and development, resource protection, and the planning permit process are all regulated by the ILUDC. The City's Zoning Map designates the zoning of all parcels located within the inland zone of the City (See Figure 14).

Figure 13: General Plan Map LU-1 Land Use Designations

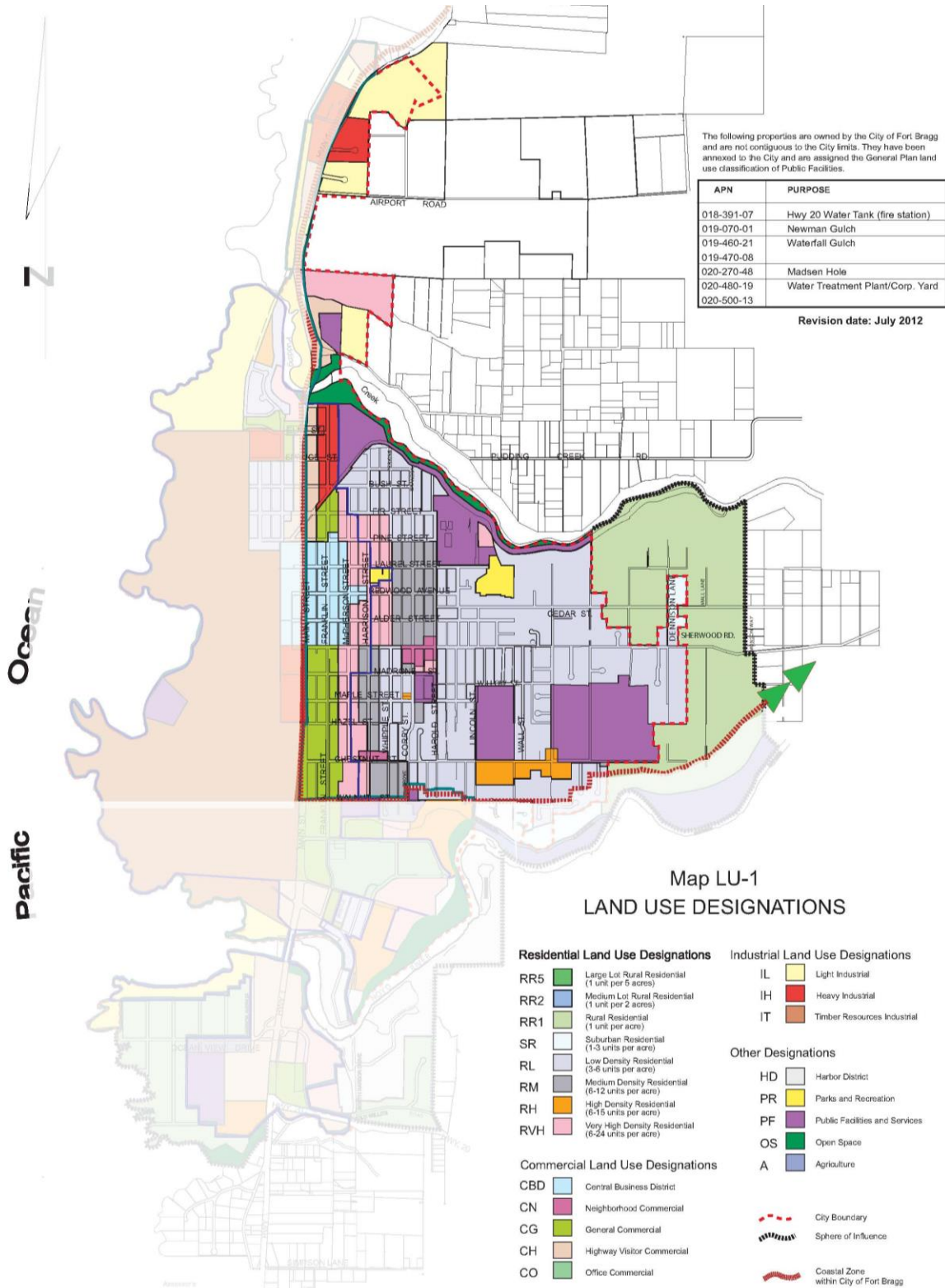
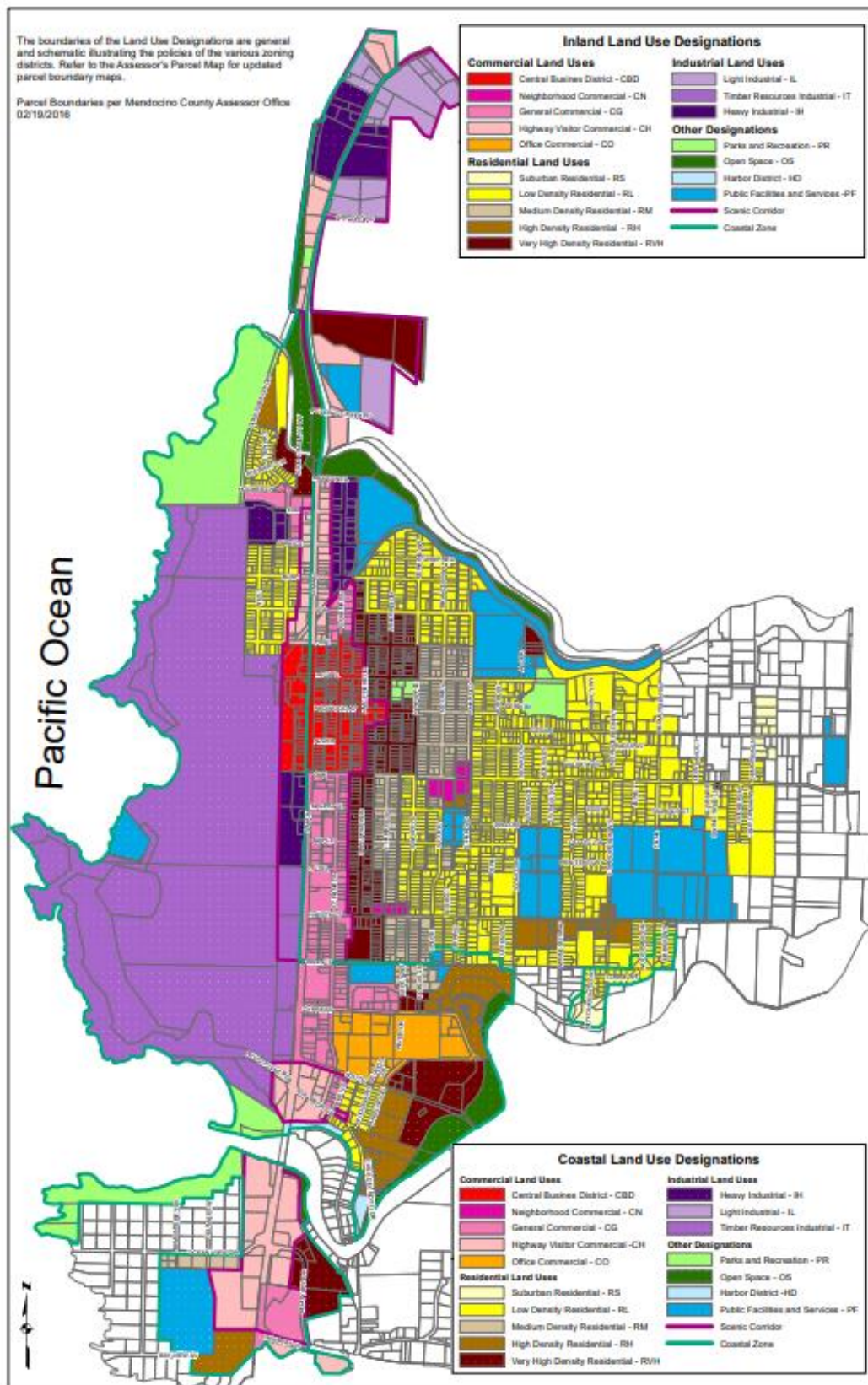


Figure 14: City of Fort Bragg Land Use Zoning Map



Cannabis Retail is currently allowed with a Minor Use Permit only in the Central Business District, General Commercial, and the Visitor Highway Commercial in the inland zones and Cannabis Retail – Delivery Only is allowed with a minor use permit as an accessory use in the Light and Heavy Industrial Zones. Currently, §18.42.057(E) says that cannabis retail accessory uses may include manufacturing, distribution, cultivation, and/or processing. While the existing code does not specifically state whether a microbusiness is allowed or not, it states that: *accessory uses may include activities that require multiple State cannabis licenses*. While this is not well defined, the only way that a cannabis business can have more than one license for the same site is if they have a State cannabis microbusiness license, which is defined by the state as: *a licensee that is authorized to engage in cultivation of cannabis on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer under this division, provided such licensee can demonstrate compliance with all requirements imposed by this division on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities*. (DCC, 2022)

Discussion

The proposed ordinances would establish regulation for cannabis cultivation in industrial zones and makes minor modifications to the existing regulations for cannabis business activities in commercial zones, pursuant to SB 94. As noted in the project description commercial indoor cannabis cultivation is comparable to other allowable uses in the industrial zone and will be consistent with the intention, purpose, and activities that are currently allowable.

Cannabis Cultivation

The majority of the City’s industrial land is located in the coastal zone and is currently zoned Timber Industrial (TI), a zoning designation which is only in the Coastal Zone and zoned for the processing of lumber and timber products manufacturing. There are 65 acres zoned either light or heavy industrial in the inland zone. All of the industrial parcels south of Pudding Creek are developed and in use. There are approximately four parcels totaling 18 acres located north of Pudding Creek in the industrial zone that are currently undeveloped.

The proposed amendments to the code would not change the size or location of the parcels that are zoned industrial, and the area available for new development that would be impacted by the proposed amendments is extremely limited. Furthermore, cannabis cultivation is consistent with the uses currently allowed in Table 2-10 Allowed Land Uses and Permit Requirements for Industrial Zoning. The following table shows the current permit requirements for some of the uses in the inland industrial zones:

Table 1: Allowed Land Uses and Permit Requirements for Industrial Zoning

Land Use	Light Industrial Permit Requirements	Heavy Industrial Permit Requirements
Agricultural Product Processing	Conditional - Use Permit	Permitted Use
Brewery/Restaurant	Conditional - Use Permit	Conditional - Use Permit

Fish Processing	Permitted Use	Permitted Use
Manufacturing/Processing Light	Permitted Use	Permitted Use
Manufacturing/Processing Medium intensity	Conditional - Use Permit	Permitted Use
Manufacturing/Processing – Heavy	Not allowed	Conditional – Use Permit

Manufacturing intensity is determined based on characteristics. The following explains the classifications as currently stated in Article 10 of the ILUDC Definitions:

	Light Manufacturing	Medium Manufacturing	Heavy Manufacturing
Description	Processes involving and/or producing: apparel; food and beverage products; electronic, optical, and instrumentation products; ice; jewelry; and musical instruments. Light manufacturing also includes other establishments engaged in the assembly, fabrication, and conversion of already processed raw materials into products, where the operational characteristics of the manufacturing processes and the materials used are unlikely to cause significant impacts on surrounding land uses or the community.	Processes that involve and/or produce building materials, fabricated metal products, machinery, and/or transportation equipment, where the intensity and/or scale of operations is greater than those classified under “Manufacturing/Processing - Light,” but where impacts on surrounding land uses or the community can typically be mitigated to acceptable levels.	processes that involve and/or produce basic metals, building materials, chemicals, fabricated metals, paper products, machinery, textiles, and/or transportation equipment, where the intensity and/or scale of operations may cause significant impacts on surrounding land uses or the community.
Examples	<ul style="list-style-type: none"> • Clothing/Fabric • Electronics, equipment, and appliances • Food and beverage (including breweries and bottling plants) 	<ul style="list-style-type: none"> • Lumber/wood product • Machinery • Motor vehicle/transport • Stone and cut stone 	<ul style="list-style-type: none"> • Chemical Product • Glass Product • Concrete/plaster • Petroleum • Paving/roofing • Plastics • Primary metal

	<ul style="list-style-type: none"> • Furniture • Small-scale manufacturing • Metal fabrication/machine shops • Paper products 	<ul style="list-style-type: none"> • Structural clay and pottery 	<ul style="list-style-type: none"> • Pulp (Product) • textile
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Based on the above, indoor commercial cannabis cultivation is similar to other already allowed uses in the industrial zone. With the existing and proposed requirements for water, energy, and odor control in the Municipal Code and the Inland Land Use and Development Code, commercial cannabis cultivation, which requires a discretionary CBP, would be comparable to other allowable uses that do not require a discretionary permit.

The proposed ordinances would only allow for indoor cultivation of cannabis in a fully enclosed and secured structure. Based on the local, regional, and state cannabis cultivation regulations, future CBP projects would not generate significant noise or air quality impacts, and water usage may be comparable to a brewery or bottling plant which is a permitted use. Cannabis cultivation activities would also be similar to fish processing, which is a permitted use, whereas cannabis cultivation will require a minor use permit. Additionally, because cannabis cultivation requires a discretionary permit, any CBP application would undergo review to determine if the project would conflict with surrounding land uses.

Retail and Microbusiness

The proposed changes to the code will change retail cannabis from a Minor Use Permit to a permitted use. However, retail cannabis projects would still be required to obtain a Cannabis Business Permit which is a discretionary permit. The current specific land use standards that apply to a Minor Use Permit in §18.42.057 with the exception of A and E, are now applied under the cannabis business permit. These changes are noted in the Project Description in this document.

When the City developed regulations for cannabis dispensaries in 2019, to ensure land use compatibility, the City Council determined that a minor use permit was required. Since that time, two dispensaries have been approved and are in operation. There has been no increase in law enforcement calls and no code enforcement complaints related to either of these existing dispensaries, which provides information about compatibility of fully licensed dispensaries in commercial zones. The current existing and operating fully licensed dispensaries have not altered the character of the neighborhood, physically divided the community, or presented other conflicts with the land use plan and policies. Under the proposed ordinances, retail cannabis dispensaries would still need a cannabis business license from the State and a Cannabis Business Permit from the City which is discretionary, but a Minor Use Permit would not be required.

Currently, §18.42.057(E) regulates accessory uses. The proposed amendments to the code will clarify allowable accessory uses with a table and specify the difference between a microbusiness and a retail business with an accessory use. (see **ATTACHMENT C**).

Many communities experienced an initial “flood” of applications when cannabis was legalized. However, in outreach to other communities, such as Santa Rosa and Ukiah, this initial rush has subsided and is comparable with the application patterns of other retail businesses. In the City of Fort Bragg, there were four initial proposals for cannabis businesses. Two of these have completed their permits and are operating. Two applications are still in process and one additional business has since applied for a permit. The City has not received new applications or inquiries for retail cannabis permits since July 2021. As a precaution to ensure that the number of dispensaries does not become excessive, the proposed changes to the ILUDC 18.22.030 Table 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts limits the total number of retail cannabis businesses in the Central Business District to no more than three. This ensures that the proposed code amendment will not change the nature of the downtown or conflict with general plan policies intended to retain downtown as the cultural, commercial, and historic center of the City.

The proposed project adds a new conditionally allowable use, indoor commercial cannabis cultivation to the industrial zone and makes minor modifications to the existing regulations for cannabis business activity in commercial zones. It will not modify the size or location of the zoning districts and does not involve any physical changes to the environment. The proposed changes to the municipal code and Inland Land Use and Development Code regulating cannabis are consistent with the goals, policies, and programs in the Inland General Plan. The proposed municipal code and Inland Land Use and Development Code amendments would not conflict with any land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect. Therefore, the proposed project will have no impact on land use planning.

References

American Planning Association. (2022, January 21). Standard State Zoning Enabling Act and Standard City Planning Enabling Act. Retrieved from:
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State of California, California Code of Regulations Business and Professions Code - BPC. (2021, December) Retrieved from:
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City of Fort Bragg. (2022, January 10). Inland Land Use and Development Code. Retrieved from
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California Department of Cannabis Control. *Medicinal and Adult-Use Commercial Cannabis Regulations, California Code of Regulations Title 4 Division 19.* September, 2021.

Governor's Office of Planning and Research (OPR). (2022, January 10) About Us: Responsibilities. Retrieved from: <http://opr.ca.gov/about/responsibilities.html>

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Mineral Resources

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XII. MINERAL RESOURCES. Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

The state of California hosts a rich variety of minerals and rocks. The California Geological Survey provides objective geologic expertise and information about California's diverse non-fuel mineral resources, producing maps, reports, and other data products to assist governmental agencies. (DOC, 2022) However, as noted in the Geology and Soils Section, the City of Fort Bragg does not have any of these mineral resources that are of either state, regional, or local importance.

Discussion

The proposed ordinances would establish regulation for cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones. Because there are no mineral resources of state, regional, or local importance, the proposed project will have no impact on mineral resources.

References

California Department of Conservation (DOC). (2022, January 21). California's Mineral Resources. Retrieved from California Department of Conservation: <https://www.conservation.ca.gov/cgs/minerals>

Noise

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XIII. NOISE. Would the project result in:				
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Regulatory Setting

Noise is defined as unwanted sound, and thus is a subjective reaction to characteristics of a physical phenomenon. A frequency weighting measure that simulates human perception is commonly used to describe noise environments and to assess impacts on noise-sensitive areas. It has been found that A-weighting of sound levels best reflects the human ear's reduced sensitivity to low frequencies, and correlates well with human perceptions of the annoying aspects of noise. The A-weighted decibel scale (dBA) is cited in most noise criteria. The decibel notation used for sound levels describes a logarithmic relationship of acoustical energy, for example, a doubling of acoustical energy results in an increase of three dB, which is considered barely perceptible. A ten-fold increase in acoustical energy equals a ten dB change, which is subjectively like a doubling of loudness.

Several time-averaged scales represent noise environments and consequences of human activities. The most commonly used noise descriptors are equivalent A-weighted sound level over a given time period (Leq); average day-night 24-hour average sound level with a nighttime increase of ten dBA to account for sensitivity to noise during the nighttime; and community noise equivalent level (CNEL), also a 24-

hour average that includes both an evening and a nighttime weighting. Noise levels are generally considered low when ambient levels are below 45 dBA, moderate in the 45 to 60 dBA range, and high above 60 dBA. Although people often accept the higher levels associated with very noisy urban residential and residential-commercial zones, they nevertheless are considered to be adverse levels of noise with respect to public health because of sleep interference.

The City is the primary agency responsible for regulating noise. The City’s Noise Element in the Inland General Plan includes maximum allowable noise level thresholds for non-transportation projects in Table N-5 from the General plan as shown below:

Table N-5 .Noise Level Performance Standards for New Projects Affected by or Including Non-Transportation Noise Sources

Noise Level Descriptor	Daytime (7 A.M. to 10 P.M.)	Nighttime (10 P.M. to 7 A.M.)
Hourly Leq dB	55	45
Maximum level, dB	75	65

Note: These noise levels apply to the residential property line nearest the project. Each of the noise levels shall be lowered by five dB for simple tone noises, noises consisting primarily of speech or music, or for recurring impulsive noises. These noise level standards do not apply to residential units established in conjunction with industrial or commercial uses (e.g., caretaker dwellings).

The City’s Municipal Code Chapter 9.44 regulates noise in the City. And, the ILUDC §18.30.050(F)(2) provides screening requirements for mechanical equipment loading docks, and refuse areas. ILUDC §18.30.050(F)(1) provides additional criteria for screening between nonresidential and residential land uses.

Discussion

The proposed ordinances would establish regulation for cannabis cultivation in industrial zones and make minor modifications to the regulations for cannabis business activities in commercial zones. No changes are proposed to Chapter 9.44, which regulates noise, nor screening regulations in 18.30.050.

Commercial cannabis cultivation may utilize equipment that generates exterior noise, such as fans and HVAC systems but these are not expected to be any noisier than other equipment that would ventilate other industrial uses that are allowable or conditionally allowable in both light and heavy industrial. All cannabis related applications would continue to be subject to discretionary review.

All uses within City limits are subject to Chapter 9.44 including new cannabis businesses. At the time a cannabis business permit application is received, it would be reviewed for consistency with the General Plan, zoning, and municipal code, including Chapter 9.44.

Furthermore, CBPs are fully discretionary and all future applications related to cannabis would be subject to review in accordance with CEQA including consideration of changes to the noise environment from construction and operations. With full discretion, the City may impose conditions to regulate noise levels or require refinements of a

project's design to comply with the City noise standards, similar to other commercial and industrial activities within city limits.

The proposed ordinances do not change the location or size of the industrial or commercial zones, does not change the noise requirements for discretionary projects, and precludes physical development. Therefore, the project would have no impacts on noise.

References

City of Fort Bragg, "Inland General Plan." 2013.

City of Fort Bragg. (2022, January). Municipal Code. City of Fort Bragg. Retrieved from <https://www.codepublishing.com/CA/FortBragg/#!/FortBraggNT.html>

Population and Housing

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XIV. POPULATION AND HOUSING.				
Would the project:				
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

According to the 2019 American Community Survey (ACS) Demographic and Housing Estimates, the City of Fort Bragg has a total population of 7,302 individuals and a total of 3,148 housing units (US Census Bureau, 2019). As of 2019, the City supported approximately 2.56 people per household (US Census Bureau, 2020). The median household income in 2019 dollars was \$44,276 and approximately 59.2% of the population ages 16 and older were in the civilian labor force.

In 2019, the City updated the Housing Element (2019 HE) of the General Plan. *The primary goals of the 2019 Fort Bragg Housing Element are to encourage, facilitate, support and help fund:*

1. *New market rate and affordable housing that serves our residents and businesses in Fort Bragg;*
2. *New affordable housing that serves our community's special needs populations;*
3. *Preservation of our existing housing stock; and*
4. *New housing that meets our Regional Housing Needs Allocation. (City of Fort Bragg, 2019)*

The 2019 HE sets quantified objectives for housing development in the City as required by State law as shown in Table 1.1 from the Housing Element:

Table 1.1: Quantified Objectives, City of Fort Bragg, 2019-2024				
Income Category	New Construction	Rehabilitation	Conservation/ Preservation	Total
Extremely Low Income	60	4	10	74
Very Low-Income	31	8	15	54
Low-Income	50	8	10	68
Moderate-Income	30	20	0	50
Above Moderate	30	20	0	50
Total	201	60	35	296
Source: City of Fort Bragg Community Development Department, 2019				

As noted in the table above, the 2019 HE also sets a goal of developing 200 new housing units within 8 years. Like many places in California, there is a shortage of housing. According to Healthy Mendocino, the home ownership rate in Fort Bragg is 32.8% which is low in comparison to the County (56.2%), the State of California (50.5%) and the United States (56.2%).

Discussion

The proposed ordinances would establish regulation for cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones. The proposed ordinances will not change any land that is currently zoned residential to commercial or industrial. It does not include any proposed physical development and would induce substantial unplanned population growth in the City nor displace substantial numbers of existing people or housing. Housing (with the exception of caretaker quarters and live/work units) is not a permitted use in industrial zones. Adding commercial cannabis cultivation as a conditionally allowable use in the industrial zone would not displace housing.

While the proposed amendment adds a new conditionally allowable use to the ILUDC, it is important to recognize that cannabis cultivation has been occurring in the region for over 50 years. While it is possible that new businesses may be interested in relocating to Fort Bragg, the use is already allowable and well established in the unincorporated areas of the County and many other places in California. Given the remote nature of Fort Bragg, and the number of states and localities that allow commercial cannabis cultivation, it is highly unlikely that there would be enough industry generated to indirectly induce substantial unplanned growth. Further, under the proposed regulation commercial cannabis cultivation proposals require a discretionary permit and would be evaluated at the time an application is received to determine the potential to have either direct or indirect impacts on growth and housing.

The proposed changes to the ordinances will not change the size or location of existing zones and it will not result in physical development. Proposed regulations apply exclusively to commercial and industrial zones and would not change zoning regulation

for residential uses. Therefore, the proposed project will have no impact on population and housing.

References

City of Fort Bragg, Inland General Plan Element 10 - Housing Element. 2019

US Census Bureau. (2022, January) QuickFacts Fort Bragg City, California. Retrieved from: <https://www.census.gov/quickfacts/fortbraggcitycalifornia>

US Census Bureau. (2022, January) American Community Survey, Fort Bragg city. Retrieved from: <https://data.census.gov/cedsci/all?q=Fort%20Bragg,%20CA>

Public Services

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XV. PUBLIC SERVICES.				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

The Fort Bragg Fire Department (FBFD) provides fire services within the City of Fort Bragg and outlying rural areas. The FBFD responds to approximately 500 to 600 calls per year, varying from structure fires to public assists. The Fort Bragg Fire Protection Authority is responsible for funding, directing, and overseeing the fire department. The FBFD consists of 36 volunteer fire fighters and four auxiliary members. There are three fires stations, located at:

- Main Street Fire Station, 141 N. Main Street
- Highway 20 Substation, 32270 Highway 20 (outside City limits)
- Little Valley Fire Company, 33680 Little Valley Road (outside City limits)

The Fort Bragg Police Department (FBPD) serves the City of Fort Bragg and outlying rural areas. In 2021, FBPD responded to a total of 15,448 calls for service and wrote 991 Crime Reports associated with those calls for service, resulting in 432 arrests (City of Fort Bragg, 2022). The FBPD headquarters is located at 250 Cypress Street.

The City is served by the Fort Bragg Unified School District (FBUSD) which includes Redwood Elementary School, Dana Gray Elementary School, Fort Bragg Middle School, Fort Bragg High School, Coastal Adult School, and the Alternative Education program. It is also served by Mendocino Community College District.

Additional (non-recreational) public facilities in the inland zone of the City of Fort Bragg relevant to this section includes:

- Fort Bragg Public Library - a branch of the Mendocino County library
- Cemetery – there are two cemeteries in the City of Fort Bragg, one north of Pudding Creek and one to the south
- Mendocino Coast District Hospital

Discussion

The proposed ordinances would establish regulation for cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones. All future cannabis application received under the proposed ordinances would be subject to discretionary review, including an evaluation for impacts to public services. In addition, all cannabis business permits undergo a public safety review in which the police department reviews the security plan for the premise.

All new construction or commercial remodel require a building permit. Any future application received for a commercial cannabis business would have to either construct a new building or change an existing commercial or industrial building. Both of which would require a building permit and would have to comply with California Building Codes and the City's Municipal Code Title 15 Buildings and Construction. (City of Fort Bragg, 2022) The location of future cannabis businesses under the proposed ordinances would be in areas that are already planned for either commercial or industrial development and would similarly be subject to review of capacity for public services to maintain acceptable service ratios, response times or other performance objectives consistent with the City's General Plan.

The proposed ordinances would establish regulations for a new use in an industrial zone and make minor modifications to existing regulations for cannabis business activity in commercial zones. It would not change the regulatory environment in a manner that would affect policies established for the protection of public health and safety and no physical development is proposed. Therefore, the proposed project will have no impact on public services.

References

Association of Environmental Professionals. (2021). 2021 California Environmental Quality Act Statute & Guidelines. AEP.

Fort Bragg Police Department, (2022). "Fort Bragg Police Department Biennial Report 2020-2021." City of Fort Bragg Police Department.

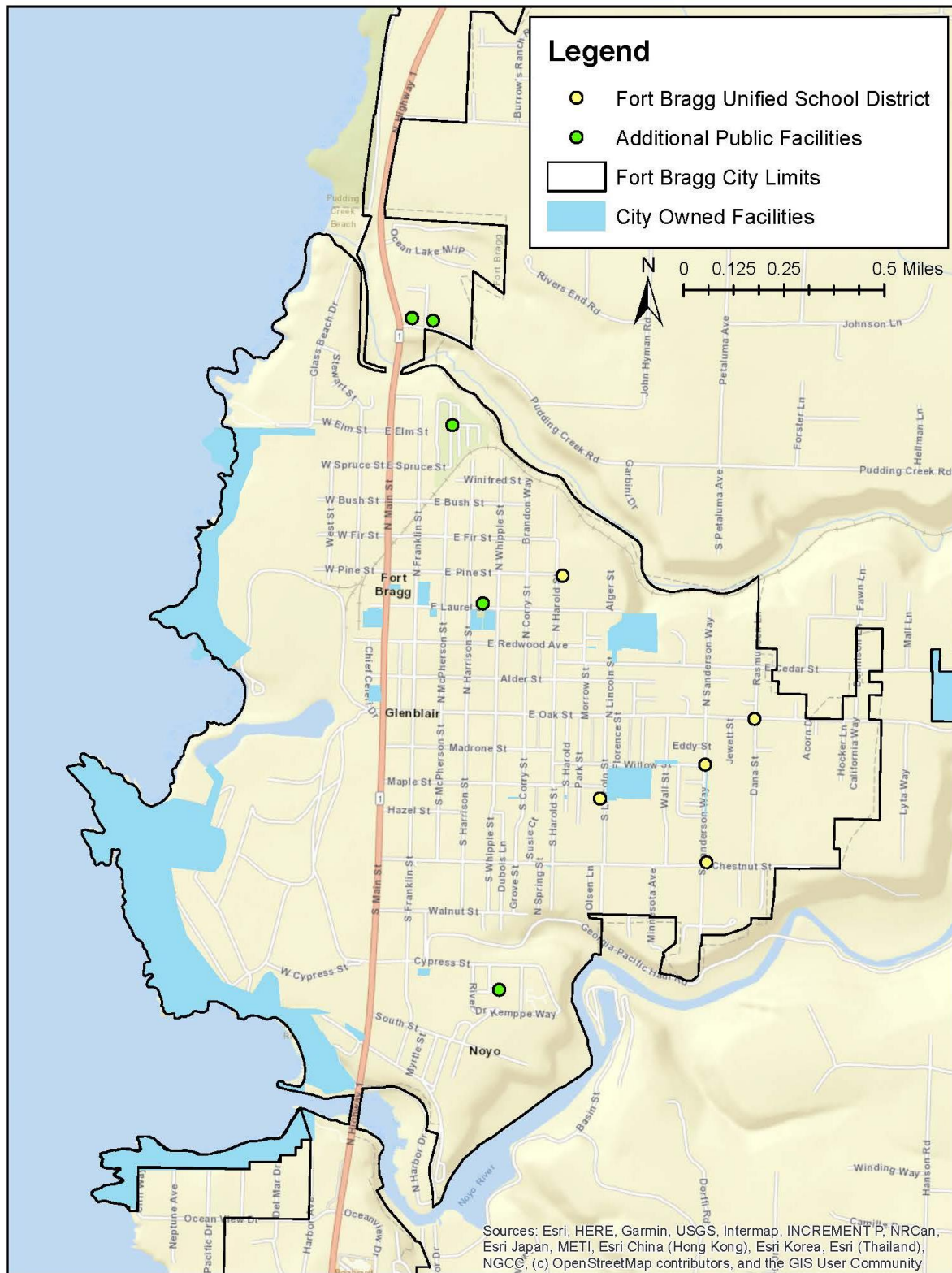
California Department of Cannabis Control, "Medicinal and Adult-Use Commercial Cannabis Regulations, California Code of Regulations Title 4 Division 19."

Department of Cannabis Control, 2021. <https://cannabis.ca.gov/wp-content/uploads/sites/2/2021/10/DCC-Cannabis-Regulations-Sept.-2021.pdf>

City of Fort Bragg Municipal Code. (2022, January) Title 15. Retrieved from: <https://www.codepublishing.com/CA/FortBragg/#!/FortBragg15/FortBragg15.html>

Figure 15: Map of Public Facilities in the City of Fort Bragg

Fort Bragg Public Facilities Map



Recreation

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XVI. RECREATION.				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

The City of Fort Bragg has two public parks in the inland zone; Otis Johnson Park, a 6-acre riparian zone park with hiking trails and Bainbridge Park, a 2-acre park in the City with an 11,000 square foot playground, basketball court, and tennis court.

Additionally, the City owns the CV Starr Center, an aquatic facility with a leisure pool and competition lap pool and fitness rooms (operated by the Mendocino Parks and Recreation District) and the City Hall Gym, a historic gym located behind city hall.

In the City's Coastal Zone, the 3.5 mile Coastal Trail stretches from Glass Beach to the Noyo Harbor on 104 acres of land. The City's coastal parks also include Noyo Beach and Pomo Bluffs Park on the southern bluffs overlooking Noyo Harbor.

Discussion

The proposed ordinances would establish regulation for commercial cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones. The proposed ordinances will not change size or zoning of commercial or industrial land and does not propose any physical development. Any future applications received for proposed cannabis related activities would be conditionally allowable under the proposed code amendments and would require a discretionary permit. Discretionary review would include an assessment of potential impacts to recreation and conditioned accordingly. The proposed ordinances do not alter any established goal, policy, program relating to recreation. Therefore, the proposed changes to the Municipal Code Chapter 9.30 and the Inland Land Use and Development Code, will have no impact on recreation.

References

City of Fort Bragg, (2022, January). Local Parks and Aquatic Center. Retrieved from:
<https://www.city.fortbragg.com/services/local-parks-aquatic-center>

Transportation

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XVII. TRANSPORTATION. Would the project:				
a) Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

The City of Fort Bragg has two state highways, Highway 20 which connects the City to Willits, and Highway 1 which connects the City to southern and northern coastal areas. All other roads in the City are local or private roads.

The Mendocino Transit Authority (MTA) is responsible for public transportation in and out of Fort Bragg. MTA provides daily service (one bus each direction) from Fort Bragg to inland Mendocino County and Santa Rosa Airport where passengers can transfer to various services that go to the Bay Area and beyond. The MTA's Coaster also provides service from Fort Bragg south on Highway 1 to Navarro Junction. There are five bus stops in the City limits located for convenience of access to Highway 1, downtown, and Highway 20. Additionally, on-demand, door-to-door service is available in Fort Bragg and Ukiah on MTA buses specially outfitted to meet the transportation needs of paratransit customers. In Fort Bragg, Dial-A-Ride is open to the general public and discounted fares are provided for seniors (62+) and persons with disabilities. MTA customers in Fort Bragg can reserve a Dial-A-Ride bus up to two weeks in advance and at least 24 hours in advance for a guaranteed scheduled ride. (MTA, 2022)

The City is also home to the Mendocino Railway dba Skunk Train. Historically, the Skunk Train provided rail service from Fort Bragg to Willits carrying passengers and lumber. With the introduction of the modern vehicle, the development of Highway 20, and the abandonment of connecting rail lines from Willits to Eureka, the Skunk Train transitioned from a functional transportation route to a novelty/tourist attraction. In 2013, a tunnel collapse just a few miles east of Fort Bragg eliminated the possibility of the route being used as a means to transporting goods and passengers to and from the Coast. Currently, Mendocino Railway operates a train that travels between Fort Bragg to the tunnel collapse where it turns around and returns to Fort Bragg.

In addition to land transportation, the Noyo Harbor is an all-weather port located mostly outside the City limits in unincorporated Mendocino County. It is the busiest Harbor between Bodega Bay and Humboldt Bay. (Noyo Harbor District, 2019)

There is no airport inside the City limits, but the Fort Bragg Airport is a private airport located 2 miles north of the City center and less than a half mile from the most northern boundary of the City limits on North Highway 1. The airport is private use only and requires permission prior to landing. The airport is locally owned with an average of 68 aircraft operating per month made up of 98% local general aviation. The Fort Bragg Airport is regulated by the Federal Aviation Administration. (FAA, 2022)

Regulatory Setting

The Federal Government regulates and supports the development of transportation through the Department of Transportation. The State regulates and manages transportation through the California Department of Transportation and the State of California Transportation Commission.

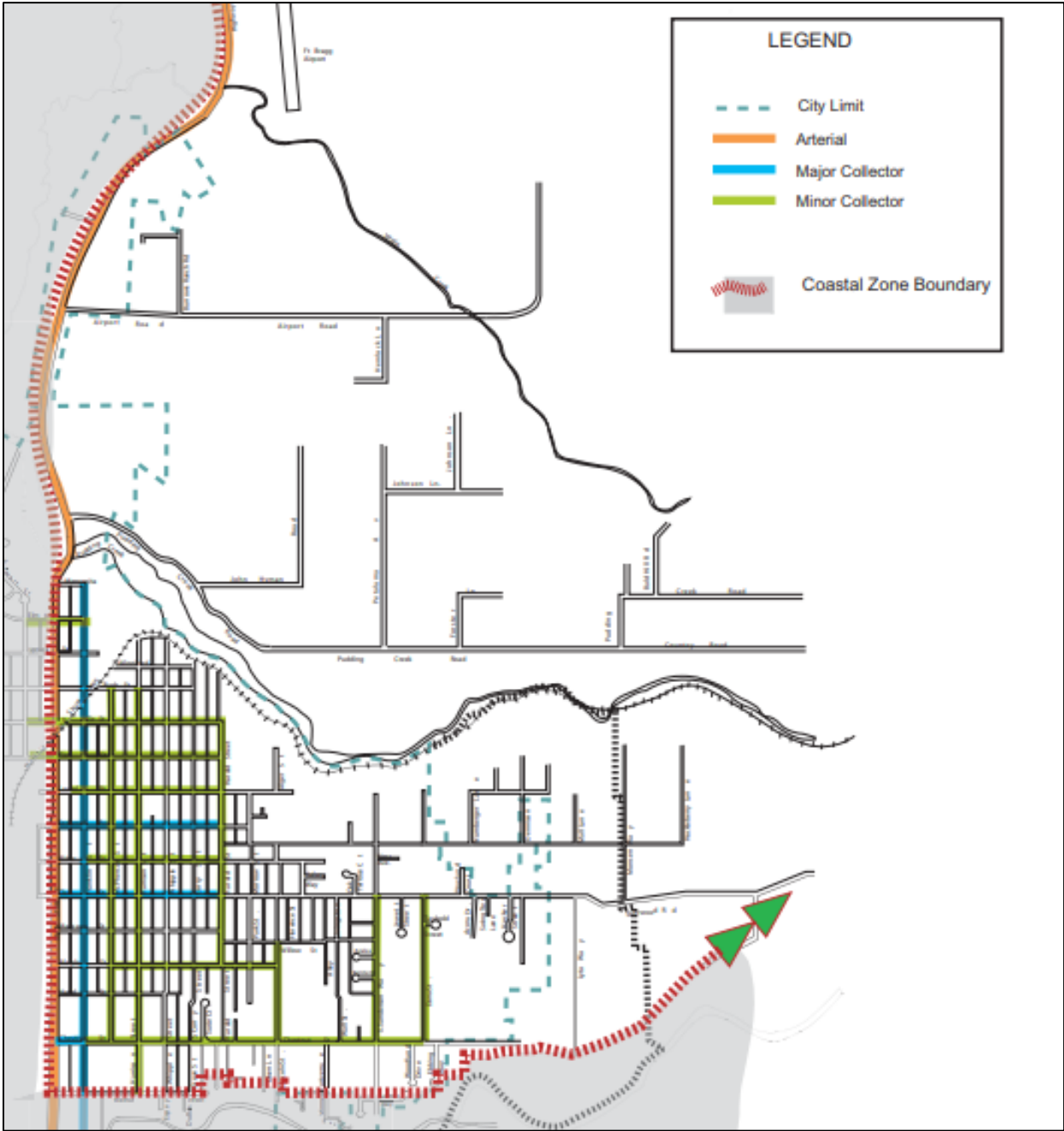
At the state level, a significant change took place on the evaluation of transportation impacts with the passage of SB 743 in 2013. The law required a change from using Level of Service (LOS) as the metric to determine if a project would have significant impacts to the Vehicle Miles Traveled (VMT). (OPR, 2022)

Transportation planning is coordinated at the regional level by the Mendocino Council of Governments (MCOG) who prepares the Regional Transportation Plan (RTP) which includes projects in the City of Fort Bragg. The MCOG's Board of Directors also adopt an Overall Work Program (OWP) which typically comprises of 14 work elements including transportation planning projects in the City of Fort Bragg. (MCOG, 2022)

The City also sets standards for transportation in the Inland General Plan Element 5 – Circulation. While the State now requires that the metric for transportation related impacts be based on VMT, the City uses Level of Service to determine consistency with the Inland General Plan. This means that projects must meet both criteria when undergoing discretionary review to ensure compliance with the state CEQA process and to be consistent with the City's General Plan.

Figure 16 shows the Inland General Plan Map of the City Roadway System.

Figure 16: General Plan Map C-1 Existing Roadway System



The roads in the City follow a standard system of determining Level of Serve (LOS) on a scale of A (free flowing) to F (excessive delays) as noted in Table C-2 of the Inland General Plan:

**Table C-2
Level of Service Definitions**

Level of Service	Description	V/C Ratio*
Free Flowing LOS A	Relatively free-flow. No restrictions to vehicle maneuverability or speed. Very slight delay.	0.00-0.60
Minimal Delays LOS B	Stable Flow. Some slight reduction in maneuverability and speed. Vehicle platoons form. This is a suitable level of operation for rural design. Slight delay	0.61-0.70
Acceptable Delays LOS C	Stable flow operation. Higher volumes. More restrictions on maneuverability and speed. Acceptable delay.	0.71-0.80
Tolerable Delays LOS D	Approaching unstable flow operation. Queues develop. Little freedom to maneuver. Tolerable delays for short periods.	0.81-0.90
Significant Delays LOS E	Unstable flow or operation. Low operating speed; momentary stoppages. This condition is not uncommon in peak hours. Congestion and intolerable delays.	0.91-1.00
Excessive Delays LOS F	Forced flow or operation. There are many stoppages. The highway acts as a vehicle storage area. Jammed. Gridlock.	1.00+

Source: Highway Capacity Manual, HRB Special Report 87.

Some of the applicable goals, policies, and programs in the Circulation element might include:

Circulation Goal C-1 Policy C-1.3 Complete Streets: New development, that includes new streets or street segments, shall build multi-modal “complete streets” that are designed for the safety and comfort of cyclists and pedestrians, including children, the elderly, and people with disabilities, consistent with US Department of Transportation complete streets guidelines
Circulation Goal C-1 Policy C-1.3 Program C1.3.2 Through the Capital Improvement Plan and related impact fees, the City shall ensure that adequate funds are provided to maintain the existing circulation network, and where feasible upgrade it to “complete street” design.
Circulation Goal C-2 Policy C-2.2 Coordinate Land Use and Transportation: Ensure that the amount and phasing of development can be adequately served by transportation facilities.
Circulation Goal C-2 Policy C-2.3 Do not permit new development that would result in the exceedance of roadway and intersection Levels of Service standards unless one of the following conditions is met: <ul style="list-style-type: none"> a) Revisions are incorporated in the proposed development project which prevent the Level of Service from deteriorating below the adopted Level of Service standards; or b) Funding of pro rata share of the cost of circulation improvements and/or the construction of roadway improvements needed to maintain the established Level of Service is included as a condition or development standard of project approval.
Circulation Goal C-3 Policy C-3.3 High Trip Generating Uses: Traffic studies shall be required for all major development proposals that require a conditional approval, including but not limited to, drive-through facilities, fast food outlets, convenience markets, major tourist accommodations, shopping centers, commercial development, residential subdivisions, and other generators of high traffic volumes that would affect a Level of Service. Traffic studies shall identify, at a minimum: <ul style="list-style-type: none"> a) The amount of traffic to be added to the street system by the proposed development; b) Other known and foreseeable projects and their effects on the street system;

<ul style="list-style-type: none"> c) The direct, indirect, and cumulative adverse impacts of project traffic on street system operations, safety, and public access to the coast; d) Mitigation measures necessary to provide for project traffic while maintaining City Level of Service standards; e) The responsibility of the developer to provide improvements; and f) The timing of all improvements.
<p>Circulation Goal C-3 Policy C-3.4 Program C-3.4.1 Review site plans for new development to facilitate the continuation of streets to improve local circulation. Where streets are not feasible, priority shall be given to providing pedestrian and bicycle trails that establish bicycle and pedestrian connections to streets wherever possible.</p>
<p>Circulation Goal C-3 Policy C-3.5 Right-of-Way Acquisition: Require right-of-way dedications for new development to meet the City's roadway width standards</p>
<p>Circulation Goal C-4 Policy C-4.1 Reduce Through-Traffic on Local Streets: Reduce through-traffic on local streets to preserve the peace and quiet of residential areas.</p>

Additionally, ILUDC §18.36.090 and §18.36.100 provide standards for parking design and development and driveways. These standards are intended to ensure safety of the ingress/egress for traffic and sufficient parking to avert traffic hazards or the creation of hazards due to geometric design features.

Discussion

The proposed ordinances would establish regulation for cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones and does not include any physical development. All cannabis related proposals that would be conditionally allowable under the new regulations would be discretionary. While some projects may qualify for a CEQA exemption, such as a fully conforming dispensary in an existing commercial building, all cannabis related projects would be reviewed at the time they are proposed to determine if they would have transportation impacts. All future applications involving cannabis would be evaluated for consistency with the City's Inland General Plan and the above noted regulations and requirements for transportation. The subject zoning code amendment makes minor modifications to cannabis activities in commercial zones and establishes regulation for commercial cannabis cultivation in industrial zones. There is no physical development under the proposed project and no changes to transportation or circulation. Therefore, the proposed project will have no impact on transportation.

References

City of Fort Bragg, "Inland General Plan." 2013.

Federal Aviation Administration. (2022, February 8) (82CL) *Fort Bragg*. Retrieved from: <https://adip.faa.gov/agis/public/#/airportData/82CL>

Governor's Office of Planning and Research (OPR). (2022, January 24). Background and Purpose What is SB 743? Retrieved from: <https://opr.ca.gov/ceqa/sb-743/faq.html#:~:text=Background%20and%20Purpose-,What%20is%20SB%20743%3F,significant%20impact%20on%20the%20environment.&text=VMT%20measures%20how%20much%20actual,would%20create%20On%20California%20roads.>

Mendocino Council of Governments. 2020 Regional Transportation Improvement Program. Adopted December 2, 2019.

Mendocino Transit Authority (MTA). (2022, January 24). Mendocino Transit Authority. Retrieved from: <https://mendocinotransit.org/>

Tribal Cultural Resources

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>XVIII. TRIBAL CULTURAL RESOURCES. Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:</p>				
<p>a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

The area in and around the City was traditionally inhabited by the Mato Pomo, a division of the Hokan language-speaking Northern Pomo (Kroeber 1976:222). What anthropologists know of Northern Pomo ethno-geography comes from interviews recorded from Native descendants fifty to one hundred years or more after the contact period with the colonizing Euro-Americans, and the subsequent displacement of these Pomo people from their homelands. Barrett (1908), Kroeber (1925), Heizer (1978), Stewart (1943), Harrington (1942-3), and others provide published anthropological reference sources for the Mato Pomo.

The contact period with the Euro-Americans in northern California was violent and oppressive, as it was for many Native people in California. In 1855, an exploration party

from the Bureau of Indian Affairs visited the area in search of a site on which to establish a reservation and, the following year, the Mendocino Indian Reservation was established. It spanned an area from the south side of the Noyo River to north of the Ten Mile River, and east to Little Valley and Glen Blair.

In 1857, the Fort Bragg military post was established on the Mendocino Indian Reservation approximately 1.5 miles north of the Noyo River, its purpose was to maintain order on the reservation. Also in 1857, a lumber mill was established on the Noyo River starting what would become the major industry of the region. In 1865, after 300 Native Americans were marched forcibly from the Mendocino Indian Reservation to a reservation in Round Valley, Fort Bragg as a military post was abandoned. (City of Fort Bragg, 2022)

In Sherwood Valley, about thirty miles to the east of the City, the modern day Sherwood Valley Band of Pomo Rancheria includes descendants from the Mato and Little Lake (Willits) Mitom tribelets and villages. Other descendants may also be part of other tribes identified in the Cultural Resources Section of this document.

Regulatory Setting

A tribal cultural resource (TCR) is defined as a site, feature, place, cultural landscape, or sacred place or object that has cultural value to California Native American tribes. In order to be considered a TCR, the resource must be included in or determined eligible for inclusion in the CRHR or is included in a local register of historical resources. Pursuant to Public Resource Code [PRC] §2107, a TCR is defined as either:

1. *A site, feature, place, cultural landscape, sacred place, or object that has cultural value to California Native American Tribes that is included or determined to be eligible for inclusion in the California Register of Historical Resources (California Register) or a local register of historical resources.*
2. *A resources determined by the lead agency to be significant and is supported by substantial evidence.*
3. *A geographically defined cultural landscape that meets the criteria set forth in PRC §21074.*
4. *A historical resource described in PRC §21084.1, a unique archeological resource or “nonunique archaeological resource” described in PRC §21083.2 (g) and (h).*

The CEQA Guidelines state that California Native American tribes traditionally and culturally affiliated with a geographic area may have expertise concerning their TCRs. Lead agencies shall consult with these tribes who respond in writing and requests the consultation within 30 days of receipt of the formal notification of the project (PRC §21080.3.1). Traditionally and culturally affiliated tribes of a project area may suggest mitigation measures, including, but not limited to, those recommended in §21084.3.

Additionally, the City regulates the discovery, treatment, and preservation of archaeological resources in ILUDC §18.50.030 as detailed in the Cultural Resources discussion of this document.

Discussion

The proposed ordinances would establish regulation for cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones and does not propose any physical development. All future cannabis related proposals would continue be conditionally allowable under the new regulations and subject to review under CEQA. While some future CBP applications may be exempt, all CBP applications would be reviewed at the time they are proposed to determine if they would have a significant impact on Tribal Cultural Resources.

When an application for a discretionary permit is received, it is evaluated to determine if the project is located in an area with the potential for archaeological resources as noted in the above cultural resources section. Discretionary projects are referred to local tribal governments, individuals, and entities, and are invited to comment. A tribe may request an archaeological review, site visit, and/or that a tribal monitor be present on site during ground disturbance, excavation, and construction. The City of Fort Bragg is committed to working with tribes through the AB 52 notice and consultation process to ensure that known and undiscovered tribal cultural resources are protected and any concerns raised through the AB 52 process are adequately addressed.

The proposed code amendments do not change any goals, policies or programs established for the protection of tribal cultural resources, and the proposed amendments do not include any physical development, ground disturbance or other activities that could directly or indirectly affect tribal cultural resources. Therefore, the proposed ordinances will have no impacts on Tribal Cultural Resources.

References

City of Fort Bragg, "*Inland Land Use Development Code*." March, 2014.

City of Fort Bragg. (2022, January) City History. Retrieved from:
<https://www.city.fortbragg.com/departments/city-clerk/city-history#ad-image-11>

State of California, "*California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000– 15387, CEQA Guidelines*." Updated January 1, 2021.
<http://leginfo.legislature.ca.gov/faces/home.xhtml>

Utilities and Service Systems

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XIX. UTILITIES AND SERVICE SYSTEMS. Would the project:				
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

Water

The City's water system is comprised of three surface water sources; two raw water transmission mains, totaling about 6 miles in length; two raw water storage ponds located at the Water Treatment Plant (WTP); three 1.5 million gallon (MG) steel storage

tanks, and one 300,000 gallon storage tank; over 30 miles of distribution lines that deliver water throughout Fort Bragg; and one booster pump station for the East Fort Bragg pressure zone. The WTP was originally constructed in the 1950's, and upgraded in the 1980's, and has a capacity of 2.2 million gallons per day (MGD).

The City's water supply system draws raw water primarily from the Noyo River, which has a limitation that pumping does not exceed 3.0 cubic feet per second (cfs). The Noyo River direct diversion flows by gravity into a 5,000 gallon wet well, and is then pumped via pipeline to the WTP from a pump station located on the river bank. The Newman Reservoir is an on-stream reservoir located on a 54-acre parcel owned by the City of Fort Bragg, and impounds water from Newman Gulch. Summers Lane Reservoir (SLR) was constructed in 2016 and has a capacity of 45 acre-feet (AF). It is located on the same property as Newman Reservoir, and draws its water from Waterfall Gulch. Approximately 20% of the City's water supply during the summer months is stored water drawn from the Newman and Summers Lane Reservoirs. Water from Newman and Waterfall Gulch is gravity fed through a single six- to ten-inch pipeline to the raw water storage ponds at the WTP.

SLR provides an additional 15 million gallons MG of raw water storage to help ensure a reliable water supply during the late summer months when flows are low at the City's three water sources (Fort Bragg, December 2019). This additional storage assists in ensuring an adequate water supply during severe drought years. Additionally, in 2021, the City purchased a mobile desalination unit to ensure adequate water supply in severe drought years. (City of Fort Bragg, 2021)

Wastewater System

Sewage treatment and disposal are provided by the Fort Bragg Municipal Improvement District No. 1 (MID). The MID is somewhat larger than the City; it includes some of the Local Agency Formation Commission (LaFCO) proposed Sphere of Influence. The MID accepts wastewater from residences and businesses outside the City boundaries but within the MID boundaries.

The MID wastewater system is comprised of over 25 miles of gravity-fed pipelines and pressure force mains, six sewage lift stations, the Wastewater Treatment Plant (WWTP), and an ocean outfall pipeline that extends 690 feet into the Pacific Ocean. The WWTP was constructed in 1971 and recently underwent a substantial upgrade which was completed in 2020. It has a secondary treatment level capacity of 0.8 million gallons per day (MGD) for average dry weather flow (ADWF) and 4.9 MGD Peak Hydraulic Flow. The MID completed upgrades to the pump stations in 2020. The City ensures functionality of sewer piping through Cure in Place Projects every other year as part of the Capital Improvement Program.

Storm Drain System

While some of the priority storm drain improvements in the 2004 Storm Drain Master Plan have been implemented, there are additional problems identified in that report that still need to be addressed. In addition, many of the areas north of Pudding Creek and south of the Noyo River generally do not have improved drainage systems in place. Drainage in these areas is generally provided by natural channels. New development in

the City is required to either make or pay for improvements necessary to ensure adequate capacity within the storm drain system.

Solid Waste

The City of Fort Bragg has a franchise agreement with a private service provider for the residential and commercial collection, transportation, and disposal of solid waste. This includes recycling and green waste services. Historically, the services have been provided to the City by Waste Management Inc. However, the City put the service out to bid in 2021 and a new provider was selected. Beginning on July 1, 2022, C&S Waste Solutions, which is a subsidiary of Waste Connections will provide the service.

Energy

There are currently two energy providers in the City of Fort Bragg, Pacific Gas and Electric and Sonoma Clean Power (SCP) which is the community choice aggregate energy provider. Both companies offer 100% renewable energy packages in addition to their standard energy portfolios. The City does not have a natural gas pipeline. Propane is available through several independent companies that provide propane tanks and propane gas delivery.

Regulatory Setting

Water

In California, water rights law is administered by the State Water Resources Control Board (SWRCB), it is the only agency with authority to administer water rights in California, but shares the authority to enforce water right laws with the state courts. The SWRCB defines a water right as legal permission to use a reasonable amount of water for a beneficial purpose such as swimming, fishing, farming or industry. The North Coast Regional Water Quality Control Board (NCRWQCB) is the regional agency that regulates water quality for drinking water, ocean discharge, and stormwater. Applicable laws are mentioned in the discussion of hydrology and water quality. (SWRCB, 2022)

Waste

In 1989, the State of California passed the Integrated Waste Management Act which is in statute as Division 30 of the Public Resources Code [40000-49654]. The State Agency responsible for regulating and permitting waste management is Cal Recycle which operates under Title 14 and Title 27 of the California Code of Regulations. (CalRecycle, 2022)

The California Department of Cannabis Control (DCC) also regulates waste management specific to cannabis businesses under California Code of Regulations Title 4, Division 19, Chapter 9 [§17223].

At the local level, the City's Municipal Code regulates solid waste under Chapter 6.08 Refuse and Recyclable Collection. Specific regulations in the current Chapter 9.30 ((§9.30.050(N)(6)) require that cannabis businesses provide a solid waste disposal plan with certification that waste transport entities and disposal facilities have agreed to haul and receive solid waste produced by the cannabis business.

Energy

Public Utilities, including electrical service providers fall under the authority of the California Public Utilities Commission. The CPUC investigates alleged violations of the Public Utilities Code, CPUC regulations, and other California statutes involving stationary utilities, including telephone (both wireline and wireless), electric, gas and water companies. These investigations generally involve consumer fraud, marketing abuse and other utility misconduct. (CPUC, 2022)

Local Regulations

The Public Facilities Element of the Inland General Plan has goals, policies and programs to manage the impacts of growth on the City's infrastructure. These can be found in Page 3-3 through 3-6 of the City's General Plan. Included in these policies are:

Public Facilities Goal PF-1 Ensure that new development is served by adequate public services and infrastructure.
Public Facilities Goal PF-1 Policy PF-1.1 Ensure Adequate Services and Infrastructure for New Development: Review new development proposals to ensure that the development can be served with adequate potable water; wastewater collection, treatment, and disposal; storm drainage; fire and emergency medical response; police protection; transportation; schools; and solid waste collection and disposal.
Public Facilities Goal PF-1 Policy PF-1.2 All new development proposals shall be reviewed and conditioned to ensure that adequate public services and infrastructure can be provided to the development without substantially reducing the services provided to existing residents and businesses.
Public Facilities Goal PF-1 Policy PF-1.2 Program PF-1.2.1: New development shall be responsible for any improvements or extensions of infrastructure or the service capacity necessary to serve the development.

Discussion

The proposed ordinances would establish regulation for commercial cannabis cultivation in industrial zones and make minor modifications to the existing regulations for allowable cannabis business activities in commercial zones. As an amendment to the zoning code, the subject project does not include any physical development. There would be no substantial changes to demands on utilities and services systems relative to the existing code, which currently allows for industrial and commercial business that would generate demand for services and no change in the size or location of where commercial and industrial activities are allowed.

All future cannabis related applications received under the proposed code amendments would be conditionally allowable and subject to discretionary review. Depending on the methods employed, indoor commercial cannabis cultivation can be resource intensive in terms of water and power. A small efficient cultivation may have negligible resource demands whereas a very large inefficient cultivation may result in significant demands for utilities and services. In order to determine whether a project would have an impact

on water and energy usage, cannabis applicants are currently required under Municipal Code to include the following:

§9.30.050(O)(2) A water usage plan that indicates the planned source of water, month by month annual usage in gallons, and any plans for water conservation which may include water recycling, on-site water storage, development of a well, or use of reclaimed City water;

§9.30.050(O)(3) An energy plan that indicates the estimated monthly energy usage in kilowatt-hours, the source(s) of energy, and any planned energy conservation practices including plans that utilize natural sunlight, solar panels, LED lighting, a community choice aggregate energy provider, or other methods to reduce energy consumption;

The proposed changes to the ILUDC, §18.42.055(B)(3)(b) will require that an applicant provide proof of the utility provider's ability to provide reliable power to the cultivation. This will be similar to the current requirement in Municipal Code 9.30.050(N)(6) for waste disposal and is typically received in the form of a letter from the utility provider.

The City's Public Works/Engineering Department would review the operating plans including an evaluation of both potable and wastewater capacity. The City's Municipal Code establishes regulation for the efficient use of utilities and service systems including Chapter 14.06 Water Conservation, Chapter 14.17 Wastewater, and Chapter 12.14 Drainage Facility Improvements. As part of the cannabis business permit review process, the City would review applications for consistency with the General Plan and Municipal Code including the capacity of utility and services systems to serve the proposed project. Furthermore, in addition to design standard for new construction, as required in the General Plan, development impacts fees are collected to fund the maintenance of the water and wastewater systems as it is built out.

As stated previously, the proposed code amendment adds cannabis cultivation as a conditionally allowable use to the industrial zones and make minor modifications to existing regulations for cannabis business activities in commercial zones. There is no change to the location or size of the zones and there is no proposed physical development. Therefore, the project will have no impacts on utilities and service systems.

References

California Public Utilities Commission (CPUC). (2022, January 26). Utility Enforcement Branch. Retrieved from California Public Utilities Commission (CPUC): <https://www.cpuc.ca.gov/regulatory-services/enforcement-and-citations/utility-enforcement-branch>

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<https://www.codepublishing.com/CA/FortBragg/#!/FortBraggNT.html>

City of Fort Bragg (2013). Inland General Plan. City of Fort Bragg.

City of Fort Bragg. "News Release: Water Desalination System Ribbon Cutting Ceremony." October 6, 2021.

Wildfire

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XX. WILDFIRE. If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:				
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Wildfire Setting

Most of the City of Fort Brag is located outside of high fire risk zones but there are some areas showing high risk in Figure 17 and in Figure 18.

The City of Fort Bragg has an evacuation map (see Figure 19) which would be used in the event of a wildfire or other emergency to evacuate the City.

Figure 17: CalFire Fire Threat in the City of Fort Bragg

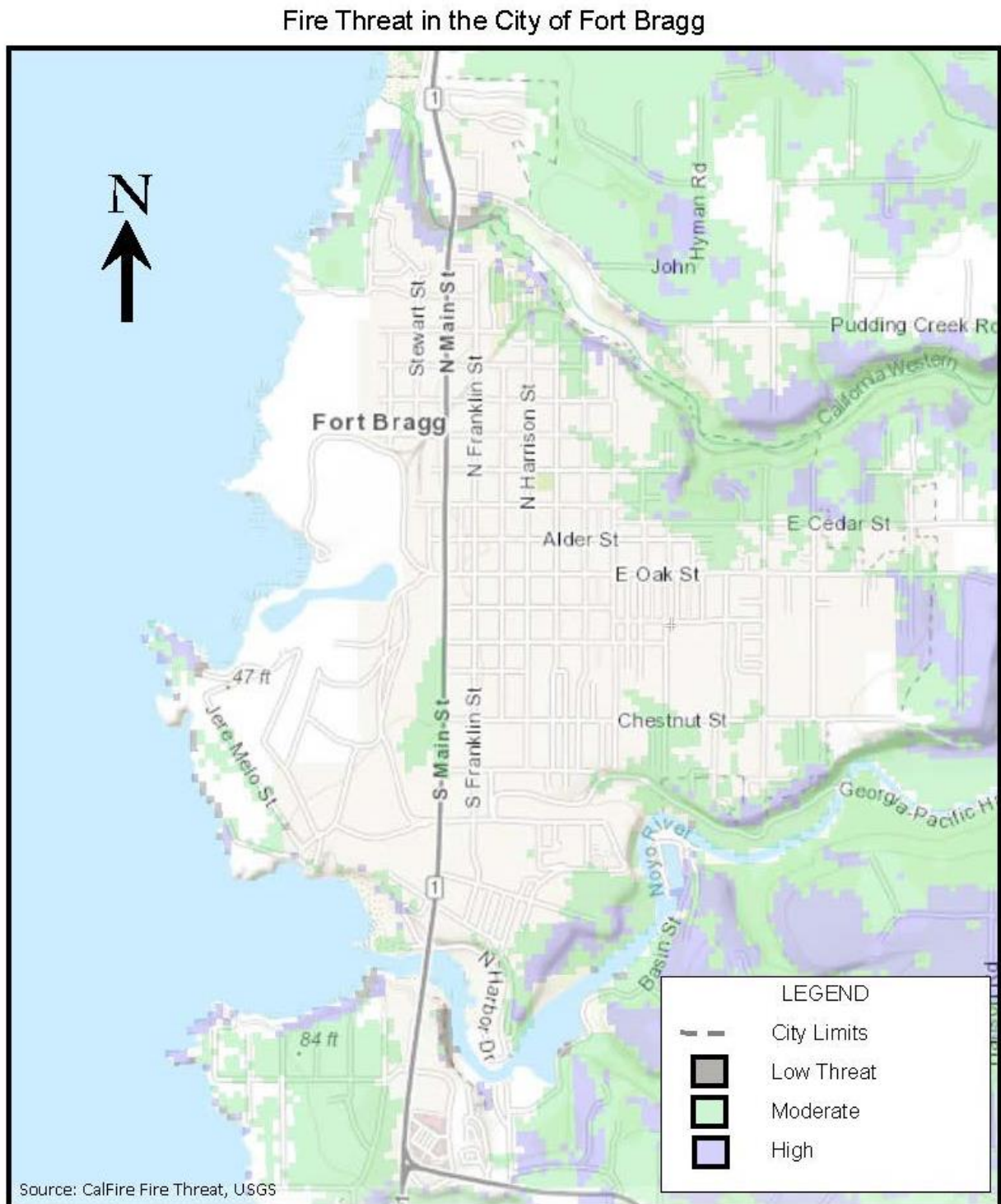
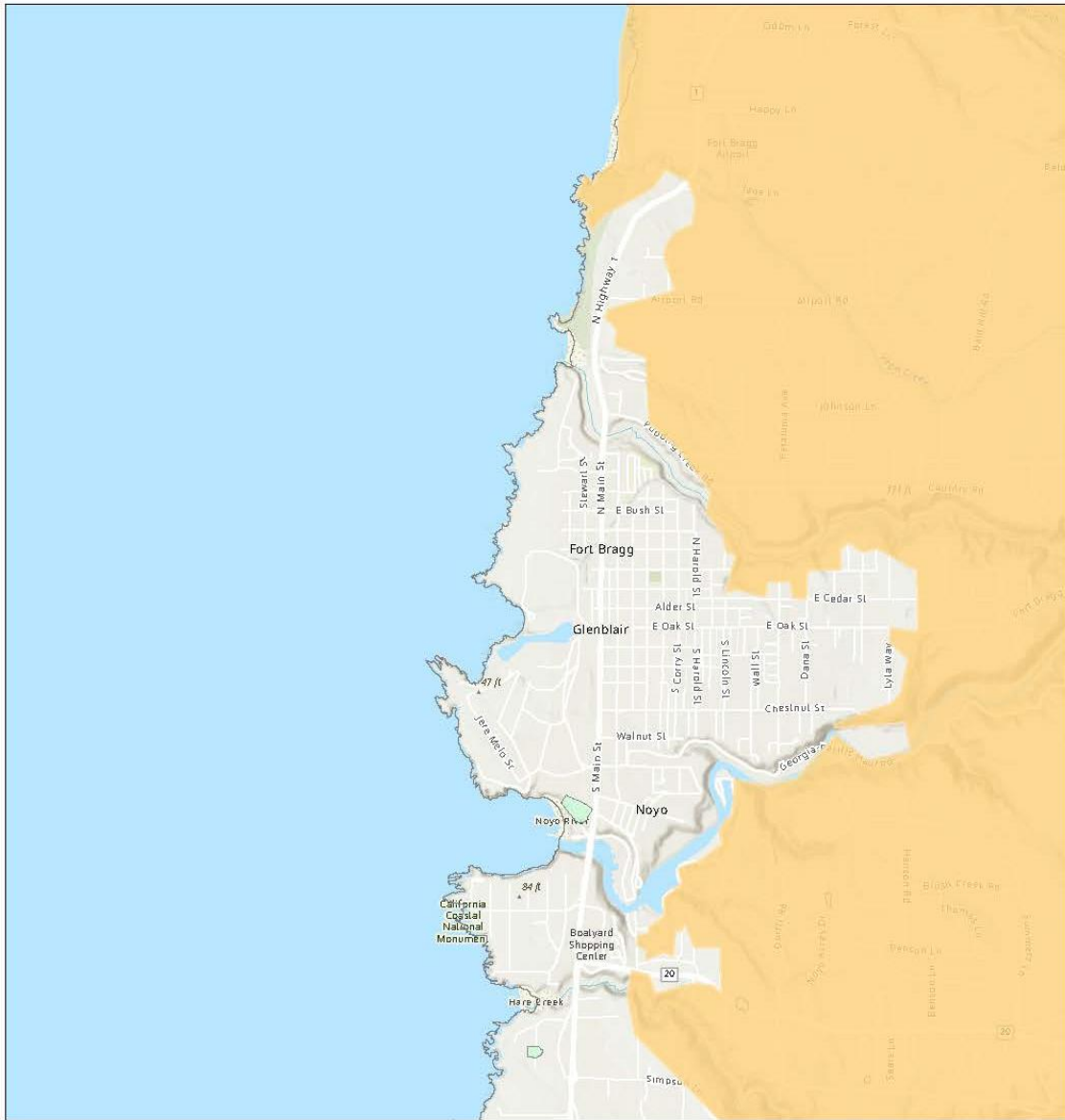


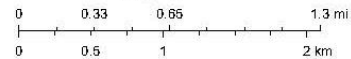
Figure 18: California Public Utilities Commission High Fire Threat Map
Fort Bragg Fire Threat Map



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- CPUC High Fire Threat District - Tier 2
- CPUC HFTD-Zone 1 (CAL FIRE High Hazard Zones Tier 1)
- California County Boundaries

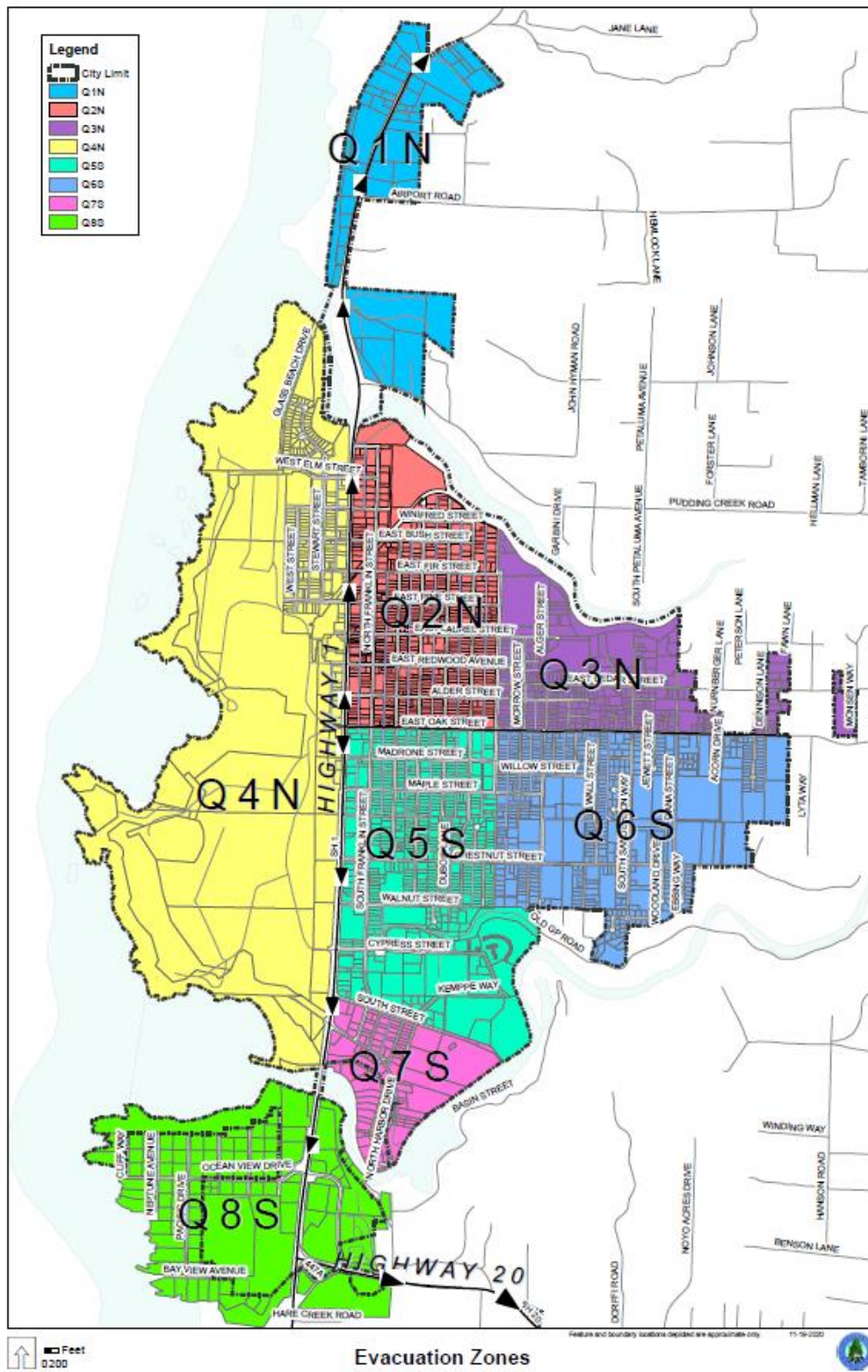
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Esri, NASA, NGA, USGS, FEMA, California State Parks, Esri, HERE, Garmin, SafeGraph, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, US Census Bureau, USDA

CPUC-SED
Esri, NASA, NGA, USGS, FEMA | Esri Community Maps Contributors, California State Parks, Esri, HERE, Garmin, SafeGraph, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, US Census Bureau, USDA |

Figure 19: City of Fort Bragg Evacuation Map



Regulatory Setting

Wildfires are a hazard and fall under the same authority at the federal level as other hazards (see above Hazards and Hazardous Materials section).

Since 1995, the Office of the State Fire Marshal (OSFM) supports the CAL FIRE mission to protect life and property through fire prevention engineering programs, law and code enforcement and education. The OSFM provides for fire prevention by enforcing fire-related laws in state-owned or operated buildings, investigating arson fires in California, licensing those who inspect and service fire protection systems, approving fireworks as safe and sane for use in California, regulating the use of chemical flame retardants, evaluating building materials against fire safety standards, regulating hazardous liquid pipelines, and tracking incident statistics for local and state government emergency response agencies. (Cal Fire, 2022) Cal Fire has a local station at 802 N Main St. in the City limits.

The City is also part of the Fort Bragg Fire Protection Authority. Goal SF-4 - Reduce fire hazards of the Inland General Plan Element 7- Safety has specific policies and programs to reduce fire hazards:

Safety Goal SF-4 Policy SF-4.1 Minimize Fire Risk in New Development: Review all development proposals for fire risk and require mitigation measures to reduce the probability of fire.
Safety Goal SF-4 Policy SF-4.1 Program SF-4.1.1: Continue to consult the Fort Bragg Fire Protection Authority in the review of development proposals to identify the projected demand for fire protection services and implement measures to maintain adequate fire protection services. Mitigation measures may include levying fire protection impact fees for capital facilities, if warranted.
Safety Goal SF-4 Policy SF-4.2 Maintain a High Level of Fire Protection: Work with the Fire Protection Authority to ensure a continued high level of fire protection.
Safety Goal SF-4 Policy SF-4.2 Program SF-4.2.1: Increase water main sizes or loop existing water mains where necessary to provide adequate flows for fire protection. The standard for water flow for fire protection purposes in commercial uses should be a minimum of 1,000 gallons per minute for 2 hours with 20 pounds per square inch residual pressure.
Safety Goal SF-4 Policy SF-4.2 Program SF-4.2.2 Develop a plan to provide sprinklers for commercial structures in the Central Business District. The plan shall include consideration of City funding to construct risers for this area.
Safety Goal SF-4 Policy SF-4.2 Program SF-4.2.3 Work with the Fort Bragg Fire Protection Authority to establish a regular schedule for periodic inspections of commercial and industrial premises by the Fire Prevention Officer.

The City regulates fire safety through the Municipal Code Title 15 Building and Construction Chapter 15.05 California Fire Code, Chapter 15.06 Fire Sprinklers, as well as Chapter 6.20 Burning Regulations and Restrictions of the Health and Sanitation Code. Additionally, §6.12.040(E)(3) of the Municipal Code declares that overgrown

vegetation causing a fire hazard is subject to abatement requirements and violation penalties in Chapter 6.12 Nuisances.

Discussion

The proposed ordinances would establish regulation for cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones and precludes any physical development.

All future CBP applications would be conditionally allowable under the new regulations and would be subject to discretionary review, including an assessment of wildfire risk. All commercial/industrial remodel or new construction projects require a building permit, all of which are reviewed by the Fire Marshall at the Fort Bragg Fire Department. The Fire Marshall is responsible for placing conditions on projects to ensure that it meets the City's Fire Code, California Fire Code, and does not increase the risk of fire in the City. All new and remodeled construction are further subject to review by the building official including compliance with the California Building Code.

The proposed ordinances will not change the rules or regulations that protect the community from wildfire. The proposed ordinances do not propose any physical development and applies exclusively to properties that are already zoned to allow for commercial or industrial uses. All future development projects would be subject to the existing regulations, compliance with the California Building Code and the Fire Code. Therefore, the proposed project would have no impact on wildfire hazards.

References

CA Governor's Office of Planning and Research. (2022, January 21). OPR General Plan Guidelines Tool. Retrieved from: <http://maps.gis.ca.gov/cageneralplan/map.aspx>

California Public Utilities Commission (CPUC). (2022, January 26). Fire Threat Map. Retrieved from California Public Utilities Commission (CPUC): <https://capuc.maps.arcgis.com/apps/webappviewer/index.html?id=5bdb921d747a46929d9f00dbdb6d0fa2>

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Mandatory Findings of Significance

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XXI. MANDATORY FINDINGS OF SIGNIFICANCE.				
a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Regulatory Setting

The federal, state, and City governments have existing laws and regulations in place that regulate and manage development to define, prevent, and/or mitigate environmental impacts. Cannabis business activity is heavily regulated by the State of California Department of Cannabis Control (DCC). As discretionary projects, all projects proposed in the City limits are subject to review under CEQA, though some projects (such as a cannabis dispensary in an existing retail building) may be found to

be exempt. Any proposed project is subject to the City's regulations in the Municipal Code and Inland Land Use Development Code.

And, as previously noted, the Department of Cannabis Control Regulations include §16304. General Environmental Protection Measures which says:

(a) All licensed cultivators shall comply with all of the following environmental protection measures:

(1) Principles, guidelines, and requirements adopted pursuant to section 13149 of the Water Code and implemented by the State Water Resources Control Board, Regional Water Quality Control Boards, or California Department of Fish and Wildlife;

(2) Any conditions of licensure included pursuant to section 26060.1(b)(1) of the Business and Professions Code;

(3) Requirements of section 7050.5(b) of the Health and Safety Code if human remains are discovered during cultivation activities;

(4) Requirements for generators pursuant to section 16306;

(5) Requirements for pesticides pursuant to section 16307;

(6) Outdoor lights used for safety or security purposes are shielded and downward facing; and

(7) Lights used for indoor or mixed-light cultivation are shielded from sunset to sunrise to reduce nighttime glare.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26060, 26066 and 26201, Business and Professions Code.

Discussion

The proposed code amendments do not change the environmental protections established in the City's codes for the protection of habitat, cultural resources, and public health and safety. There is no proposed change to the size or location of the industrial or commercial zones and as a zoning text amendment, the project does not include any physical development. The proposed code amendments will add regulations for a conditionally allowable use to the industrial zones and make minor modifications to existing regulations for cannabis businesses in the commercial zones. All proposed cannabis business activity is subject to a cannabis business permit, which is fully discretionary. Because these regulations are in place and will apply to future projects, the addition of a new conditional use and the minor modifications to existing regulations for cannabis business activity in commercial zones will not have cumulative impacts on the environment, directly or indirectly. Therefore, there would be no impacts under the proposed zoning text amendment relative to the existing zoning code.

Attachments

Attachment A	Proposed Amendments to City of Fort Bragg Municipal Code Chapter 9.30 Cannabis Businesses
Attachment B	Proposed Amendments to ILUDC Chapter 2 Including Revised Section §18.22.030 Commercial District Land Uses and Permit Requirements and Revised Section §18.42.030 Industrial Land Uses and Permit Requirements
Attachment C	Proposed Amendments to ILUDC Chapter 4 Including New §18.42.055 Cannabis Cultivation, Revised §18.42.057 Cannabis Retail, and New §18.42.058 Cannabis Microbusiness
Attachment D	Proposed Amendment to ILUDC Chapter 10 Definitions Including New and Revised Definitions in §18.100.020
Attachment E	MCAQMD Adopted Air Quality CEQA Thresholds of Significance
Attachment F	State of California Department of Cannabis Control Regulations

ATTACHMENT A

DRAFT CHAPTER 9.30 CANNABIS BUSINESSES

Section

- [9.30.010 Purpose and intent](#)
- [9.30.020 Definitions](#)
- [9.30.030 Limitations on use](#)
- [9.30.040 Cannabis businesses permit](#)
- [9.30.050 Applications](#)
- [9.30.060 Time limit for filing application for permit](#)
- [9.30.070 Term of permits and renewals](#)
- [9.30.080 Fees](#)
- [9.30.090 Public safety review and action on application](#)
- [9.30.100 Grounds for denial of application](#)
- [9.30.110 Appeal from Community Development Department decision to deny application](#)
- [9.30.120 Processing of cannabis business permit](#)
- [9.30.130 Operating requirements](#)
- [9.30.140 Commercial cannabis cultivation](#)
- [9.30.150 Minors](#)
- [9.30.160 Display of permit](#)
- [9.30.170 Registration of new employees](#)
- [9.30.180 Transfer of permits](#)
- [9.30.190 Suspension and revocation – notice](#)
- [9.30.200 Suspension and revocation – grounds](#)
- [9.30.210 Suspension and revocation – appeals](#)
- [9.30.220 Suspension or revocation without hearing](#)
- [9.30.230 Separate offense for each day](#)
- [9.30.240 Public nuisance](#)
- [9.30.250 Criminal penalties](#)
- [9.30.260 Civil injunction](#)
- [9.30.270 Administrative remedies](#)
- [9.30.280 Severability](#)

9.30.010 PURPOSE AND INTENT.

It is the purpose and intent of this chapter to regulate cannabis businesses in order to promote the health, safety, morals, and general welfare of the residents and businesses within the City.

9.30.020 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

APPLICANT. 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 agent of a cannabis business.

CANNABIS. All parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. “Cannabis” also means cannabis as defined by § [11018](#) of the Health and Safety Code and by other state law. “Cannabis” does not mean “industrial hemp” as defined by § [11018.5](#) of the Health and Safety Code.

CANNABIS BUSINESS. An entity engaged in the cultivation, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products for commercial purposes.

CANNABIS MANUFACTURING. The production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

CANNABIS OPERATOR or **OPERATOR.** The person or entity that is engaged in the conduct of any commercial cannabis business.

CANNABIS PRODUCT. Cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

CANNABIS RETAIL. A cannabis business where cannabis or cannabis products are offered, either individually or in any combination, for retail sale directly to customers. The primary use of a cannabis retail business is to sell products directly to on-site customers. Sales may also be conducted by delivery. Also known as a cannabis “dispensary.”

CANNABIS RETAIL – DELIVERY ONLY. A cannabis business that is closed to the public and conducts sales exclusively by delivery.

CHIEF OF POLICE. The Chief of Police of the City of Fort Bragg or the authorized representatives thereof.

CLONE. A portion of a stem that is cut from a parent plant and induced to form roots by chemical, mechanical, or environmental manipulations.

COMMERCIAL CANNABIS CULTIVATION. The planting, growing, and harvesting of cannabis plants that are intended to be transported, processed, distributed, dispensed, delivered or sold.

COMMUNITY DEVELOPMENT DIRECTOR. The Director of the Community Development Department of the City of Fort Bragg or the authorized representatives thereof.

EDIBLE CANNABIS PRODUCT. A cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with § [32501](#)) of the Food and Agricultural Code.

FULLY ENCLOSED AND SECURE STRUCTURE (FESS). A building or a space within a building that complies with the California Building Code, that has a complete roof enclosure supported by

connecting walls extending from the ground to the roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, and is accessible only through 1 or more lockable doors. Walls and roofs must be constructed of solid materials that cannot be easily broken through. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement. If indoor grow lights or air filtration systems are used, they must comply with all applicable building, electrical, and fire codes.

GREENHOUSE. A completely enclosed structure whose structure members are made of pre-formed, rigid construction materials. The walls, roof, and ends are typically covered using a transparent material, often glass, that is fixed in place and which allows solar radiation to penetrate the surface and affect the growing environment of the plants inside.

HOOP HOUSE. A structure with structure members made of flexible and somewhat rigid construction materials, typically PVC pipe or similar material. The ends may be covered or left open and the material covering the structural members is readily removable and is typically removed and re-affixed frequently.

IMMATURE PLANT or IMMATURE. A cannabis plant that has a first true leaf measuring greater than one-half (0.5) inch long from base to tip (if started from seed) or a mass of roots measuring greater than one-half (0.5) inch wide at its widest point (if vegetatively propagated), but which is not flowering.

INDOORS or INDOOR CULTIVATION. The cultivation of cannabis within a fully enclosed and secure structure. This includes mixed-light or greenhouse cultivation within a fully enclosed and secure structure.

MATURE PLANT or MATURE. A cannabis plant that is flowering.

MULTI-TIER CULTIVATION. A cultivation that uses interior fixtures or shelving to cultivate multiple levels of plants within a FESS.

NURSERY. All activities associated with producing clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

OUTDOOR or OUTDOOR CULTIVATION. Any cultivation that is not within a fully enclosed and secure structure. This includes hoop houses, and other structures that do not meet the definition of a fully enclosed and secure structure.

PERMITTEE. A person who holds an effective and current permit under this chapter.

PROCESS and PROCESSING. All activities associated with the drying, curing, grading, trimming, rolling, storing, packaging, and labeling of cannabis or non-manufactured cannabis products.

RETAIL CANNABIS – DELIVERY ONLY. The commercial transfer of cannabis or cannabis products to a consumer. “Delivery” also includes the use of any technology platform owned and controlled by a cannabis business operator that enables customers to arrange for or facilitate the commercial transfer by a permitted cannabis retail facility.

VOLATILE SOLVENT. Any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. Examples of volatile solvents include, but are not limited to, butane, hexane, and propane.

9.30.030 LIMITATIONS ON USE.

A. *Compliance with City Code.* Cannabis businesses shall only be allowed in compliance with this chapter and all applicable regulations promulgated by the City of Fort Bragg, including but not limited to all regulations governing building, grading, plumbing, septic, electrical, fire, hazardous materials, nuisance, and public health and safety.

B. *Compliance with State Laws and Regulations.* Cannabis businesses shall comply with all applicable state laws and regulations, as may be amended, including all permit, approval, inspection, reporting and operational requirements, imposed by the state and its regulatory agencies having jurisdiction over cannabis and/or cannabis businesses. All cannabis businesses shall comply with the rules and regulations for cannabis as may be adopted and as amended by any state agency or department including, but not limited to, the Bureau of Cannabis Control, the Department of Food and Agriculture, the Department of Public Health, the Department of Pesticide Regulation, and the Board of Equalization.

C. Cannabis businesses shall provide copies of state, regional and local agency permits, approvals or certificates upon request by the City to serve as verification for such compliance.

D. Cannabis business permits are only valid for 1 year from date of issue but may be renewed as set forth in this chapter.

E. Cannabis business permits are discretionary and valid only for the cannabis business activities specified on the approved permit.

9.30.040 CANNABIS BUSINESSES PERMIT.

A. 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 the commercial cultivation, processing, manufacture, distribution or retail sale of cannabis without a valid cannabis business permit from the City and a license from the State of California as herein required.

B. Cannabis businesses shall not be established or maintained except as authorized by the Inland Land Use and Development Code and/or the Coastal Land Use and Development Code, as applicable.

C. *Dual Licensing.* State law requires dual licensing at the state and local level for cannabis businesses. All cannabis operators shall therefore be required to obtain a cannabis license from the State of California, and shall comply at all times with all applicable state licensing requirements and conditions. Cannabis businesses shall not be allowed to commence operations until the cannabis business can demonstrate that all necessary state licenses and agency permits have been obtained.

D. Failure to demonstrate dual licensing in accordance with this chapter shall be grounds for revocation of City approval. Revocation of a local permit and/or a state license shall terminate the ability of the cannabis business to operate until a new permit and/or state license is obtained.

9.30.050 APPLICATIONS.

Any application for a cannabis business permit shall be filed with the Community Development Department and may be filed concurrently with an application for a conditional use permit or a business license application. The application shall be made under penalty of perjury. Any application for a cannabis business permit shall include the following information:

- A. The full name, present address, and telephone number of the applicant;
- B. The address to which notice of action on the application and all other notices are to be mailed;
- C. Previous addresses for the past 5 years immediately prior to the present address of the applicant;
- D. Written proof that the applicant is over 21 years of age;
- E. Photographs for identification purposes (photographs shall be taken by the Police Department);
- F. A copy of all the applicant's valid state cannabis license(s) or copy of the complete pending cannabis application(s) related to the permit;
- G. The cannabis business history of the applicant, including whether the applicant, in previously operating in any city, county, or state under permit, has had a permit revoked or suspended and, if so, the reason therefor;
- H. The name or names of the person or persons having the management or supervision of the cannabis business;
- I. Whether the person or persons having the management or supervision of the cannabis business have been convicted of a crime(s), the nature of the offense(s), and the sentence(s) received therefor;
- J. A security plan ensuring the safety of employees and visitors from criminal activity, including theft and unauthorized entry;
- K. A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the cannabis business and the purpose and security of each room or area of operation;
- L. A diagram illustrating the use and coverage of security cameras, security lighting, and necessary access restrictions;
- M. A notarized statement by the property owner certifying under penalty of perjury that he or she has given consent to the applicant to operate a cannabis business at the location, or providing proof that the applicant owns the property;
- N. Detailed operating procedures, which shall include the following:
 - 1. Proposed hours of operation;

2. How the business will comply with applicable state regulations;
3. Product safety and quality assurances;
4. Record keeping procedures;
5. Product recall procedures;
6. A solid waste disposal plan, with certification that waste transport entities and disposal facilities have agreed to haul and receive solid waste produced by the cannabis business;
7. Product supply chain information (cultivation, testing, transportation, manufacturing, packaging and labeling, etc.);
8. An odor prevention plan, illustrating how the cannabis business will be consistent with § 17.30.080(J) and/or § 18.30.080(J). The odor prevention plan may include an odor absorbing ventilation and exhaust system or other measures to ensure the use does not produce odors which are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public; and
9. Other information as required by the Community Development Director or the Chief of Police as necessary to ensure the project's compliance with local, state and federal regulations;

O. Applications for a permit to conduct commercial cannabis cultivation shall include the following additional elements:

1. Drawings and plan specifications for the exact location and exact size of the fully enclosed and secure structure where any cannabis will be cultivated including seeds, clones, immature, and mature plants. Specifications shall include any plans for multi-tier cultivation;
2. A water usage plan that indicates the planned source of water, month by month annual usage in gallons, and any plans for water conservation which may include water recycling, on-site water storage, development of a well, or use of reclaimed City water;
3. An energy plan that indicates the estimated monthly energy usage in kilowatt-hours, the source(s) of energy, and any planned energy conservation practices including plans that utilize natural sunlight, solar panels, LED lighting, a community choice aggregate energy provider, or other methods to reduce energy consumption; and
4. Any other information required by the Community Development Department;

P. Authorization for the City, its agents and employees to seek verification of the information contained within the application; and

Q. 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.

9.30.060 TIME LIMIT FOR FILING APPLICATION FOR PERMIT.

If the applicant has completed the application improperly, or if the application is incomplete, the Community Development Director shall, within 30 days of receipt of the original application, notify the applicant of the fact and, on request of the applicant, grant the applicant an extension of time of 30 days or more to submit a complete application.

9.30.070 TERM OF PERMITS AND RENEWALS.

Cannabis business permits issued under this chapter shall expire 1 year following their issuance. Cannabis business permits may be renewed by the Community Development Director for additional 1-year periods upon application by the permittee, unless the permit is suspended or revoked subject to § 9.30.200. Applications for renewal shall be made at least 45 days before the expiration date of the permit and shall be accompanied by the nonrefundable fee referenced in § 9.30.080. When made less than 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. The Chief of Police may recommend to deny an application for renewal based on any of the grounds referenced in §§ 9.30.100 and 9.30.200. An applicant aggrieved by the Community Development Director's decision to deny a renewal of a cannabis business permit may appeal pursuant to § 9.30.110.

9.30.080 FEES.

Every application for a cannabis business 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.

- A. The fee schedule is intended to allow recovery of all costs incurred by the City in processing permit applications to the maximum extent allowed by the law.
- B. *Timing of Payment.* No application shall be deemed complete, and processing shall not commence on any application until all required fees or deposits have been paid. Failure to timely pay supplemental requests for payment of required fees and/or deposits shall be a basis for denial or revocation of any permit.
- C. *Refunds and Withdrawals.* Application fees cover City costs for public hearings, mailings, staff time, and the other activities involved in processing applications. Therefore, no refund due to a disapproval shall be allowed. In the case of a withdrawal, the Director shall have the discretion to authorize a partial refund based upon the prorated costs to date and the status of the application at the time of withdrawal.

9.30.090 PUBLIC SAFETY REVIEW AND ACTION ON APPLICATION.

After the application is deemed complete and the fees or deposits have been collected, the Community Development Director will send the completed application to the Chief of Police for public safety review. The Chief of Police or his designee shall conduct a background check of the applicant and conduct a public safety review of the proposed project. After the background checks

and public safety review are complete, the Chief of Police or his designee shall formally recommend either approval or denial of the application.

If an application is recommended for denial by the Chief of Police or his designee, the Community Development Director shall not approve the application. The applicant will be notified by a letter sent by certified mail and will have 30 days to modify the existing application. If the application is not modified within 30 days and the applicant has not requested more time, it will be denied by the Community Development Director.

The Chief of Police or his designee may recommend conditional approval of an application with specific requirements that the applicant shall meet. The Community Development Director will require the fulfillment of the conditions prior to final issuance of the permit.

9.30.100 GROUNDS FOR DENIAL OF APPLICATION.

The grounds for a denial of a cannabis business permit application shall be 1 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 a cannabis 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, owner, or permittee has a criminal history that falls under the Business and Professions Code § [26057](#)(b)(4), (5), (6) or (7) with the exception of criminal activity that falls under Business and Professions Code § [26059](#);
- E. The applicant has engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices;
- F. The applicant is under 21 years of age;
- G. The cannabis business does not comply with Title [17](#), Coastal Land Use Development Code, or Title [18](#), Inland Land Use and Development Code;
- H. The required application or renewal fees have not been paid; or
- I. The applicant's plan fails to comply with § [9.30.130](#) and, if applicable, § [9.30.140](#) or § [9.30.150](#).

9.30.110 APPEAL FROM COMMUNITY DEVELOPMENT DEPARTMENT DECISION TO DENY APPLICATION.

The Community Development Director shall cause a written notice of decision to deny a cannabis business 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 decision to deny an application may appeal the decision in accordance with the procedures described in Chapter [1.08](#). If an appeal is not taken within such time (15 days), the Community Development Director's decision shall be final.

9.30.120 PROCESSING OF CANNABIS BUSINESS PERMIT.

If an application is recommended for approval by the Chief of Police, it shall be reviewed by the Community Development Director for:

- A. Compliance with other required permits or licenses necessary prior to operation;
- B. Compliance with all rules, regulations, ordinances and requirements of the City, including but not limited to § [9.30.130](#) and, if applicable, § [9.30.140](#); and
- C. Compliance with the California Environmental Quality Act.

9.30.130 OPERATING REQUIREMENTS.

A cannabis business shall meet the following operating requirements for the duration of the use:

- A. The design, location, size and operating characteristics of the cannabis business shall comply with the findings and conditions of any applicable discretionary permit obtained for its operation;
- B. A cannabis business use shall maintain a current register of the names of all current owners and all current employees who will be on the premises;
- C. Individuals not listed as employees, owners, or managers of the business shall not be permitted in nonpublic areas of the business;
- D. The building entrance to a cannabis business shall be clearly and legibly posted with a notice indicating that persons under the age of 21 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. No cannabis business shall hold or maintain a license from the State Department of Alcoholic 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 cannabis business use;
- F. A cannabis business shall provide adequate security on the premises, including lighting and alarms, to ensure the safety of employees and visitors from criminal activity, including theft and unauthorized entry; and
- G. A cannabis business shall provide the Chief of Police and Fire 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 is an emergency or there are operating problems associated with the cannabis business. The cannabis business management 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 Community Development Department.

H. Any cannabis business shall not be located within 100 feet of a school providing instruction in kindergarten or any grades 1 through 12, a child day care center or facility as defined in Article 10, or a youth center as defined in the State of California Health and Safety Code Section 11353.1(e)(2). The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the school/youth center to the closest property line of the lot on which the cannabis business is located.

9.30.140 COMMERCIAL CANNABIS CULTIVATION.

- A. Commercial cannabis shall be cultivated only in a fully enclosed and secured structure (FESS). Commercial cannabis cultivation that occurs within a greenhouse that meets the criteria for a FESS shall not be visible from any public right-of-way.
- B. Commercial cannabis cultivation shall be reviewed for compliance with the California Environmental Quality Act.
- C. Commercial cannabis cultivation shall utilize on-site water recycling practices.
- D. Commercial cannabis cultivation shall either enroll in a community choice aggregate energy provider or install solar panels.

9.30.150 Retail Cannabis Requirements.

- A. Employees.** The cannabis operator shall maintain a current register of the names of all employees employed by the cannabis retailer, and shall disclose such register for inspection by any City officer or official for purposes of determining compliance with the requirements of this Section and/or any project specific conditions of approval prescribed in the Minor Use Permit.
- B. Recordkeeping.** The cannabis operator shall maintain patient and sales records in accordance with State law.
- C. Photo identification.** No person shall be permitted to enter a cannabis retail facility without government issued photo identification. Cannabis businesses shall not provide cannabis or cannabis products to any person, whether by purchase, trade, gift or otherwise, who does not possess a valid government issued photo identification card.
- D. Hours of operation.** Cannabis retail may operate between the hours of 9:00 a.m. to 7:00 p.m. up to 7 days per week unless the review authority imposes more restrictive hours due to the particular circumstances of the application. The basis for any restriction on hours shall be specified in the permit. Cannabis retail uses shall only be permitted to engage in delivery services during hours that the storefront is open to the public, unless the review authority permits delivery outside these hours.
- E. On-Site consumption not allowed.** The consumption of cannabis at a retail cannabis dispensary or within the parking lot or public right-of-way is not allowed.

F. Drive-through services. Drive-through or walk-up window services in conjunction with cannabis retail are prohibited.

G. Delivery services. The primary use as defined in 18.100.020 of a cannabis retail use shall be to sell products directly to on-site customers. Sales may also be conducted by delivery. Cannabis retail uses engaging in delivery in addition to on-site sales shall be subject to the following requirements:

1. Delivery to locations outside a permitted cannabis retail facility shall only be permitted in conjunction with a permitted cannabis facility. Delivery of cannabis without a storefront component shall be considered cannabis retail - delivery only, and subject to the requirements of § 18.42.059.

2. If delivery services will be provided, the application shall incorporate security protocols in compliance with State law.

9.30.160 MINORS.

A. It shall be unlawful for any permittee, operator, or other person in charge of any cannabis business to employ any person who is not at least 21 years of age.

B. Persons under the age of 21 shall not be allowed on the premises of a cannabis business unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or legal guardian.

9.30.170 DISPLAY OF PERMIT.

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

9.30.180 REGISTRATION OF NEW EMPLOYEES.

A. As a further condition of approval of every cannabis business permit issued pursuant to this chapter, every owner or operator shall register every employee with the Police Department within 10 business days of the commencement of the employee's period of employment at the cannabis business.

B. The owner or operator will submit a color copy of the new employee's photo identification card as part of the registration process. Upon request from the Police Department, the employee shall provide their original photo identification card for review.

C. The Police Department shall be notified within 10 business days of any employee no longer employed by the business and the owner shall provide an updated roster of all current employees. The roster shall be dated and signed by the owner or operator declaring that it is complete.

D. Failure to register each new employee within 10 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.

9.30.190 TRANSFER OF PERMITS.

A. A permittee shall not operate a cannabis business under the authority of a cannabis business permit at any place other than the address or parcel of the cannabis business stated in the application for the permit.

B. A permittee shall not transfer ownership or control of a cannabis business or transfer a cannabis business permit to another person unless and until the transferee obtains an amendment to the permit from the Community Development Director or Chief of Police stating that the transferee is now the permittee. The amendment may be obtained only if the transferee files an application with the Community Development Director in accordance with § [9.30.050](#), accompanies the application with a transfer fee in an amount set by resolution of the City Council, and the Chief of Police determines in accordance with § [9.30.090](#) that the transferee would be entitled to the issuance of an original permit.

C. No permit may be transferred when the Community Development Director 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.

9.30.200 SUSPENSION AND REVOCATION – NOTICE.

A. Any permit issued under the terms of this chapter may be suspended or revoked by the Chief of Police or the Community Development Director when it appears to them that the permittee has committed any 1 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 has been held by the City. Written notice of the time and place of the hearing shall be served upon the person to whom the permit was granted at least 5 days prior to the date set for the hearing. The notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending the 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.

9.30.210 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 § [9.30.100](#), which sets forth the grounds for denial of an application for a permit for the cannabis business;
- 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;
- C. Conducts the permitted business in a manner contrary to the peace, health, or safety of the public;
- 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;
- E. Violates any provision of Title [15](#); or
- F. Violates or fails to comply with the terms and conditions of any required discretionary permit.

9.30.220 SUSPENSION AND REVOCATION – APPEALS.

Any permittee aggrieved by the decision of the City in suspending or revoking a permit may, within 15 calendar days, appeal the decision in accordance with the procedures described in Chapter [1.08](#). If a decision of the City to suspend or revoke a permit is not appealed within 15 calendar days, the decision of the City shall be final.

9.30.230 SUSPENSION OR REVOCATION WITHOUT HEARING.

If any person holding a permit or acting under the authority of the permit under this chapter is convicted of a misdemeanor in any court for the violation of any law which relates to his or her permit, the Chief of Police shall revoke the 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, a permittee may, within 15 calendar days, appeal the revocation in accordance with the procedures described in Chapter [1.08](#). During the pendency of the appeal, the permit shall be deemed suspended. If the appeal is not taken within 15 days, the decision of the Chief of Police shall be final.

9.30.240 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.

9.30.250 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](#).

9.30.260 CRIMINAL PENALTIES.

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

9.30.270 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 the City, create a cause of action for injunctive relief.

9.30.280 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.

9.30.290 SEVERABILITY.

If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions of this chapter. The City Council of the City hereby declares that it would have passed the ordinance codified in this chapter and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that 1 or more sections, subsections, sentences, clauses, or phrases may be held invalid or unconstitutional.

ATTACHMENT B

DRAFT Amendments to Title 18 Chapter 2 Land Use Tables

18.22.030 Commercial District Land Uses and Permit Requirements

TABLE 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	P	Permitted use, Zoning Clearance required				
	MUP	Minor Use Permit required (see § 18.71.060)				
	UP	Use Permit required (see § 18.71.060)				
	S	Permit requirement set by Specific Use Regulations				
	—	Use not allowed				
LAND USE (1)	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
	CN	CO	CBD	CG	CH	

AGRICULTURAL, RESOURCE AND OPEN SPACE USES

Cannabis – Indoor Nursery Cultivation	—	—	S	S	S	Chapter 9.30 18.42.055, 18.42.057, 18.42.058
Crop production, horticulture, orchard, vineyard	P	P	P	P	P	

INDUSTRY, MANUFACTURING AND PROCESSING, WHOLESALING

Laboratory - Analytical and testing	—	P	—	P	—	
Artisan/craft product manufacturing with retail sales	—	P(2)	P(2)	P(2)	P(2)	
Brewery/restaurant	—	—	UP	—	—	
Printing and publishing	—	—	P	P	—	
Research and development (R&D)	—	—	—	UP	—	
Recycling - Small facility	P	P	P	P	P	18.42.150
Recycling - Large facility	—	—	—	UP	—	18.42.150
Cannabis Microbusiness	—	—	MUP	MUP	MUP	Chapter 9.30 18.42.058

Key to Zoning District Symbols

CN	Neighborhood Commercial	CG	General Commercial
CO	Office Commercial	CH	Highway and Visitor Commercial
CBD	Central Business District		

Notes:

- (1) See Article [10](#) for land use definitions.
- (2) Use shall be entirely enclosed within a building, unless outdoor activities and/or storage are authorized by Use Permit.

TABLE 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	P Permitted use, Zoning Clearance required Minor Use Permit required (see MUP § 18.71.060) UP Use Permit required (see § 18.71.060) Permit requirement set by Specific Use Regulations S — Use not allowed					
	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
LAND USE (1)	CN	CO	CBD	CG	CH	

RETAIL TRADE

Artisan shop	UP	UP	P	P	P	
Auto and vehicle sales and rental	—	—	—	P	P	
Auto parts sales with no installation services	—	—	—	P	P	
Bar/tavern	—	—	UP	MUP	MUP	
Big box retail	—	—	—	UP	UP	
Building and landscape materials sales - Indoor	—	—	—	P	UP	
Building and landscape materials sales - Outdoor	—	—	—	UP	UP	18.42.130
Cannabis Retail	—	—	S(3)	S	S	18.42.057 Chapter 9.30
Cannabis retail - Delivery only	—	—	S	S	S	18.42.059 Chapter 9.30

(3) No more than three total retail cannabis businesses shall be allowed in the Central Business District.

18.42.030 – Industrial Land Uses and Permit Requirements

TABLE 2-10 Allowed Land Uses and Permit Requirements for Industrial Zoning Districts	P	Permitted use, Zoning Clearance required	
	MUP	Minor Use Permit required (see § 18.71.060)	
	UP	Use Permit required (see § 18.71.060)	
	S	Permit requirement set by Specific Use Regulations	
	—	Use not allowed	
LAND USE (1)	PERMIT REQUIRED BY DISTRICT		Specific Use Regulations
	IL	IH	

AGRICULTURAL, RESOURCE AND OPEN SPACE USES

Crop production, horticulture, orchard, vineyard	P	P	
Cannabis – Indoor Nursery Cultivation	MUP	MUP	Chapter 9.30 18.42.055
Cannabis - Indoor Cultivation of Mature Plants	MUP	MUP	Chapter 9.30 18.42.055

INDUSTRY, MANUFACTURING AND PROCESSING, WHOLESALING

Agricultural product processing	UP	P	
Artisan/craft product manufacturing	P(2)	UP	
Brewery/restaurant	UP	UP	
Boat and ship construction, repair, maintenance	UP	P	
Cannabis Microbusiness	MUP	MUP	Chapter 9.30 18.42.058
Construction contractor base	P(2)	P(2)	
Fish processing	P(2)	P	
Lumber and wood product manufacturing	UP	UP	
Manufacturing/processing - Heavy	—	UP	
Manufacturing/processing - Light	P	P	
Manufacturing/processing - Medium intensity	UP	P(2)	
Media production	P	P	
Petroleum product storage and distribution	UP	P	
Printing and publishing	P	P	
Research and development (R&D)	P	P	
Recycling - Large facility	UP	UP	18.42.150
Recycling - Small facility	P	P	18.42.150
Storage - Outdoor	UP	UP	18.42.140
Storage - Personal storage facility (mini-storage)	UP	P	
Storage - Warehouse, indoor storage	P	P	

TABLE 2-10 Allowed Land Uses and Permit Requirements for Industrial Zoning Districts	PERMIT REQUIRED BY DISTRICT			Specific Use Regulations
	PERMIT REQUIRED BY DISTRICT			
	IL	IH		
	P	Permitted use, Zoning Clearance required		
	MUP	Minor Use Permit required (see § 18.71.060)		
	UP	Use Permit required (see § 18.71.060)		
	S	Permit requirement set by Specific Use Regulations		
	—	Use not allowed		
	PERMIT REQUIRED BY DISTRICT			
LAND USE (1)	IL	IH		
Wholesaling and distribution	P	P		

TABLE 2-10 Allowed Land Uses and Permit Requirements for Industrial Zoning Districts	PERMIT REQUIRED BY DISTRICT			Specific Use Regulations
	PERMIT REQUIRED BY DISTRICT			
	IL	IH		
	P	Permitted use, Zoning Clearance required		
	MUP	Minor Use Permit required (see § 18.71.060)		
	UP	Use Permit required (see § 18.71.060)		
	S	Permit requirement set by Specific Use Regulations		
	—	Use not allowed		
	PERMIT REQUIRED BY DISTRICT			
LAND USE (1)	IL	IH		

RETAIL TRADE

Accessory retail or services	MUP	MUP	18.42.020
Building and landscape materials sales - Indoor	P	P	
Building and landscape materials sales - Outdoor	UP	P	18.42.130
Cannabis retail	MUP(2)	MUP(2)	18.42.057 Chapter 9.30
Cannabis retail - Delivery only	MUP (2)	MUP (2)	18.42.057 Chapter 9.30

(2) Use shall only be allowable as an accessory use to a cannabis business engaged in manufacturing and/or distribution.

ATTACHMENT C

PROPOSED DRAFT Title 18 Chapter 4

18.42.055 Commercial Cannabis Cultivation

In addition to the operating requirements set forth in Chapter 9.30 of the Municipal Code, this Section provides location and operating requirements for commercial cannabis cultivation. Chapter 9.30 and Section 18.100.020 contains definitions of terms used herein.

- A. **Conditional use.** A Minor Use Permit shall be required to commercially cultivate mature or flowering cannabis plants in accordance with Table 2-10 of Section 18.24.030.
- B. **Operational requirements.** In addition to project specific conditions of approval and the requirements set forth in Chapter 9.30, commercial cannabis cultivation shall comply with the following operational requirements:
 1. **Employees.** The cannabis operator shall maintain a current register of the names of all employees and shall disclose such register for inspection by any City officer or official for purposes of determining compliance with the requirements of this Section and/or any project specific conditions of approval prescribed in the Minor Use Permit.
 2. **Visitors.** Only employees, managers, owners, and government agency representatives are allowed in non-public areas of the business. Any other visitors to non-public areas must be documented in a log.
 3. **Utilities.**
 - a. Commercial cannabis cultivation shall use the best available technologies for water systems and water recycling and are encouraged to use an alternate source of water from the City's potable water system.
 - b. Commercial cannabis cultivators shall use energy efficient lighting and equipment. A cannabis cultivator shall provide proof of the utility provider's ability to provide reliable power to the cultivation site.
 - c. Electricity must be exclusively provided by a renewable energy source, including but not limited to:
 1. Grid power supplied from a 100% renewable source, or
 2. An on-site renewable energy system
 - d. Cultivation projects shall use environmentally friendly practices including integrative pest management and waste reduction.
 4. **Odor.** Cannabis cultivations shall use the best available technology to ensure odors are not detected on adjacent or nearby property or areas open to the public.
- C. **Accessory uses to commercial cultivation.** As defined in Article 10, accessory uses are customarily incidental to, related and clearly subordinate to a primary use on the same parcel, which does not alter the primary use. Accessory uses may include activities that require additional State cannabis licenses including

processing, manufacturing, distribution and retail. The following activities are authorized as accessory uses to commercial cannabis cultivation:

Industrial Zones	Storefront cannabis retail Delivery cannabis retail Processing Distribution and Wholesale Manufacturing
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18.42.057 Cannabis Storefront Retail

- A. **Cannabis Business Permit Required.** A cannabis storefront retail business shall obtain a cannabis business permit subject to Chapter 9.30 of the Municipal Code and any required state licenses prior to operation.
- B. **Permitted Use.** A cannabis storefront retail business is a permitted use in the Central Business District, General Commercial, and Highway Visitor Commercial Zones subject to the limitations imposed in Table 2-6, the requirements of this section, and the requirements of Chapter 9.30 of the Municipal Code. A cannabis retail – delivery only is a permitted use in Commercial General and Highway Visitor Commercial.
- C. **Accessory uses.** As defined in Article 10, an accessory use is customarily incidental to, related and clearly subordinate to a primary use, on the same parcel, which does not alter the primary use as defined in Article 10. A cannabis business with more than one accessory use, or with another use that does not qualify as accessory, shall be considered a microbusiness and subject to section 18.42.058. A retail business may still be considered retail with two accessory uses only if one of the uses is “onsite distribution” as defined in Article 10. Accessory uses are determined by the definitions in Article 10.

1. The following uses are allowable as accessory uses to cannabis storefront retail:

Zone	Allowable Accessory Uses
Central Business District	Nursery (non-flowering) cultivation; Artisan/craft manufacturing of cannabis products; Retail Delivery; On-Site Distribution
Highway Visitor Commercial	Nursery (non-flowering) cultivation; Processing; Manufacturing (non-volatile); Distribution and Wholesale; Retail Delivery; On-Site Distribution
General Commercial	Nursery (non-flowering) cultivation; Processing; Distribution and Wholesale;

	Manufacturing (non-volatile); Retail Delivery; On-Site Distribution
--	---

2. In no instance shall cannabis manufacturing using volatile solvents be allowable as an accessory use to cannabis retail.
3. A commercial cannabis nursery may be allowable as an accessory use to a cannabis retail business or as part of a microbusiness with a licensed and permitted retail cannabis business provided that the following criteria are met:
 - i. Nursery plants cultivated on sites are only sold as retail on-site.
 - ii. No flowering or mature plants are cultivated on-site.
 - iii. The nursery is clearly accessory to the retail business.
 - iv. The nursery cultivation takes place in a fully enclosed and secure structure as defined in Chapter 9.30.020.

18.42.058 Cannabis Microbusiness

A cannabis microbusiness, as defined in Article 10 is a cannabis business that conducts either two commercial cannabis activities on one parcel where neither can be determined to be accessory to the other, or a cannabis business that conducts more than two commercial cannabis activities on one parcel. In addition to the operating requirements set forth in Chapter 9.30, this Section provides location and operating requirements for cannabis microbusinesses.

A. General Commercial Zone (CG) and Visitor Highway Commercial Zone (CH) requirement for a cannabis microbusiness:

1. A cannabis microbusiness in the CH or CG zones shall include a retail business with a storefront facing the street.
2. A cannabis microbusiness in the CH or CG zones shall meet the operating requirements for Cannabis Storefront Retail Section 18.42.057(B)
3. A microbusiness that includes nursery cultivation shall meet the requirements of Section 18.42.055 Cannabis Cultivation.
4. Allowable microbusiness activities in the CH or CG zones may include Storefront Retail Cannabis, Retail Delivery, cannabis processing, non-volatile manufacturing, wholesale and distribution of cannabis, and nursery cannabis cultivation.
5. The cultivation of mature or flowering cannabis plants is not allowed in commercial zones.
6. Manufacturing of cannabis using volatile chemicals is prohibited in commercial zones.

7. Non-retail cannabis activities in commercial zones shall not be visible from the public right of way.
 8. A cannabis microbusiness shall not create noise above the noise level performance standards set in the Inland General Plan Noise Element Table N-5 (55 db) as registered at the nearest residential property line,
 9. A cannabis microbusiness shall not create a public nuisance as defined in Municipal Code Chapter 6.12.
- B. A cannabis microbusiness in the industrial zone shall meet the following requirements:
1. Conditional use. A Minor Use Permit shall be required to operate a cannabis microbusiness in accordance with Table 2-10 of Article 2.
 2. A microbusiness that includes cultivation shall meet the requirements set forth in Section 18.42.055.
 3. A microbusiness that includes storefront retail component shall meet the operating requirements in 9.30.150.
 4. A microbusiness that includes volatile manufacturing shall require a Use Permit.

18.42.059 - Cannabis Retail - Delivery Only

In addition to the operating requirements set forth in Chapter [9.30](#), this Section provides location and operating requirements for cannabis retail - delivery only. Chapter [9.30](#) contains definitions of terms used herein.

A. Conditional use. A Minor Use Permit shall be required to operate cannabis retail - delivery only in accordance with Table 2-6 of Article [2](#).

B. Operational requirements. In addition to project specific conditions of approval and the requirements set forth in Chapter [9.30](#), cannabis retail - delivery only uses shall comply with the following operational requirements:

1. Cannabis retail - delivery only uses shall comply with the same operational requirements applicable to cannabis retail uses, as described in § [18.42.057](#).
2. The application shall describe the operational plan and specific extent of such service, security protocols, and how the delivery services will comply with the requirements set forth in Chapter [9.30](#), this Section, and State law.

ATTACHMENT D

18.100.020 - Definitions of Specialized Terms and Phrases

As used in this Inland Land Use and Development Code, the following terms and phrases shall have the meaning ascribed to them in this Section, unless the context in which they are used clearly requires otherwise:

A. Definitions, “A.”

Accessory Use. A use that is customarily incidental-related and clearly subordinate in area, extent, and purpose to a primary use on the same parcel and which does not alter the primary use. ~~nor serve property other than the parcel where the primary use is located.~~

Agricultural Accessory Structure. A structure for sheltering animals, or agricultural equipment, hay, feed, etc. Examples of these structures include barns, noncommercial greenhouses, coops, corrals, and pens. May also include the storage of petroleum products for an on-site agricultural use allowed by the applicable zoning district. Does not include pasture fencing, which requires no City approval when in compliance with § 18.30.050 (Fences, Walls, and Screening). **Agricultural Accessory Structures shall not be used for commercial cannabis cultivation.**

Agricultural Product Processing. The processing of harvested crops to prepare them for on-site marketing or processing and packaging elsewhere. Examples of this land use include the following:

- custom milling of flour, feed and grain
- pre-cooling and packaging of fresh or farm-dried fruits and vegetables
- dairies (but not feedlots, see instead “Livestock Operations, Sales Yards, Feedlots, Stockyards”)
- sorting, grading and packing of fruits and vegetables
- drying of corn, rice, hay, fruits and vegetables
- tree nut hulling and shelling
- grain cleaning and custom grinding
- wineries
- hay baling and cubing
- **cannabis processing**

Artisan Shop. A retail store selling art glass, ceramics, jewelry, paintings, sculpture, and other handcrafted items, where the store includes an area for the crafting of the items being sold.

B. Definitions, “B.” – No changes to definitions in section B.

C. Definitions, “C.”

Cannabis. The following terms and phrases are defined for the purposes of Chapters 18.2 and Chapter 18.4

1. **Cannabis.** As defined in Municipal Code 9.30.
2. **Cannabis Cultivation.** The planting, growing, harvesting, or drying of cannabis.
 - a. **Indoor Cultivation.** The cultivation of cannabis within a fully enclosed and secure permanent structure using exclusively artificial light or within any type of structure using artificial light at a rate above twenty-five watts per square foot.
 - b. **Nursery.** All activities associated with producing clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis. Nursery size is based on actual square footage, not on canopy size. A nursery shall not have mature plants. A nursery selling plants directly to consumers shall have a cultivation and retail license from the state.
 - c. **Outdoor Cultivation.** The cultivation of cannabis that is not within a fully enclosed and secure structure. Outdoor cultivation is unlawful in the city of Fort Bragg per Municipal Code 9.32.
3. **Cannabis Microbusiness.** A cannabis business that conducts either two commercial cannabis activities on one parcel where neither can be determined to be accessory, or a cannabis business that conducts more than two commercial cannabis activities on one parcel.
4. **Cannabis Retail.** A cannabis business where cannabis or cannabis products are offered, either individually or in any combination, for retail sale directly to customers. The primary use of a cannabis retail business is to sell products directly to on-site customers. Sales may also be conducted by delivery. Also known as a cannabis “dispensary.” See also Chapter 9.30.
5. **Cannabis Retail - Delivery Only.** A cannabis business that is closed to the public and conducts sales exclusively by delivery.
6. **Cultivation Site.** A location where commercial cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where any combination of those activities occurs.
7. **Fully enclosed and secure structure.** A building or a space within a building that complies with the California Building Code, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, and is accessible only through one or more lockable doors. Walls and roofs must be constructed of solid materials that cannot be easily broken through. If indoor grow lights or air filtration systems are used, they must comply with all applicable Building, Electrical, and Fire Codes.
8. **Greenhouse.** A completely enclosed structure whose structure members are made of pre-formed, rigid construction materials. The walls, roof, and ends are typically covered using a transparent material, often glass, that is fixed in place and which allows solar radiation to penetrate the surface and affect the growing environment of the plants inside.

9. **Hoop House.** A structure with structure members made of flexible and somewhat rigid construction materials, typically pvc pipe or similar material. The ends may be covered or left open and the material covering the structural members is readily removable and is typically removed and re-affixed frequently. Hoop houses are considered outdoor cultivation.
10. **Immature plant or immature.** A cannabis plant that has a first true leaf measuring greater than one half inch long from base to tip (if started from seed) or a mass of roots measuring greater than one half inch wide at its widest point (if vegetatively propagated), but which is not flowering.
11. **Mature Plant or Mature.** A cannabis plant that is flowering.
12. **On-Site Distribution.** The movement of cannabis products from either nursery cultivation, processing, or manufacturing conducted on-site to a licensed retail-cannabis operation at the same site. Cannabis sold wholesale or distributed to offsite retail is classified under wholesale and distribution
13. **Process or processing.** All post-harvest activities associated with the drying, curing, grading, rolling, storing, packaging, and labeling of cannabis or non-manufactured cannabis products.
14. **Volatile solvent.** Any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. Examples of volatile solvents include, but are not limited to, butane, hexane, and propane.

Crop Production, Horticulture, Orchard, Vineyard. Commercial agricultural production field and orchard uses, including the production of the following, primarily in the soil on the site and not in containers, other than for initial propagation prior to planting in the soil on the site:

- field crops
- ornamental crops
- flowers and seeds
- tree nuts
- fruits
- trees and sod
- grains
- vegetables
- melons
- wine and table grapes

Also includes associated crop preparation services and harvesting activities, such as mechanical soil preparation, irrigation system construction, spraying, crop processing and retail sales in the field, not including sales sheds, which are instead defined under “Produce Stand.” Does not include greenhouses which are instead defined under “Plant Nursery,” and “Residential Accessory Use or Structure,” or containerized crop production, which is instead defined under “Plant Nursery.” Does not include noncommercial home gardening, which is allowed as an accessory use in all zoning districts without City approval. **Does not include cannabis cultivation or processing which is covered under the definition for Cannabis and regulated under Municipal Code 9.30, and for which specific land use regulations are provided in Chapter 18.42.055.**

D. Definitions, “D.” – No change

E. Definitions, “E.” – No change.

F. Definitions, “F.” – No change.

G. Definitions, “G.” – No change.

General Retail. Stores and shops selling many lines of merchandise. Examples of these stores and lines of merchandise include:

- antique stores
- art galleries
- art supplies
- bicycles
- books, magazines, and newspapers
- clothing, shoes, and accessories
- collectibles (cards, coins, comics, stamps, etc.)
- consignment stores
- department stores
- dry goods
- fabrics and sewing supplies
- florists and houseplant stores (indoor sales only; outdoor sales are “Building and Landscape Materials Sales”)
- hardware (not including building or landscape materials)
- health care supplies
- hobby materials
- jewelry
- luggage and leather goods
- musical instruments, parts and accessories
- religious goods
- small wares
- specialty shops
- sporting goods and equipment
- stationery
- toys and games
- variety stores

Does not include adult-oriented businesses, second hand stores, or cannabis retail which are separately defined.

Groceries, Specialty Foods. A retail business where the majority of the floor area, open to the public, is occupied by food products for preparation and consumption away from the store. Includes retail bakeries, where any on-site baking is only for on-site sales.

H. Definitions, “H.” – No changes

I. Definitions, “I.”

Incidental Agriculture. Noncommercial crop production, horticulture, and orchard uses; and private, noncommercial stables and corrals.

L. Definitions, “L.”

Laboratory - Analytical, Testing. A facility for testing and analysis, and/or research. Examples of this use include soils and materials testing labs, medical service labs and forensic labs, and **cannabis testing labs**. See also “Research and Development (R&D).”

M. Definitions, “M.”

Manufacturing - Cannabis. A process where cannabis is transformed into a product (such as food, medicine, oil, clothing, textile, etc.), and the production, preparation, propagation, or compounding of cannabis or cannabis products, directly or indirectly.

Manufacturing/Processing - Heavy. A facility accommodating manufacturing processes that involve and/or produce basic metals, building materials, chemicals, fabricated metals, paper products, machinery, textiles, and/or transportation equipment, where the intensity and/or scale of operations may cause significant impacts on surrounding land uses or the community. Also includes cannabis manufacturing and processing facilities with similar operational characteristics to the examples below. Examples of heavy manufacturing uses include the following:

1. **Chemical Product Manufacturing.** An establishment that produces or uses basic chemicals, and other establishments creating products predominantly by chemical processes. Examples of these products include: basic chemicals, including acids, alkalis, salts, and organic chemicals; chemical products to be used in further manufacture, including synthetic fibers, plastic materials, dry colors, and pigments; and finished chemical products to be used for ultimate consumption, including drugs/pharmaceuticals, cosmetics, and soaps; or to be used as materials or supplies in other industries including paints, fertilizers, and explosives. Also includes sales and transportation establishments handling the chemicals described above, except as part of retail trade.
2. **Concrete, Gypsum, and Plaster Product Manufacturing.** An establishment that produces bulk concrete, concrete building block, brick, and/or other types of precast and prefabricated concrete products. Also includes ready-mix concrete batch plants, lime manufacturing, and the manufacture of gypsum products, including plasterboard. A retail ready-mix concrete operation as an incidental use in conjunction with a building materials outlet is defined under “Building and Landscape Materials Sales.”
3. **Glass Product Manufacturing.** An establishment that manufactures glass and/or glass products by melting silica sand or cullet, including the production of flat glass and other glass products that are pressed, blown, or shaped from glass produced in the same establishment. Artisan and craftsman type operations of a larger scale than home occupations are instead included under “Manufacturing/Processing - Light - Small-Scale Manufacturing.”
4. **Paving and Roofing Materials Manufacturing.** The manufacture of various common paving and petroleum-based roofing materials, including bulk asphalt, paving blocks made of asphalt, creosote wood, and various compositions of asphalt and tar. Does not include the manufacture of wood roofing materials (shingles, shakes, etc.; see “Manufacturing/Processing - Medium Intensity - Lumber and Wood Product Manufacturing”).

5. Petroleum Refining and Related Industries. Industrial plants for purifying petroleum, and the compounding of lubricating oils and greases from purchased materials. Also includes oil or gas processing facilities, liquefied natural gas (LNG) facilities, the manufacture of petroleum coke and fuel briquettes, tank farms, and terminal facilities for pipelines. Does not include petroleum pipeline surge tanks and pump stations (“Public Facility”), or petroleum product distributors (“Petroleum Product Storage and Distribution”).

6. Plastics, Other Synthetics, and Rubber Product Manufacturing. The manufacture of rubber products including: tires, rubber footwear, mechanical rubber goods, heels and soles, flooring, and other rubber products from natural, synthetic, or reclaimed rubber. Also includes establishments engaged primarily in manufacturing tires; products from recycled or reclaimed plastics or Styrofoam; molding primary plastics for other manufacturers, manufacturing miscellaneous finished plastics products, fiberglass manufacturing, and fiberglass application services. Does not include establishments engaged primarily in recapping and retreading automobile tires (“Vehicle Services - Major Repair/Body Work”).

7. Primary Metal Industries. An establishment engaged in: the smelting and refining of ferrous and nonferrous metals from ore, pig, or scrap; the rolling, drawing, and alloying of metals; the manufacture of castings, forgings, stampings, extrusions, and other basic metal products; and the manufacturing of nails, spikes, and insulated wire and cable. Also includes merchant blast furnaces and by-product or beehive coke ovens.

8. Pulp and Pulp Product Manufacturing. An establishment that manufactures pulp, paper, or paperboard. Includes pulp, paper, and paperboard mills. Does not include establishments primarily engaged in converting paper or paperboard without manufacturing the paper or paperboard, including envelope manufacturing, converted paper products, paper coating and glazing, paper bags, assembly of paperboard boxes, wallpaper (“Manufacturing/Processing - Light - Paper Product Manufacturing”).

9. Textile and Leather Product Manufacturing. An establishment that converts basic fibers (natural or synthetic) into a product, including yarn or fabric, that can be further manufactured into usable items (“Manufacturing/Processing - Light - Clothing and Fabric Product Manufacturing”), and industries that transform hides into leather by tanning or curing. Includes:

- coating, waterproofing, or otherwise treating fabric
- manufacturing of woven fabric, carpets, and rugs from yarn
- dressed and dyed furs
- preparation of fiber and subsequent manufacturing of
- yarn, threads, braids, twine cordage
- dyeing and finishing fiber, yarn, fabric, and knit apparel
- leather - tanned, curried, and finished
- scouring and combing plants

- manufacture of knit apparel and other finished products from yarn
- upholstery manufacturing
- manufacture of felt goods, lace goods, nonwoven fabrics and miscellaneous textiles
- yarn and thread mills

Manufacturing/Processing - Light. A facility accommodating manufacturing processes involving and/or producing: apparel; food and beverage products; electronic, optical, and instrumentation products; ice; jewelry; and musical instruments. Light manufacturing also includes other establishments engaged in the assembly, fabrication, and conversion of already processed raw materials into products, where the operational characteristics of the manufacturing processes and the materials used are unlikely to cause significant impacts on surrounding land uses or the community. Also includes non-volatile cannabis manufacturing and processing and processing facilities with similar operational characteristics to the examples below. Examples of light manufacturing uses include the following:

1. **Clothing and Fabric Product Manufacturing.** An establishment that assembles clothing, draperies, and/or other products by cutting and sewing purchased textile fabrics, and related materials including leather, rubberized fabrics, plastics and furs. Does not include custom tailors and dressmakers not operating as a factory and not located on the site of a clothing store (see “Personal Services”). See also “Manufacturing/Processing - Heavy - Textile and Leather Product Manufacturing.”

2. **Electronics, Equipment, and Appliance Manufacturing.** An establishment that manufactures equipment, apparatus, and/or supplies for the generation, storage, transmission, transformation and use of electrical energy, including:

- appliances including stoves/ovens, refrigerators, freezers, laundry equipment, fans, vacuum cleaners, sewing machines
- motors and generators
- optical instruments and lenses
- photographic equipment and supplies
- aviation instruments
- radio and television receiving equipment
- computers, computer components, peripherals
- surgical, medical and dental instruments, equipment, and supplies
- electrical transmission and distribution equipment
- storage media, blank and pre-recorded, including magnetic, magneto-optical, and optical products such as compact disks (CDs), computer diskettes and hard drives, digital versatile disks (DVDs), magnetic tape products, phonograph records, etc.
- electronic components and accessories

- semiconductors, integrated circuits, related devices
- electrical welding apparatus
- lighting and wiring equipment such as lamps and fixtures, wiring devices, vehicle lighting
- surveying and drafting instruments
- telephone and telegraph apparatus
- transformers, switch gear and switchboards
- industrial controls
- instruments for measurement, testing, analysis and control, associated sensors and accessories
- watches and clocks
- miscellaneous electrical machinery, equipment and supplies such as batteries, X-ray apparatus and tubes, electromedical and electrotherapeutic apparatus, electrical equipment for internal combustion engines

Does not include testing laboratories (soils, materials testing, etc.) (see “Business Support Service”), or research and development facilities separate from manufacturing (see “Research and Development”).

3. Food and Beverage Product Manufacturing. Manufacturing establishments producing or processing foods and beverages for human consumption, and certain related products. Examples of these uses include:

- bottling plants
- fruit and vegetable canning, preserving, related processing
- breweries
- grain mill products and by-products
- candy, sugar, confectionery products manufacturing
- meat, poultry, and seafood canning, curing, byproduct processing
- catering services separate from stores or restaurants
- soft drink production
- miscellaneous food item preparation from raw products
- coffee roasting
- dairy products manufacturing
- fat and oil product manufacturing
- wholesale edible cannabis products

Does not include: bakeries, which are separately defined.

4. Furniture and Fixtures Manufacturing. Manufacturers producing: wood and metal household furniture and appliances; bedsprings and mattresses; all types of office furniture and public building furniture and partitions, shelving, lockers and store furniture; and miscellaneous drapery hardware, window blinds and shades. Does not include wood workers and custom cabinet shops, which are separately regulated under

“Artisan/Craft Product Manufacturing.” Does not include sawmills or planing mills, which are instead included under “Manufacturing/Processing - Heavy.”

5. **Small-Scale Manufacturing.** Includes manufacturing establishments producing small products not classified in another major manufacturing group, including: brooms and brushes; buttons, costume novelties; pens, pencils, and other office and artists’ materials; sporting and athletic goods; toys; etc.

6. **Metal Products Fabrication, Machine and Welding Shops.** An establishment engaged in the production and/or assembly of metal parts, including the production of metal cabinets and enclosures, cans and shipping containers, doors and gates, duct work, forgings and stampings, hardware and tools, plumbing fixtures and products, tanks, towers, and similar products. Examples of these uses include:

- blacksmith and welding shops
- plating, stripping, and coating shops
- sheet metal shops
- machine shops and boiler shops

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7. Paper Product Manufacturing. An establishment that converts pre-manufactured paper or paperboard into boxes, envelopes, paper bags, wallpaper, etc., and/or that coats or glazes pre-manufactured paper. Does not include the manufacturing of pulp, paper, or paperboard (see “Manufacturing/Processing - Heavy - Pulp and Pulp Product Manufacturing”).

Manufacturing/Processing - Medium Intensity. A facility accommodating manufacturing processes that involve and/or produce building materials, fabricated metal products, machinery, and/or transportation equipment, where the intensity and/or scale of operations is greater than those classified under “Manufacturing/Processing - Light,” but where impacts on surrounding land uses or the community can typically be mitigated to acceptable levels. Also includes cannabis manufacturing and processing facilities with similar operational characteristics to the examples below. Examples of intensive manufacturing uses include the following:

1. Lumber and Wood Product Manufacturing. Manufacturing, processing, and sales involving the milling of forest products to produce rough and finished lumber and other wood materials for use in other manufacturing, craft, or construction processes. Includes the following processes and products:
 - containers, pallets and skids
 - manufactured and modular homes
 - milling operations
 - trusses and structural beams
 - wholesaling of basic wood products
 - wood product assembly
2. Machinery Manufacturing. An establishment that makes or processes raw materials into finished machines or parts for machines. Does not include the manufacture of electronics, equipment, or appliances (“Electronics, Equipment, and Appliance Manufacturing”).
3. Motor Vehicles and Transportation Equipment. Manufacturers of equipment for transporting passengers and cargo by land, air and water, including motor vehicles, aircraft, spacecraft, ships, boats, railroad and other vehicles such as motorcycles, bicycles and snowmobiles. Includes manufacture of motor vehicle parts and accessories; trailers and campers for attachment to other vehicles; self-contained motor homes; and van conversions. Does not include mobile home and modular home assembly (listed under “Lumber and Wood Product Manufacturing”).
4. Stone and Cut Stone Product Manufacturing. An establishment that cuts, shapes, and/or finishes marble, granite, slate, and/or other stone for construction and miscellaneous uses. Does not include establishments engaged primarily in buying or selling partly finished monuments and tombstones (“Artisan/Craft Product Manufacturing”).
5. Structural Clay and Pottery Product Manufacturing. An establishment that produces brick and structural clay products, including pipe, china plumbing

fixtures, vitreous china articles, and/or fine earthenware and porcelain products. Does not include artist/craftsman uses (see “Artisan/Craft Product Manufacturing,” “Home Occupation”).

N. Definitions, “N.” – No changes recommended

O. Definitions, “O.” –

On-Site Distribution. The movement of cannabis products from either nursery cultivation, processing, or manufacturing conducted on-site to a licensed retail-cannabis operation at the same site. Cannabis sold wholesale or distributed to offsite retail is classified under wholesale and distribution.

P. Definitions, “P.”

Plant Nursery. A commercial agricultural establishment engaged in the production of ornamental plants and other nursery products, grown under cover either in containers or in the soil on the site, or outdoors in containers. The outdoor production of ornamental plants in the soil on the site is instead included under “Crop Production, Horticulture, Orchard, Vineyard.” Also includes establishments engaged in the sale of these products (e.g., wholesale and retail nurseries) and commercial-scale greenhouses (home greenhouses are included under “Residential Accessory Use or Structure”). The sale of house plants or other nursery products entirely within a building is also included under “General Retail.” Does not include cannabis nurseries which are defined separately under cannabis cultivation - nursery.

Primary Use. The main purpose for which a site is developed and occupied, including the activities that are conducted on the site a majority of the hours during which activities occur.

Q. Definitions, “Q.” – No changes recommended

R. Definitions, “R.” – No changes recommended

S. Definitions, “S.” – No changes recommended

T. Definitions, “T.” – No changes recommended

U. Definitions, “U.” – No changes recommended

V. Definitions, “V.” – No changes recommended

W. Definitions, “W.”

Wholesaling and Distribution. An establishment engaged in selling merchandise to retailers; to contractors, industrial, commercial, institutional, farm, or professional business users; to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise, including cannabis products, to such persons or companies. Examples of these establishments include:

- agents, merchandise or commodity brokers, and commission merchants
- assemblers, buyers and associations engaged in the cooperative marketing of farm products
- merchant wholesalers
- stores primarily selling electrical, plumbing, heating and air conditioning supplies and equipment

Also includes storage, processing, packaging, and shipping facilities for mail order and electronic-commerce retail establishments.

X. Definitions, "X." – No changes recommended

Y. Definitions, "Y." – No changes recommended

Z. Definitions, "Z." – No changes

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ATTACHMENT E

Adopted Air Quality CEQA thresholds of Significance – June 2, 2010			
POLLUTANT	CONSTRUCTION RELATED	OPERATIONAL RELATED	
Criteria Pollutants and Precursors (Regional)	Average Daily Emissions (lb/day)	Indirect Average Daily Emissions (lb/day)	Stationary Maximum Annual Emissions (tpy)
ROG	54 (Bay Area AQMD)	180	40
NOx	54 (Bay Area AQMD)	42	40
PM ₁₀	82	82	15
PM _{2.5}	54	54	10
Fugitive Dust - PM ₁₀ /PM _{2.5}	Best Management Practices	Same as Above	
Local CO	None	125 tpy	
GHG's Projects other than Stationary Sources	None	1,100 Metric Tons of CO ₂ e/yr OR 4.6 Metric Tons CO ₂ e/SP/yr (residents + employees)	
GHG's Stationary Sources	None	10,000 MT/yr	
Risk & Hazards – New Source	Same as Operational Thresholds	Increased cancer risk >10 in a million Increased non-cancer risk >1.0 Hazard Index (<i>Chronic or Acute</i>) Ambient PM _{2.5} increase >3.0 µg/m ³ annual average <u>Zone of Influence:</u> 1,000-foot radius from fence line of source or receptor	
Risk & Hazards – New Receptor (Individual Project)	Same as Operational Thresholds	Increased cancer risk >10 in a million Increased non-cancer risk >1.0 Hazard Index (<i>Chronic or Acute</i>) Ambient PM _{2.5} increase >3.0 µg/m ³ annual average <u>Zone of Influence:</u> 1,000-foot radius from fence line of source or receptor	

Air District policy is that adopted thresholds apply to projects for which a Notice of Preparation is published, or environmental analysis begins, on or after the applicable effective date. The adopted CEQA thresholds – except for the risk and hazards thresholds for new receptors – are effective June 2, 2010. The risk and hazards threshold for new receptors are effective January 1, 2011.

The District recommends that for construction projects that are less than one year duration, Lead Agencies should annualize impacts over the scope of actual days that peak impacts are to occur, rather than the full year.

CO= carbon monoxide; CO₂e= carbon dioxide equivalent; GHGs= greenhouse gases; lb/day= pounds per day; MT= metric tons; NOx= oxides of nitrogen; PM_{2.5}= fine particulate matter with aerodynamic resistance diameter of 2.5 microns or less; PM₁₀= respirable particulate matter with aerodynamic resistance diameter of 10 microns or less; PPM= parts per million; ROG= reactive organic gases; SP= service population; tpy= Tons per year; yr= year

Adopted Air Quality CEQA thresholds of Significance – June 2, 2010		
POLLUTANT	CONSTRUCTION RELATED	OPERATIONAL RELATED
Risk & Hazards – New Source (Cumulative Thresholds)	Same as Operational Thresholds	Cancer > 100 in million (from all local sources) Non-Cancer >10.0 Hazard Index (chronic) (from all local sources) PM _{2.5} >0.8 µg/m ³ annual average (from all sources) <u>Zone of Influence:</u> 1,000-foot radius from fence line of source or receptor
Risk & Hazards – New Receptor (Cumulative Thresholds)	Same as Operational Thresholds	Cancer > 100 in million (from all local sources) Non-Cancer >10.0 Hazard Index (chronic) (from all local sources) PM _{2.5} >0.8 µg/m ³ annual average (from all sources) <u>Zone of Influence:</u> 1,000-foot radius from fence line of source or receptor
Accidental Release of Acutely Hazardous Air Pollutants	None	Storage or use of acutely hazardous materials located near receptors or receptors located near stored or used acutely hazardous materials considered significant
Odors	None	District determination
Plan Level		
Criteria Pollutants & precursors	None	1. Consistency with current Air Quality Plan control measures 2. Projected VMT or vehicle Trip increase is ≤ projected population increase
GHG's	None	Compliance with Qualified Greenhouse Gas Reduction Strategy (or similar criteria included in General Plan) OR 6.6 MT Co2e/SP/yr (Residents + employees)
Risks & Hazards	None	Overlay zones around existing and planned sources of TACs
Odors	None	Identify locations of odor sources in general plan
Accidental Release of Acutely Hazardous Air Pollutants	None	None
Regional Plans (Transportation & Air Quality Plans)		
GHG's, Criteria Air Pollutants and Precursors, and Toxic Air Contaminants	None	No net increase in emissions

CO= carbon monoxide; CO₂e= carbon dioxide equivalent; GHGs= greenhouse gases; lb/day= pounds per day; MT= metric tons; NOx= oxides of nitrogen; PM_{2.5}= fine particulate matter with aerodynamic resistance diameter of 2.5 microns or less; PM₁₀= respirable particulate matter with aerodynamic resistance diameter of 10 microns or less; PPM= parts per million; ROG= reactive organic gases; SP= service population; tpy= Tons per year; yr= year

ATTACHMENT F

Department of Cannabis Control Medicinal and Adult-Use Commercial Cannabis Regulations California Code of Regulations Title 4 Division 19. Department of Cannabis Control

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Chapter 1. All Licensees

Article 1. Division Definitions and General Requirements

§15000. Definitions.

- (a) “Act” means the Medicinal and Adult-Use Cannabis Regulation and Safety Act, codified in Business and Professions Code section 26000, et seq.
- (b) “Adulterated” or “adulteration” has the meaning stated in section 26039.6(a) of the Act.
- (c) “Allergen” means a major food allergen as defined in 21 U.S.C § 321(qq).
- (d) “Appellation of Origin” means a designation to indicate that the cannabis meets the requirements developed by the program established pursuant to section 26063 of the Act.
- (e) “Applicant” means an owner that is applying for a Department-issued license.
- (f) “Batch” means a specific quantity of homogeneous cannabis or cannabis product that is one of the following types:
- (1) “Harvest batch” means a specifically identified quantity of dried flower or trim, leaves, and other cannabis plant matter that is harvested at the same time, and, if applicable, cultivated using the same pesticides and other agricultural chemicals.
 - (2) “Manufactured cannabis batch” or “production batch” means either:
 - (A) An amount of cannabis concentrate or extract produced in one production cycle using the same extraction methods and standard operating procedures; or
 - (B) An amount of a type of cannabis product produced in one production cycle using the same formulation and standard operating procedures.
- (g) “Cannabis accessories” has the meaning stated in Health and Safety Code section 11018.2.
- (h) “Cannabis concentrate” means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. For purposes of this division, “cannabis concentrate” includes, but is not limited to, the separated resinous trichomes of cannabis, tinctures, capsules, suppositories, extracts, vape cartridges, inhaled products (e.g., dab, shatter, and wax), and tablets as defined in subsection (nnn).
- (i) “Cannabis goods” means cannabis and cannabis products in final form. For the purposes of section 15311, “cannabis goods” includes all cannabis and cannabis products in any form.
- (j) “Cannabis product” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

(k) “Cannabis product quality,” “quality cannabis product,” or “quality” means that the cannabis product consistently meets the established specifications for identity, cannabinoid concentration, homogeneity, composition, and testing standards pursuant to sections 15718 through 15724, and has been manufactured, packaged, labeled, and held under conditions to prevent adulteration and misbranding.

(l) “Cannabis waste” means any material intended for disposal that contains cannabis but is not otherwise considered a hazardous waste. Cannabis waste consisting solely of plant material shall be considered an organic waste as defined in Public Resources Code section 42649.8(d).

(m) “Canopy” means the designated area(s) at a licensed premises that will contain mature plants at any point in time.

(n) “CBD” means the compound cannabidiol, CAS number 13956-29-1. “Total CBD” is defined in section 15700(qqq).

(o) “Commercial cannabis activity” includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of cannabis or cannabis products as provided for in this division, or acting as a cannabis event organizer for temporary cannabis events.

(p) “Commercial-grade, non-residential door lock” means a lock manufactured for commercial use.

(q) “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

(r) “Cultivation site” means a location where commercial cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where any combination of those activities occurs.

(s) “Delivery employee” means an individual employed by a licensed retailer or licensed microbusiness authorized to engage in retail sales who delivers cannabis goods from the licensed retailer or licensed microbusiness premises to a customer at a physical address.

(t) “Designated responsible party” means the individual identified by the commercial cannabis business who has legal authority to bind the commercial cannabis business and who is the primary contact for the application and license-related issues.

(u) “Distribution” means the procurement, sale, and transport of cannabis and cannabis products between licensees.

(v) “Dried flower” means all dead cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.

(w) “Edible cannabis product” means a cannabis product intended to be used orally, in whole or in part, for human consumption. For purposes of this division, “edible cannabis product” includes cannabis products that dissolve or disintegrate in the mouth, but does not include any product otherwise defined as “cannabis concentrate.”

(x) “Extraction” means a process by which cannabinoids are separated from cannabis plant material through chemical or physical means.

(y) “Final form” refers to cannabis and cannabis products that are packaged and labeled as they will be sold at retail to a consumer.

(z) “Flowering” means that a cannabis plant has formed a mass of pistils measuring greater than one-half inch wide at its widest point.

(aa) “Free cannabis goods” means any amount of cannabis goods provided to any person without cost or payment or exchange of any other thing of value.

(bb) “Immature plant” or “immature” means a cannabis plant that has a first true leaf measuring greater than one-half inch long from base to tip (if started from seed) or a mass of roots measuring greater than one-half inch wide at its widest point (if vegetatively propagated), but that is not flowering. For retail purposes, “immature plant” or “immature” means a cannabis plant that is nonflowering and shorter and narrower than 18 inches.

(cc) “Indoor cultivation” means the cultivation of cannabis within a permanent structure using exclusively artificial light or within any type of structure using artificial light at a rate above twenty-five watts per square foot.

(dd) “Informational panel” means any part of the cannabis product label that is not the primary panel and that contains required labeling information.

(ee) “Infusion” means a process by which cannabis, cannabinoids, or cannabis concentrates are directly incorporated into a product formulation to produce a cannabis product.

(ff) “Infused pre-roll” means a pre-roll into which cannabis concentrate (other than kief) or other ingredients have been incorporated.

(gg) “Ingredient” means any substance that is used in the manufacture of a cannabis product and that is intended to be present in the finished cannabis product.

(hh) “Kief” means the resinous trichomes of cannabis that have been separated from the cannabis plant.

(ii) “Labeling” means any label or other written, printed, or graphic matter upon cannabis or a cannabis product, upon its container or wrapper, or that accompanies any cannabis or cannabis product.

(jj) “Licensee” means any person holding a license issued under the Act.

(kk) “Light deprivation” means the use of any technique to eliminate natural light in order to induce flowering.

(ll) “Limited-access area” means an area in which cannabis or cannabis products are stored or held and is only accessible to a licensee and authorized persons.

(mm) “Lot” means a batch, or specifically identified portion of a batch.

(nn) “Lot number” or “batch number” means a distinctive group of numbers, letters, or symbols or any combination of these that is unique to a group of cannabis or cannabis products.

(oo) “Manufacture” means to compound, blend, extract, infuse, or otherwise make or

prepare a cannabis product.

(1) The term “manufacture” includes the following processes:

- (A) Extraction;
- (B) Infusion;
- (C) Packaging or repackaging of cannabis products;
- (D) Labeling or relabeling the packages of cannabis products;
- (E) Post-processing refinement of cannabis extract (“post-processing”); and
- (F) Remediation of failed harvest batches or cannabis product batches, other than relabeling to correct cannabinoid content.

(2) The term “manufacture” does not include the following:

- (A) The repacking of cannabis products from a bulk shipping container by a distributor or retailer where the product’s original packaging and labeling is not otherwise altered;
- (B) The preparation of pre-rolls by a licensed distributor in accordance with the requirements of section 15303;
- (C) The collection of the resinous trichomes that are dislodged or sifted from the cannabis plant incidental to cultivation activities by a licensed cultivator;
- (D) The processing of nonmanufactured cannabis products, as defined in subsection (eee) of this section; or
- (E) The addition of cannabinoid content on the label of a package of cannabis or cannabis product by a distributor in accordance with section 17407.

(pp) “Manufacturing” or “manufacturing operation” means all aspects of the extraction process, infusion process, post-processing, remediation, and packaging and labeling processes, including processing, preparing, holding, and storing of cannabis products. Manufacturing also includes any processing, preparing, holding, or storing of components and ingredients.

(qq) “Mature plant” or “mature” means a cannabis plant that is flowering.

(rr) “Medicinal cannabis patient” includes both a qualified patient as defined in Health and Safety Code section 11362.7 and a person in possession of a valid identification card issued under Health and Safety Code section 11362.71.

(ss) “Mixed-light cultivation” means the cultivation of mature cannabis in a greenhouse, hoop-house, glasshouse, conservatory, hothouse, or other similar structure using a combination of:

(1) Natural light and light deprivation, and either of the models listed below:

- (A) “Mixed-light Tier 1,” without the use of artificial light or the use of artificial light at a rate above zero, but no more than six watts per square foot;
- (B) “Mixed-light Tier 2,” the use of artificial light at a rate above six and below or equal to twenty-five watts per square foot; or

(2) Natural light and either of the models listed below:

(A) “Mixed-light Tier 1,” the use of artificial light at a rate above zero, but no more than six watts per square foot;

(B) “Mixed-light Tier 2,” the use of artificial light at a rate above six and below or equal to twenty-five watts per square foot.

(tt) “Nonmanufactured cannabis goods” means final form items that contain only cannabis.

(uu) “Nonvolatile solvent” means any solvent used in the extraction process that is not a volatile solvent. “Nonvolatile solvent” includes carbon dioxide, ethanol, and nonhydrocarbon-based or other solvents such as water, vegetable glycerin, vegetable oil, animal fat, and glycerin.

(vv) “Nursery” means all activities associated with producing clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

(ww) “Orally consumed concentrate” means a cannabis concentrate that is intended to be consumed by mouth and is not otherwise an edible cannabis product. “Orally consumed concentrate” includes tinctures, capsules, and tablets as defined in subsection (nnn).

(xx) “Outdoor cultivation” means the cultivation of mature cannabis without the use of artificial lighting or light deprivation in the canopy area at any point in time.

(yy) “Package” or “packaging” means any container or wrapper that may be used for enclosing or containing any cannabis or cannabis product. “Package” does not include a shipping container or outer wrapping used solely for the transport of cannabis or cannabis products in bulk quantity to a licensed premises.

(zz) “Person” includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

(aaa) “Pest” means an undesired insect, rodent, nematode, fungus, bird, vertebrate, invertebrate, weed, virus, bacteria, or other microorganism (except microorganisms on or in living humans or other living animals) that is, or is liable to become, injurious, dangerous, or detrimental to health, the environment, or the agricultural environment of the state.

(bbb) “Pre-roll” means any combination of the following rolled in paper: flower, shake, leaf, or kief that is obtained from accumulation in containers or sifted from loose, dry cannabis flower or leaf with a mesh screen or sieve.

(ccc) “Premises” means the designated structure(s) and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.

(ddd) “Primary panel” means the part of a cannabis goods label that is most likely to be

displayed, presented, shown, or examined under customary conditions of display for retail sale.

(eee) "Processing" means all activities associated with the drying, curing, grading, trimming, rolling, storing, packaging, and labeling of cannabis or nonmanufactured cannabis products.

(fff) "Product Identity" or "identity of the product" means the generic, common, or usual name of a product by which it is most commonly known.

(ggg) "Promotional materials" means any form, letter, circular, pamphlet, publication, or other written material directed to a customer or prospective customer to induce retail sales. Promotional material does not include permitted signs, displays, decorations, cannabis accessories, or cannabis or cannabis products furnished by a licensed cultivator, licensed manufacturer, licensed distributor, licensed microbusiness, or licensed cannabis event organizer to a retail licensee for advertising purposes. Promotional materials shall have no intrinsic or secondary value.

(hhh) "Publicly owned land" means any building or real property that is owned, leased, or occupied by a city, county, state, federal, or other government entity.

(iii) "Quarantine" means the storage or identification of cannabis or cannabis product to prevent use, movement or transfer of the cannabis or cannabis product.

(jjj) "Residential area" is an area that is within 600 feet of any single-family or multifamily residence, other than commercial hotels, motels, and similar establishments for temporary lodging.

(kkk) "Retail area" means a building, room, or other area that is open to the public, upon the licensed retailer or licensed microbusiness premises authorized to engage in retail sales in which cannabis goods are sold or displayed.

(lll) "Serving" means the designated amount of cannabis product established by the manufacturer to constitute a single unit.

(mmm) "Sublet" means to lease or rent all or part of a leased or rented property.

(nnn) "Tablet" means a solid preparation containing a single serving of THC or other cannabinoid that is intended to be swallowed whole, not formulated to be chewable, dispersible, effervescent, orally disintegrating, used as a suspension, or consumed in a manner other than swallowed whole, and does not contain any added natural or artificial flavor or sweetener.

(ooo) "Tamper-evident" means that the cannabis goods packaging is sealed in a manner that prevents the packaging from being opened without obvious destruction of the seal.

(ppp) "THC" or "delta-9 THC" means the compound tetrahydrocannabinol, CAS number 1972-08-3. "Total THC" is defined in section 15700(rrr).

(qqq) "Tincture" means a solution of cannabis extract, derived either directly from the cannabis plant or from a manufactured cannabis extract, dissolved in alcohol, glycerin, or vegetable oils.

(rrr) "Topical cannabis product" means a cannabis product intended to be applied to the

skin rather than ingested or inhaled.

(sss) “Track and trace system” means the program for reporting the movement of cannabis and cannabis products through the distribution chain established by the Department in accordance with section 26067 of the Act.

(ttt) “Transport” means the physical movement of cannabis or cannabis products from one licensed premises to another licensed premises.

(uuu) “Unique identifier” or “UID” means an alphanumeric code or designation used for reference to a specific plant and any cannabis or cannabis product derived or manufactured from that plant.

(vvv) “Universal symbol” means the symbol developed by the Department pursuant to section 26130(c)(7) of the Act to indicate that a product contains cannabinoids.

(www) “Vehicle alarm system” is a device or series of devices installed to discourage theft of the vehicle or its contents and is intended to summon general attention or to summon law enforcement as a result of an indication of an attempted breach of the vehicle.

(xxx) “Volatile solvent” means any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. Examples of volatile solvents include, but are not limited to, butane, hexane, and propane.

(yyy) “Watts per square foot” means the sum of the maximum wattage of all lights identified in the designated canopy area(s) in the premises diagram divided by the sum of the dimensions in square feet of the same designated canopy area(s).

(zzz) “Wholesale cost” has the meaning stated in title 18, California Code of Regulations, section 3700.

Authority: Section 26013, Business and Professions Code. Reference: Section 26013, Business and Professions Code.

§15000.1. General Requirements.

(a) Every person who conducts commercial cannabis activity shall obtain and maintain a valid license from the Department for each separate premises at which commercial cannabis activity is conducted.

(b) Commercial cannabis activity shall only be conducted between licensees. Licensed retailers and licensed microbusinesses authorized to engage in retail sales may conduct commercial cannabis activity with customers or nonprofits in accordance with this division.

(c) The licensee shall only conduct commercial cannabis activities authorized by the license and on the premises licensed for the activity.

(d) All transfers of cannabis and cannabis product shall be conducted by a licensed distributor.

(e) Licenses shall not be transferrable or assignable to another person or premises, except as provided in section 26050.2 of the Business and Professions Code. In the event of the sale or other transfer of the commercial cannabis business, changes in ownership shall be made in accordance with section 15023.

(f) Applicants and licensees shall use their legal business name on all documents related to commercial cannabis activity.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26053, 26057 and 26070, Business and Professions Code.

§15000.2. A- and M-Designations.

(a) Licensees may conduct business with other licensees irrespective of the A-designation or M-designation on their licenses.

(b) Licensees authorized to engage in distribution shall only transport and sell cannabis goods designated as “For Medical Use Only” to M-designated retailers or M-designated microbusinesses authorized to engage in retail sales.

(c) Licensees authorized to engage in retail sales shall only sell cannabis goods designated as “For Medical Use Only” to medicinal customers.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26001, 26013, 26050 and 26053, Business and Professions Code.

§15000.3. Premises Location.

(a) A licensed premises shall not be in a location that requires persons to pass through a business that sells alcohol or tobacco or a private residence to access the licensed premises.

(b) A licensed premises shall not be in a location that requires persons to pass through the licensed premises to access a business that sells alcohol or tobacco or a private residence.

(c) A licensed premises shall not be located within a private residence. This subsection does not apply to cultivation licensees.

(d) Licensees shall ensure that the Department has immediate access to their licensed premises. If the Department is denied access to a licensee’s premises for any reason, the licensee shall be held responsible and subject to discipline. If the Department is denied access to one licensee’s premises because of another licensee’s refusal to grant access when the only access to one licensed premises is through another licensed premises, all licensees shall be held responsible and subject to discipline.

(e) Nothing in this section shall be interpreted to prohibit two or more licensed premises from occupying separate portions of the same parcel of land or sharing common use areas, such as a bathroom, breakroom, hallway, or building entrance.

(f) All structures included as part of the licensed premises shall be permanently affixed to

the land by a method that would cause the structure to ordinarily remain affixed for an indefinite period of time. Structures that are not considered to be permanent structures include, but are not limited to, shipping containers that are not affixed to the land, modular buildings that are not affixed to the land, structures that rest on wheels, or any structure that can be readily moved. This provision is not applicable to licensees engaging in cultivation for cultivation related activities.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26050, 26051.5, 26054, 26055 and 26160, Business and Professions Code.

§15000.4. Subletting of Premises.

Except as allowed pursuant to article 2 of chapter 8, a licensee shall not sublet any area designated as the licensed premises for the licensee's commercial cannabis activity.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26070, Business and Professions Code.

§15000.5. Licensee's Responsibility for Acts of Employees and Agents.

In construing and enforcing the provisions of the Act and the regulations in this division, the act, omission, or failure of an agent, officer, representative, or other person acting for or employed by a licensee, within the scope of his or her employment or office, shall in every case be deemed the act, omission, or failure of the licensee.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26031 and 26110, Business and Professions Code.

§15000.6. Age Restriction.

Employees or persons retained by a licensee to work within or on a licensed premises or to handle cannabis or cannabis products shall be at least 21 years of age.

Authority: Section 26013, Business and Professions Code. Reference: Section 26140, Business and Professions Code.

§15000.7. Storage of Inventory.

(a) All inventory stored on the licensed premises shall be secured in a limited-access area.

(b) A licensee shall not store cannabis goods outdoors.

(c) Employee break rooms, changing facilities, and bathrooms shall be separated from all storage areas.

(d) All cannabis and cannabis products must be stored on the licensed premises.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26053 and 26070, Business and Professions Code.

Article 2. Applications

§15001. Provisional Licenses.

(a) A provisional licensee shall comply with all laws applicable to a licensee holding an annual license of the same type.

(b) A provisional license does not create a vested right in the holder to renewal of the provisional license or issuance of an annual license.

(c) A provisional license shall no longer be valid upon issuance of an annual license, denial of an annual license, abandonment of an application for licensure, withdrawal of an application for licensure, or surrender of the provisional license.

(d) A provisional licensee must actively and diligently pursue requirements for an annual license to continue to hold a provisional license, which includes meeting all the following requirements:

(1) Paying the license fee within 60 calendar days of the date the Department sends a notification that the license fee is due.

(2) Providing all information requested by the Department or otherwise elaborating upon information previously provided to the Department, or providing a statement demonstrating that the information cannot be provided due to circumstances beyond the provisional licensee's control. The information or statement shall be provided by the response date specified by the Department, or within 30 calendar days of the date the Department sends the information request to the provisional licensee if the Department does not specify a response date.

(e) Refusal by the Department to issue or renew a provisional license pursuant to section 15001.1 or section 15001.2 shall not entitle the applicant to a hearing or an appeal of the decision. Chapter 2 (commencing with section 480) of division 1.5, chapter 4 (commencing with section 26040), and sections 26031 and 26058 of the Business and Professions Code shall not apply to licenses issued pursuant to this section.

(f) No provisional license issued by the Department shall be effective after January 1, 2026.

Authority: Section 26013, Business and Professions Code. Reference: Section 26050.2, Business and Professions Code.

§15001.1. Issuance of Provisional License.

(a) Until June 30, 2022, the Department may, in its sole discretion, issue a provisional license to a commercial cannabis business if:

(1) The applicant submits a complete application, in accordance with section 15002, and the required application fee to the Department on or before March 31, 2022.

(2) For an application for a license that includes cultivation activities, the applicant provides any of the following documents:

(A) A final streambed alteration agreement;

(B) A draft streambed alteration agreement provided by the Department of Fish and Wildlife and signed and returned to the Department of Fish and Wildlife;

(C) Written verification by the Department of Fish and Wildlife that a streambed alteration agreement is not needed; or

(D) Written verification by the Department of Fish and Wildlife that the applicant submitted a notification described in section 1602 of the Fish and Game Code, submitted payment of applicable fees pursuant to section 1609 of the Fish and Game Code, and is responsive to the Department of Fish and Wildlife as prescribed in section 26050.2 of the Business and Professions Code.

(3) Issuance of the license would not cause the commercial cannabis business to hold multiple cultivation licenses on contiguous premises to exceed one acre of total canopy for outdoor cultivation, or 22,000 square feet for mixed-light or indoor cultivation, if the application is received on or after January 1, 2022. For purposes of this subsection, premises will be considered contiguous if they are connected, touching, or adjoining.

(b) After June 30, 2022, and until September 30, 2022, the Department may, in its sole discretion, issue a provisional license for cultivation to a commercial cannabis business if:

(1) The applicant submits a complete application, in accordance with section 15002, and the required application fee to the Department on or before June 30, 2022.

(2) The commercial cannabis business is not applying for a cultivation license for a premises that exceeds 20,000 square feet of total canopy for outdoor cultivation.

(3) The commercial cannabis business provides any of the following documents:

(A) A final streambed alteration agreement;

(B) A draft streambed alteration agreement provided by the Department of Fish and Wildlife and signed and returned to the Department of Fish and Wildlife;

(C) Written verification by the Department of Fish and Wildlife that a streambed alteration agreement is not needed; or

(D) Written verification by the Department of Fish and Wildlife that the applicant has submitted a notification described in section 1602 of the Fish and Game Code, submitted payment of applicable fees pursuant to section 1609 of the Fish and Game Code, and is responsive to the Department of Fish and Wildlife as prescribed in section 26050.2 of the Business and Professions Code.

(4) Issuance of the license would not cause the commercial cannabis business to hold multiple cultivation licenses on contiguous premises to exceed one acre of total canopy for outdoor cultivation, or 22,000 square feet for mixed-light or indoor cultivation, if the application is received on or after January 1, 2022. For the purposes of this subsection, premises will be considered contiguous if they are connected, touching, or adjoining.

(c) After June 30, 2022, and until June 30, 2023, the Department may, in its sole discretion, issue a provisional license to a local equity license applicant, as defined in section 26240(c) of the Business and Professions Code, if:

(1) The applicant submits a complete application, in accordance with section 15002, and the required application fee to the Department on or before March 31, 2023.

(2) For an application for a license that includes cultivation activities, the following conditions are met:

(A) The local equity license applicant provides any of the following documents:

(i) A final streambed alteration agreement;

(ii) A draft streambed alteration agreement provided by the Department of Fish and Wildlife and signed and returned to the Department of Fish and Wildlife;

(iii) Written verification by the Department of Fish and Wildlife that a streambed alteration agreement is not needed; or

(iv) Written verification by the Department of Fish and Wildlife that the applicant has submitted a notification described in section 1602 of the Fish and Game Code, submitted payment of applicable fees pursuant to section 1609 of the Fish and Game Code, and is responsive to the Department of Fish and Wildlife as prescribed in section 26050.2 of the Business and Professions Code.

(B) The local equity applicant is not applying for a cultivation license for a premises that exceeds one acre of total canopy for outdoor cultivation, or 22,000 square feet for mixed-light or indoor cultivation.

(C) Issuance of the license would not cause the local equity applicant to hold multiple cultivation licenses on contiguous premises to exceed one acre of total canopy for outdoor cultivation, or 22,000 square feet for mixed-light or indoor cultivation. For the purposes of this subsection, premises will be considered contiguous if they are connected, touching, or adjoining.

Authority: Section 26013, Business and Professions Code. Reference: Section 26050.2, Business and Professions Code.

§15001.2. Renewal of Provisional License.

(a) To timely renew a provisional license, the provisional licensee shall comply with the requirements of section 15020.

(b) For provisional license renewals from July 1, 2022, through June 30, 2023, in addition to the requirements of section 15020, a provisional licensee must also provide to the Department:

(1) Evidence that one of the following California Environmental Quality Act (CEQA) (Division 13 (commencing with section 21000) of the Public Resources Code) requirements has been met:

(A) Documentation, such as a letter, report, notice or other type of written communication from the local jurisdiction, demonstrating that the local jurisdiction is in the process of preparing a site-specific initial study, addendum, or checklist pursuant to title 14, California Code of Regulations, section 15063, 15164, 15168, or 15183 to demonstrate

whether it is consistent with a previously circulated and adopted negative declaration, mitigated negative declaration, or environmental impact report;

(B) Documentation, such as a letter, report, notice or other type of written communication from the local jurisdiction, demonstrating that the local jurisdiction has made substantial progress during the previous 12-month licensure term toward completing project specific environmental review by drafting, preparing, or circulating for public review an environmental document pursuant to CEQA;

(C) Documentation requested by the Department of the provisional licensee that demonstrates the furtherance of environmental review during the previous 12-month licensure term;

(D) Other information requested by the Department from the provisional licensee that demonstrates evidence of substantial progress toward compliance with CEQA during the previous 12-month licensure term; or

(E) Documentation that demonstrates compliance with CEQA is complete.

(2) For cultivation licenses, a provisional licensee must also provide one of the following forms of documentation demonstrating progress with compliance with chapter 6 (commencing with section 1600) of division 2 of the Fish and Game Code:

(A) A final streambed alteration agreement issued by the Department of Fish and Wildlife;

(B) A draft streambed alteration agreement provided by the Department of Fish and Wildlife and signed and returned to the Department of Fish and Wildlife by the provisional licensee;

(C) Written verification by the Department of Fish and Wildlife that the provisional licensee has submitted a complete notification described in section 1602 of the Fish and Game Code; or

(D) Written verification by the Department of Fish and Wildlife that a streambed alteration agreement is not needed.

(c) For provisional license renewals on or after July 1, 2023, in addition to the information required in section 15020, a provisional licensee must also provide to the Department:

(1) Documentation, such as a full or partial copy of the administrative record, demonstrating that one of the following CEQA requirements has been met:

(A) The local jurisdiction has prepared and circulated for public review a negative declaration or a mitigated negative declaration;

(B) The local jurisdiction has determined that an environmental impact report is required pursuant to section 21157 of the Public Resources Code and has either made substantial progress in preparing that environmental impact report or has a contract or contracts with consultants in place for the preparation of that environmental impact report;

(C) The local jurisdiction has certified that it has conducted a reasonably comprehensive site-specific review and has reviewed, prepared, and deemed complete an initial study, addendum, or checklist pursuant to title 14, California Code of Regulations, section

15063, 15164, 15168, or 15183 demonstrating consistency with a previously circulated and adopted negative declaration, mitigated negative declaration, or environmental impact report, in preparation for approval of an annual license; or

(D) The local jurisdiction has reviewed, prepared, and deemed complete a notice of exemption pursuant to section 21108 or 21152 of the Public Resources Code, except for ministerial projects not subject to the California Environmental Quality Act pursuant to section 21080(b)(1) of the Public Resources Code.

(E) Documentation submitted pursuant to subsection (c)(1) may include, but is not limited to:

(i) Any environmental documentation, including, but not limited to, an exemption, initial study, negative declaration, mitigated negative declaration, and/or environmental impact report;

(ii) Any staff reports and related documents prepared by the local jurisdiction;

(iii) Any written transcript or minutes of the proceedings of the local jurisdiction;

(iv) Any notice(s) issued by the local jurisdiction to comply with CEQA and the CEQA Guidelines;

(v) Any proposed decisions or findings considered by the local jurisdiction by its staff or the applicant; and

(vi) Any documentation of the local jurisdiction's final decision.

(2) For cultivation licensees, one of the following forms of documentation demonstrating progress with compliance with chapter 6 (commencing with section 1600) of division 2 of the Fish and Game Code:

(A) A final streambed alteration agreement issued by the Department of Fish and Wildlife;

(B) A draft streambed alteration agreement provided by the Department of Fish and Wildlife and signed and returned to the Department of Fish and Wildlife by the provisional licensee; or

(C) Written verification from the Department of Fish and Wildlife that a streambed alteration agreement is not needed.

(d) The Department will not renew a provisional license authorizing cultivation if:

(1) The State Water Resources Control Board has notified the Department that the provisional licensee is not in compliance with section 26060.1(a) or (b) of the Business and Professions Code or the principles, guidelines, and requirements established pursuant to section 13149 of the Water Code.

(2) The Department of Fish and Wildlife has notified the Department that the provisional licensee is not in compliance with any final streambed alteration agreement, any conditions set forth in a signed draft streambed alteration agreement, or a condition established pursuant to section 26060.1(a) or (b)(1) and (2) of the Business and Professions Code.

(3) After January 1, 2023, if renewing the license would cause a licensee to hold multiple cultivation licenses on contiguous premises to exceed one acre of total canopy for outdoor cultivation or 22,000 square feet for mixed-light or indoor cultivation. For the purposes of this section, premises will be considered contiguous if they are connected, touching, or adjoining.

Authority: Section 26013, Business and Professions Code. Reference: Section 26050.2, Business and Professions Code.

§15001.3. Notice of Provisional License Review.

(a) When the Department is considering the suspension, revocation, or denial of renewal of a provisional license pursuant to Business and Professions Code section 26050.2, the Department shall issue a Notice of Provisional License Review to a provisional licensee for failure to comply with the Act or its implementing regulations.

(b) The Notice of Provisional License Review shall be in writing and state the following:

(1) The nature and facts of each violation, including a reference to the statutory and/or regulatory section(s) violated;

(2) The manner in which the provisional licensee must correct the violation(s) to achieve compliance;

(3) That the Department is considering suspending, revoking, or denying the renewal of the provisional license.

(4) That the provisional licensee may provide the Department with information related to the observed violation(s) and potential license action for the Department's consideration during its provisional license review. The information may include statements, including a statement that the Department should not take the action under consideration, and any relevant documentation, including evidence that the violation(s) did not occur, of correction of the violation(s), or of mitigation. The provisional licensee may also request an informal meeting with the Department to discuss the matter and may be accompanied by an attorney or other representative.

(c) The Department shall serve the Notice of Provisional License Review by mail or electronic mail to the provisional licensee's designated responsible party, or in person to the licensee or an employee or agent of the provisional licensee.

Authority: Section 26013, Business and Professions Code. Reference: Section 26050.2, Business and Professions Code.

§15001.4. Immediate Suspension of Provisional License.

(a) The Department may immediately suspend any provisional license, or immediately impose licensing restrictions or other conditions upon any provisional licensee, if necessary to protect public health, safety, or welfare.

(b) An order issued pursuant to subsection (a) shall be in writing and describe the following:

(1) The nature and facts of each violation, including a reference to the statutory and/or regulatory section(s) violated; and

(2) Whether the provisional license is suspended or the provisional licensee may continue to operate subject to restrictions or other conditions.

(c) Following the issuance of an order pursuant to subsection (a), the Department shall serve the provisional licensee with a Notice of Provisional License Review pursuant to section 15001.3.

Authority: Section 26013, Business and Professions Code. Reference: Section 26050.2, Business and Professions Code.

§15002. Annual License Application Requirements.

(a) Applications may be completed and submitted online at www.cannabis.ca.gov.

(b) Applicants who submit their applications online shall first register for a user account if required by the licensing system. To register for a user account, the applicant shall do all of the following as requested by the licensing system:

(1) Create a username, password, and security question and answer;

(2) Provide an email address; and

(3) Provide the owner's first and last name, primary phone number, Social Security number or individual taxpayer identification number, date of birth, and mailing address.

(c) An application must be completed by an owner as defined by section 15003 of this division. An application for an annual cannabis license includes the following:

(1) The legal first and last name of the applicant and the legal business name of the commercial cannabis business.

(2) Every business trade name, fictitious business name, and doing business as ("DBA") under which the commercial cannabis business will operate.

(3) The commercial cannabis license for which the applicant is applying, and whether the applicant is requesting that the license be designated as medicinal, adult-use, or both, if applicable.

(4) Payment of an application fee pursuant to section 15014 of this division.

(5) The physical address of the premises. If the Department is unable to confirm that the address provided is valid, then the applicant shall provide a document that confirms the physical address of the premises. Such a document may include a utility bill, printed information from the county assessor, deed, or title.

- (6) The mailing address for the commercial cannabis business, if different from the premises address.
- (7) The telephone number for the commercial cannabis business.
- (8) The website address of the commercial cannabis business, if any.
- (9) The number under which the commercial cannabis business files federal taxes, such as a federal employer identification number, federal taxpayer identification number, individual taxpayer identification number, Social Security number, or national identification number.
- (10) Contact information for the owner of the commercial cannabis business who will serve as the designated primary contact person or designated responsible party for the business, including the name, title, phone number, and email address of the individual.
- (11) The full legal name, mailing address, primary contact phone number, email address, and preferred method of written communication (e.g., standard mail or email) of each individual or entity serving as agent for service of process for the commercial cannabis business, if any.
- (12) A description of the business organizational structure of the commercial cannabis business, such as partnership, joint venture, limited liability company, sole proprietorship, trust, or corporation.
- (13) Upon request, business formation documents that are not available online through the California Secretary of State, which may include, but are not limited to operating agreements, bylaws, and other documents that establish ownership or control over the commercial cannabis business. If the commercial cannabis business is held in trust, the applicant shall provide a copy of the certificate of trust establishing trustee authority.
- (14) A commercial cannabis business that is a foreign corporation or foreign limited liability company shall include in its application a certificate of qualification, certificate of registration, or certificate of status issued by the California Secretary of State.
- (15) A complete list of every financial interest holder of the commercial cannabis business as defined in section 15004 of this division, who is not an owner as defined in section 15003 of this division. The list of financial interest holders shall include:
 - (A) For financial interest holders that are individuals, the first and last name of the individual, a contact phone number and email address, and the type and number of the individual's government-issued identification, such as a driver's license.
 - (B) For financial interest holders that are entities, the legal business name, the name and phone number and email address of the entity's primary contact, and federal taxpayer identification number of the entity.
- (16) A complete list of every owner of the commercial cannabis business, as defined in section 15003 of this division. Each individual named on this list shall submit the following information:
 - (A) The full name of the owner.
 - (B) The owner's title within the commercial cannabis business.

- (C) The owner's date of birth and place of birth.
- (D) The owner's Social Security number or individual taxpayer identification number.
- (E) The owner's mailing address.
- (F) The owner's telephone number. This may include a number for the owner's home, business, or mobile telephone.
- (G) The owner's email address.
- (H) The owner's current employer.
- (I) The percentage of the ownership interest held in the commercial cannabis business by the owner.
- (J) The number of the owner's government-issued identification. Acceptable forms of identification are a document issued by a federal, state, county, or municipal government that includes the name, date of birth, height, gender, and photo of the person, such as a driver license.
- (K) A copy of the owner's completed application for electronic fingerprint images submitted to the Department of Justice.
- (L) A statement of rehabilitation may be submitted by the owner for any conviction, but is not required. The statement of rehabilitation is to be written by the owner and may contain evidence that the owner would like the Department to consider that demonstrates the owner's fitness for licensure. Supporting evidence may be attached to the statement of rehabilitation and may include, but is not limited to, a certificate of rehabilitation under Penal Code section 4852.01, and dated letters of reference from employers, instructors, or professional counselors that contain valid contact information for the individual providing the reference.
- (M) If applicable, a detailed description of any administrative orders or civil judgments for violations of labor standards, any suspension of a commercial cannabis license, revocation of a commercial cannabis license, or sanctions for unlicensed commercial cannabis activity by a licensing authority, local agency, or state agency against the owner in their individual capacity or a business entity in which the owner was an owner or officer within the three years immediately preceding the date of the application. The owner may provide mitigating information including, but not limited to, a statement of rehabilitation, to the Department for consideration if any prior discipline disclosed pursuant to this section may result in denial of the application.
- (N) Attestation to the following statement: Under penalty of perjury, I hereby declare that the information contained within and submitted with this application is complete, true, and accurate. I understand that a misrepresentation of fact is cause for rejection of this application, denial of the license, or revocation of a license issued.
- (17) Evidence that the commercial cannabis business has the legal right to occupy and use the proposed location that complies with section 15007 of this division.
- (18) An attestation that the proposed premises is in compliance with Business and Professions Code section 26054(b) and, if requested, evidence of compliance. For

purposes of this section, evidence of compliance with Business and Professions Code section 26054(b) may be a copy of a valid license, permit, or other authorization issued by the applicable local jurisdiction or a notification from the applicable local jurisdiction stating that the commercial cannabis business is in compliance with local ordinances and regulations.

(19) For a commercial cannabis business with 20 or more employees, the applicant shall either provide a notarized statement that the commercial cannabis business will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement. For a commercial cannabis business with less than 20 employees that has not yet entered into a labor peace agreement, provide a notarized statement indicating that the applicant will enter into and abide by the terms of a labor peace agreement within 60 days of employing its 20th employee.

(20) The applicant shall provide a valid seller's permit number issued by the California Department of Tax and Fee Administration, if applicable. If the commercial cannabis business has not yet received a seller's permit, the commercial cannabis business shall attest that the commercial cannabis business is currently applying for a seller's permit.

(21) A diagram of the premises as required by section 15006 of this division.

(22) Proof of a surety bond of at least \$5,000 payable to the State of California for each licensed premises. All bonds required under this section shall be issued by a corporate surety licensed to transact surety business in the State of California. An aggregated bond may be used when multiple licenses are held by the same commercial cannabis business.

(23) Additional information as required by section 15011.

(24) When an applicant provides a license, permit, or other authorization from the local jurisdiction where the licensed premises will be or is located, the Department will notify the applicable local jurisdiction to confirm the validity of the authorization. If the local jurisdiction does not respond within 10 calendar days, the Department shall consider the authorization valid.

(25) The limited waiver of sovereign immunity required by section 15009 of this division, if applicable.

(26) Evidence of exemption from, or compliance with, the California Environmental Quality Act as required by section 15010 of this division.

(27) The commercial cannabis business' State Employer Identification Number (SEIN) issued by the California Employment Development Department, if applicable.

(28) For a commercial cannabis business with more than one employee, the applicant shall attest that the commercial cannabis business employs, or will employ within one year of receiving a license, one supervisor and one employee who have successfully completed a Cal-OSHA 30-hour general industry outreach course offered by a training provider that is authorized by an OSHA Training Institute Education Center to provide the course.

(29) An applicant shall disclose whether they have been denied a license or had a

license suspended or revoked by the Department or any other state cannabis licensing authority. The applicant shall provide the type of license denied, suspended, or revoked, the name of the licensing authority, and the date of the denial, suspension, or revocation.

(d) An applicant for a cannabis event organizer license shall not be required to comply with subsections (c)(5), (c)(17), (c)(20), (c)(21), (c)(22), (c)(24), (c)(25), and (c)(26).

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26050, 26051.5 and 26055, Business and Professions Code.

§15002.1. Temporary Cannabis Event Application.

(a) A temporary cannabis event license shall only be issued to a person who holds a cannabis event organizer license issued by the Department.

(b) An application for a temporary cannabis event license shall include the following:

(1) The name of the applicant. For applicants who are individuals, the applicant shall provide both the first and last name of the individual. For applicants who are business entities, the applicant shall provide the legal business name of the entity.

(2) The license number for each state cannabis license held by the applicant.

(3) The address of the location where the temporary cannabis event will be held.

(4) The name of the temporary cannabis event.

(5) A diagram of the physical layout of the temporary cannabis event. The diagram shall clearly indicate where the temporary cannabis event will be taking place on the location grounds, all entrances and exits that will be used by participants during the event, all cannabis goods consumption areas, and all retail areas where cannabis goods will be sold. The hours during which cannabis goods will be sold shall be noted on the diagram. The diagram shall also clearly indicate the area where cannabis waste will be stored, all areas where cannabis goods will be stored, and the specific location of each cannabis licensee who will be participating in the event. Each cannabis licensee participating in the event shall be identified with an assigned temporary cannabis event location number. The diagram shall not contain highlighting and the markings on the diagram shall be in black-and-white print.

(6) The dates and hours of operation for which the temporary cannabis event license is being sought. A temporary event license is required for any date in which the applicant engages in onsite cannabis goods sales or allows onsite cannabis goods consumption.

(7) Contact information for the applicant's designated primary contact person regarding the temporary event license, including the name, title, address, phone number, and email address of the individual.

(8) Contact information for a designated contact person(s) who shall be onsite at the event and reachable by telephone at all times during the event.

(9) Written approval from the local jurisdiction authorizing the applicant to engage in onsite cannabis goods sales to, and onsite consumption by, persons 21 years of age or

older at the temporary cannabis event at the proposed location.

(10) A list of all licensees and employees who will be providing onsite sales of cannabis goods at the temporary cannabis event.

(11) Attestation to the following statement: Under penalty of perjury, I hereby declare that the information contained within and submitted with this application is complete, true, and accurate. I understand that a misrepresentation of fact is cause for rejection of this application, denial of the license, or revocation of a license issued.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26200, Business and Professions Code.

§15003. Owners of Commercial Cannabis Businesses.

(a) An applicant for a commercial cannabis license or a licensee shall disclose all owners of the commercial cannabis business. An owner of the commercial cannabis business includes all of the following:

(1) A person with an aggregate ownership interest of 20 percent or more in the commercial cannabis business, unless the interest is solely a security, lien, or encumbrance. For purposes of this section, “aggregate” means the total ownership interest held by a single person through any combination of individually held ownership interests in a commercial cannabis business and ownership interests in an entity that has an ownership interest in the same commercial cannabis business. For example, a person who owns 10 percent of the stock in a commercial cannabis business as an individual shareholder and 100 percent of the stock in an entity that owns 10 percent of the stock in the same commercial cannabis business has a 20 percent aggregate ownership interest in the commercial cannabis business.

(2) An individual who manages, directs, or controls the operations of the commercial cannabis business, including but not limited to:

(A) A member of the board of directors of a nonprofit.

(B) A general partner of a commercial cannabis business that is organized as a partnership.

(C) A non-member manager or managing member of a commercial cannabis business that is organized as a limited liability company.

(D) The trustee(s) and all persons who have control of the trust and/or the commercial cannabis business that is held in trust.

(E) The chief executive officer, president or their equivalent, or an officer, director, vice president, general manger or their equivalent.

(b) If the commercial cannabis business is owned in whole or in part by an entity and the entity includes individuals who manage, direct, or control the operations of the commercial cannabis business, as described in subsection (a)(2)(E), those individuals shall also be disclosed as owners.

(c) If available evidence indicates that an individual qualifies as an owner, the Department may notify the applicant or licensee that they must either disclose the individual as an owner and submit the information required by section 15002 or demonstrate that the individual does not qualify as an owner.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26001 and 26012, Business and Professions Code.

§15004. Financial Interest in a Commercial Cannabis Business.

(a) An applicant for a commercial cannabis license or a licensee shall disclose all financial interest holders. A financial interest holder of the commercial cannabis business includes all of the following, except as provided in subsection (b):

- (1) A person with an aggregate ownership interest of less than 20 percent.
- (2) A person providing a loan to the commercial cannabis business.
- (3) A person entitled to receive 10 percent or more of the profits of the commercial cannabis business, including:
 - (A) An employee who has entered into a profit share plan with the commercial cannabis business.
 - (B) A landlord who has entered into a lease agreement with the commercial cannabis business for a share of the profits.
 - (C) A consultant who is providing services to the commercial cannabis business for a share of the profits.
 - (D) A person acting as an agent, such as an accountant or attorney, for the commercial cannabis business for a share of the profits.
 - (E) A broker who is engaging in activities for the commercial cannabis business for a share of the profits.
 - (F) A salesperson who earns a commission.

(b) Financial interest holders do not include any of the following:

- (1) A bank or financial institution whose interest constitutes a loan;
- (2) Persons whose only financial interest in the commercial cannabis business is through an interest in a diversified mutual fund, blind trust, or similar instrument;
- (3) Persons whose only financial interest is a security interest, lien, or encumbrance on property that will be used by the commercial cannabis business; and
- (4) Persons who hold a share of stock that is less than 10 percent of the total shares in a publicly traded or privately held company.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26051.5, Business and Professions Code.

§15005. Personnel Prohibited from Holding Licenses.

(a) A license authorized by the Act and issued by the Department may not be held by, or issued to, any person holding office in, or employed by, any agency of the State of California or any of its political subdivisions when the duties of such person have to do with the enforcement of the Act or any other penal provisions of law of this State prohibiting or regulating the sale, use, possession, transportation, distribution, testing, manufacturing, or cultivation of cannabis or cannabis products.

(b) This section applies to, but is not limited to, any person employed in the State of California Department of Justice as a peace officer, in any district attorney's office, in any city attorney's office, in any sheriff's office, or in any local police department.

(c) No person listed in subsection (a) or (b) of this section may have any ownership interest, directly or indirectly, in any business to be operated or conducted under a cannabis license.

(d) This section does not apply to any person who holds a license in the capacity of executor, administrator, or guardian.

Authority: Section 26013, Business and Professions Code. Reference: Section 26012, Business and Professions Code.

§15006. Premises Diagram.

(a) An applicant shall submit to the Department, with the application, a complete and detailed diagram of the proposed premises. The diagram shall be used by the Department to determine whether the premises meets the requirements under this division and the Act. The Department shall deny an application if the premises does not qualify for licensure pursuant to Business and Professions Code section 26057.

(b) The diagram shall show the boundaries of the property and the proposed premises to be licensed, showing all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, windows, and doorways, and shall include a brief statement or description of the principal activity to be conducted therein.

(c) The diagram shall show and identify commercial cannabis activities that will take place in each area of the premises, and identify limited-access areas. Commercial cannabis activities that shall be identified on the diagram include the following, if applicable to the business operations: storage, batch sampling, loading or unloading of shipments, packaging and labeling, customer sales, loading for deliveries, extraction, infusion, cultivation, and processing.

(d) The diagram shall show where all cameras are located and assign a number to each camera for identification purposes unless the premises is exempt from the video surveillance requirement pursuant to section 15315 or section 15044 of this division.

(e) The diagram shall be to scale.

(f) The diagram shall not contain any highlighting and the markings on the diagram shall be in black-and-white print.

(g) If the proposed premises consists of only a portion of a property, the diagram must be labeled indicating which part of the property is the proposed premises and for what purpose(s) the remaining property is used.

(h) If the proposed premises consists of only a portion of a property that will contain two or more licensed premises, the diagram shall clearly show the designated entrances and walls under the exclusive control of the commercial cannabis business for the premises, as well as the designated entrances and walls for each additional premises. The diagram shall also show all proposed common or shared areas of the property. Such areas may include lobbies, bathrooms, hallways, and breakrooms.

(i) If the commercial cannabis business is seeking a license to conduct cultivation activities on the proposed premises, the following must be clearly identified on the premises diagram:

(1) All roads and water crossings on the property.

(2) All water sources identified and labeled for beneficial use type, including but not limited to, irrigation, domestic, fire protection, power, fish and wildlife preservation and enhancement, and recreation.

(3) If the commercial cannabis business is proposing to use a diversion from a waterbody or an underground stream flowing in a known and definite channel, groundwater well, or rain catchment system as a water source for cultivation, include the following locations on the premises diagram with locations also provided as coordinates in either latitude and longitude or the California Coordinate System:

(A) Sources of water used, including the location of waterbody diversions(s), pump locations(s), and distribution system; and

(B) Location, type, and capacity of each water storage unit to be used for cultivation.

(4) The assessor's parcel number(s).

(5) For applicants for a Specialty Cottage, Specialty, Small, and Medium license:

(A) Canopy area(s), including aggregate square footage if the canopy areas are noncontiguous. All unique areas separated by identifiable boundaries pursuant to section 15000(m) shall be clearly described and labeled in the premises diagram. If mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation;

(B) Area(s) outside of the canopy where only immature plants shall be maintained, if applicable. This area may not be shared among multiple licenses held by one licensee;

(C) Designated pesticide and other agricultural chemical storage area(s);

(D) Designated processing area(s) if the licensee will process onsite. This area may not be shared among multiple licenses held by one licensee;

(E) Designated packaging area(s) if the licensee will package products onsite. This area may not be shared among multiple licenses held by one licensee;

(F) Designated composting area(s) if the licensee will compost cannabis waste onsite;

(G) Designated secured area(s) for cannabis waste if different from subsection (F) above;

(H) Designated area(s) for harvested cannabis storage;

(I) Designated area(s) for physically segregating cannabis or nonmanufactured cannabis products subject to an administrative hold pursuant to section 17815. This area may not be shared among multiple licenses held by one licensee;

(J) Designated area(s) that are shared between licenses held by one licensee. The shared area(s) must be contiguous, be indicated on the premises diagram for each application, and be one or more of the following designated area(s) shared between licenses held by one licensee: pesticide and other agricultural chemical storage area(s), composting area(s), and secured area(s) for cannabis waste; and

(K) Common use area(s), such as hallways, bathrooms, and breakrooms. This area may be shared by multiple licensees.

(6) For indoor and mixed-light license type applications, a lighting diagram with the following information must be included:

(A) Location of all lights in the canopy area(s); and

(B) Maximum wattage, or wattage equivalent, of each light.

(7) For applicants for a nursery license:

(A) Designated pesticide and other agricultural chemical storage area(s);

(B) Designated composting area(s) if the licensee will compost cannabis waste onsite;

(C) Designated secured area(s) for cannabis waste if different from subsection (B) above;

(D) At least one of the following areas:

(i) Area(s) that shall contain only immature plants; or

(ii) Designated seed production area(s) that may contain mature plants; and

(E) Designated research and development area(s) that may contain mature plants, if the licensee will be conducting research and development activities that require a plant to flower.

(8) For applicants for a processor license:

(A) Designated processing area(s);

(B) Designated packaging area(s), if the licensee will package and label products onsite;

(C) Designated composting area(s) if the licensee will compost cannabis waste onsite;

(D) Designated secured area(s) for cannabis waste if different from subsection (C) above; and

(E) Designated area(s) for harvested cannabis storage.

(j) If the commercial cannabis business is seeking a Type S license to manufacture cannabis products or registering as a manufacturing Shared-Use Facility, the premises

diagram must also comply with all applicable requirements in sections 15011(b)(13)(D) and 17124-17128.

(k) If a proposed premises is located on only a portion of a property that also includes a residence, the diagram shall clearly show the designated buildings for the premises and the residence.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26051.5, Business and Professions Code.

§15007. Landowner Approval.

(a) If the commercial cannabis business is not the landowner of the real property upon which the premises is located, the commercial cannabis business shall provide to the Department a document from the landowner or the landowner's agent that states that the commercial cannabis business has the right to occupy the property and acknowledges that the commercial cannabis business may use the property for the commercial cannabis activity for which the commercial cannabis business is applying for licensure. An applicant shall also provide a copy of the rental agreement, as applicable.

(b) If the commercial cannabis business is the landowner of the real property upon which the premises is located, the commercial cannabis business shall provide to the Department a copy of the title or deed to the property.

(c) If the landowner is a trust, the landowner approval shall come from the person who holds equitable title in the real property.

Authority: Section 26013, Business and Professions Code. Reference: Section 26051.5, Business and Professions Code.

§15007.1. Electronic Signature.

The Department will accept an electronic signature that complies with Civil Code section 1633.2(h) on any documents required to be submitted to the Department and that are submitted electronically, except documents that are required to be notarized.

Authority: Section 26013, Business and Professions Code. Reference: Section 26013, Business and Professions Code.

§15009. Limited Waiver of Sovereign Immunity.

(a) Any applicant or licensee that may fall within the scope of sovereign immunity that may be asserted by a federally recognized tribe or other sovereign entity must waive any sovereign immunity defense that the applicant or licensee may have, may be asserted on its behalf, or may otherwise be asserted in any state administrative or judicial enforcement actions against the applicant or licensee, regardless of the form of relief sought, whether monetary or otherwise, under the state laws and regulations governing commercial cannabis activity. The applicant or licensee must submit a written waiver of sovereign immunity to the Department with any license application or renewal, which is

valid for the period of the license. The written waiver shall include that the applicant or licensee has the lawful authority to enter into the waiver required by this section, the applicant or licensee hereby waives sovereign immunity, and the applicant or licensee agrees to do all of the following:

- (1) Provide documentation to the Department that establishes that the applicant or licensee has the lawful authority to enter into the waiver required by this section;
 - (2) Conduct all commercial cannabis activity in full compliance with the state laws and regulations governing commercial cannabis activity, including submission to all enforcement provisions thereof;
 - (3) Allow access as required by state statute or regulation by persons or entities charged with duties under the state laws and regulations governing commercial cannabis activity to any licensed premises or property at which the applicant conducts any commercial cannabis activity, including licensed premises or property where records of commercial cannabis activity are maintained by or for the applicant or licensee;
 - (4) Provide any and all records, reports, and other documents as may be required under the state laws and regulations governing commercial cannabis activity;
 - (5) Conduct commercial cannabis activity with other state commercial cannabis licensees only, unless otherwise specified by state law;
 - (6) Meet all of the requirements for licensure under the state laws and regulations governing the conduct of commercial cannabis activity, and provide truthful and accurate documentation and other information of the applicant's qualifications and suitability for licensure as may be requested; and
 - (7) Submit to the personal and subject matter jurisdiction of the California courts to address any matter related to the waiver or the commercial cannabis application, license, or activity, and that all such matters and proceedings shall be governed, construed and enforced in accordance with California substantive and procedural law, including but not limited to the Medicinal and Adult- Use Regulation and Safety Act and the Administrative Procedure Act.
- (b) The Department shall not approve an application for a state license if approval of the license would violate the provisions of any local ordinance or regulation adopted in accordance with Business and Professions Code section 26200 that is issued by the county or, if within a city, the city, within which the licensed premises is to be located.
- (c) Any applicant or licensee must immediately notify the Department of any changes that may materially affect the applicant or licensee's compliance with subsection (a) of this section.
- (d) Any failure by an applicant or licensee to comply with the requirements of subsections (b) or (c) of this section shall be a basis for denial of an application or renewal or discipline of a licensee.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26050 and 26051.5, Business and Professions Code.

§15010. Compliance with the California Environmental Quality Act (CEQA).

(a) CEQA Guidelines” means the Guidelines for Implementation of the California Environmental Quality Act codified at title 14, California Code of Regulations, section 15000 et seq.

(b) An applicant shall provide evidence of compliance with, or exemption from, CEQA (division 13 (commencing with section 21000) of the Public Resources Code). The evidence provided may be any one of the following:

(1) A signed copy of a project-specific Notice of Determination or Notice of Exemption and a copy of the associated CEQA document, or reference to where it may be located electronically, a project description, and any accompanying permitting documentation from the local jurisdiction used for review in determining site-specific environmental compliance. Documentation may include a copy of the administrative record previously certified or adopted by the local jurisdiction that has already reviewed the commercial cannabis business’ proposed commercial cannabis activities. For purposes of this section, the administrative record may include, but is not limited to:

(A) Environmental documentation, including, but not limited to, exemptions, initial studies, negative declarations, mitigated negative declarations, and environmental impact reports;

(B) Staff reports and related documents prepared by the local jurisdiction;

(C) Transcripts or minutes of the proceedings of the local jurisdiction;

(D) Notice(s) issued by the local jurisdiction to comply with CEQA and the CEQA Guidelines;

(E) Proposed decisions or findings considered by the local jurisdiction by its staff or the commercial cannabis business; and

(F) Documentation of the local jurisdiction’s final decision.

(2) If the applicant does not have the evidence specified in subsection (b)(1), or if the Department determines that the evidence submitted is not sufficient to determine compliance or exemption from CEQA, then the applicant shall submit the information on a form to be prescribed by the Department. Such information shall include at least the following:

(A) The project location and surrounding land use, which shall:

(i) Describe the project location, including street address, city, county, Assessor’s Parcel Number, major cross streets, general plan designation, zoning designation, and any other physical description that clearly indicates the project site location.

(ii) Describe the surrounding land uses and zoning designations within a one-half mile radius of the project and list all abutting land uses.

(iii) Include a vicinity map and aerial image to show the project location.

(iv) Include photographs, not larger than 8.5 by 11 inches, of existing visual conditions as observed from publicly accessible vantage point(s).

(B) A project description, which shall:

- (i) Describe the activities included in the project application and identify any other commercial cannabis activity or activities occurring at the proposed premises.
 - (ii) Quantify the project size (total floor area of the project), and the lot size on which the project is located, in square feet.
 - (iii) List and describe any other related public agency permits and approvals, including any entitlements, required for this project, including those required by a planning commission, local air district, or regional water board.
 - (iv) Identify whether the commercial cannabis business is licensed by, or has applied for licensure from, the Department or one of the prior state cannabis licensing authorities (the Bureau of Cannabis Control, the California Department of Food and Agriculture, and the California Department of Public Health) to engage in commercial cannabis activity at the proposed premises.
 - (v) Estimate the number of anticipated employees onsite, occupancy during operating hours, and frequency of deliveries or shipments originating from and/or arriving to the project site.
- (C) The environmental setting, which shall:
- (i) Describe natural characteristics (e.g., topography, vegetation, drainage, soil stability, habitat, etc.) on the project site.
 - (ii) Identify whether there are any watercourses or riparian habitats (e.g., drainage swales, stream courses, springs, ponds, lakes, creeks, tributary of creeks, wetlands) within 150 feet of the proposed premises.
 - (iii) Identify the approximate number of vehicle trips per day to be generated by the project and information regarding the days and times most trips are expected to occur.
 - (iv) Identify whether the property contains natural features of scenic value or rare or unique characteristics (e.g., rock outcroppings, mature trees).
 - (v) Identify whether the property has any historic designations or archeological remains onsite.
 - (vi) Identify whether the property contains habitat(s) for special status species.
 - (vii) Identify the location, type, and quantity of hazardous materials, as defined by Health and Safety Code section 25260, that are stored, used, or disposed of at the project site and a copy of the Hazardous Material Business Plan (HMBP) prepared for the proposed premises, if any.
 - (viii) Discuss whether the project will increase the quantity and type of solid waste, as defined by Public Resources Code section 40191, or hazardous waste, as defined by Health and Safety Code section 25117, that is generated or stored onsite.
 - (ix) Describe the project's anticipated operational energy needs, identify the source of energy supplied for the project and the anticipated amount of energy per day, and explain whether the project will require an increase in energy demand and the need for additional energy resources.
- (c) If the Department determines that a project does not qualify for an exemption and

further environmental review is required pursuant to the CEQA Guidelines, the Department may charge the applicant for the costs of preparation of any supplemental environmental document as well as the Department's costs for procedures to comply with CEQA.

Authority: Section 26013, Business and Professions Code. Reference: Section 26055, Business and Professions Code.

§15011. Additional Information.

(a) A commercial cannabis business applying for a license to cultivate cannabis shall provide the following information:

(1) The hours of operation for each day of the week the commercial cannabis business will have staff on the licensed premises. The applicant must provide a minimum of two (2) hours of operation that are between 8:00am and 5:00pm (Pacific Time) on each day, Monday through Friday.

(2) For commercial cannabis businesses that are a cannabis cooperative as defined by division 10, chapter 22 (commencing with section 26220) of the Business and Professions Code, identification of all members. Identifying information shall include each member's license number for commercial cannabis activity, the licensing authority that issued the license, and the name of the licensed business.

(3) For all cultivator license types except processor, evidence of enrollment in an order or waiver of waste discharge requirements with the State Water Resources Control Board or the appropriate Regional Water Quality Control Board. Acceptable documentation for evidence of enrollment may be a Notice of Applicability letter. Acceptable documentation that enrollment is not necessary may be a Notice of Non-Applicability.

(4) Evidence that the commercial cannabis business has conducted a hazardous materials record search of the EnviroStor database for the proposed premises. If hazardous sites were encountered, the applicant shall provide documentation of protocols implemented to protect employee health and safety.

(5) For indoor and mixed-light license types, identification of all power sources for cultivation activities, including, but not limited to, illumination, heating, cooling, and ventilation.

(6) A proposed cultivation plan that complies with the requirements in section 16309.

(7) Identification of all water sources used for cultivation activities as required in section 16311.

(8) A copy of any final lake or streambed alteration agreement issued by the California Department of Fish and Wildlife, pursuant to sections 1602 or 1617 of the Fish and Game Code, or written verification from the California Department of Fish and Wildlife that a lake and streambed alteration agreement is not required.

(9) An attestation that the applicant entity is an "agricultural employer" as defined by the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975; division 2, part 3.5 (commencing with section 1140) of the Labor Code.

- (10) An attestation that the local fire department has been notified of the cultivation site if the application is for an indoor license type.
- (11) If applicable, the applicant shall provide evidence that the proposed premises is not located in whole or in part in a watershed or other geographic area that the State Water Resources Control Board or the Department of Fish and Wildlife has determined to be significantly adversely impacted by cannabis cultivation pursuant to section 26060(a)(2) of the Business and Professions Code.
- (12) For all cultivator license types except processor, a signed attestation that states the commercial cannabis business shall contact the appropriate County Agricultural Commissioner regarding requirements for legal use of pesticides on cannabis prior to using any of the active ingredients or products included in the pest management plan and shall comply with all pesticide laws.
- (b) A commercial cannabis business applying for a license to manufacture cannabis products shall provide the following information:
- (1) The type(s) of activity that will be conducted at the proposed licensed premises (extraction, infusion, packaging, or labeling).
- (2) The types of products that will be manufactured, packaged, or labeled at the premises, including a product list.
- (3) The name, title, email address, and phone number of the onsite individual who manages the operation of the premises.
- (4) The name, title, email address, and phone number of an alternate contact person for the premises, if applicable.
- (5) The number of employees at the premises.
- (6) Upon request by the Department, a description of inventory control procedures sufficient to demonstrate how the commercial cannabis business will comply with the requirements of section 17218, or a copy of the standard operating procedure addressing inventory control.
- (7) Upon request by the Department, a description of quality control procedures sufficient to demonstrate how the commercial cannabis business will comply with all of the applicable requirements specified in sections 17208 through 17216, or a copy of the standard operating procedure addressing quality control.
- (8) Upon request by the Department, a description of the transportation process describing how cannabis or cannabis products will be transported into and out of the premises, or a copy of the standard operating procedure addressing transportation.
- (9) Upon request by the Department, a description of security procedures sufficient to demonstrate how the commercial cannabis business will comply with the applicable security requirements of sections 15042 through 15047, or a copy of the standard operating procedure addressing security procedures.
- (10) Upon request by the Department, a description of the cannabis waste management procedures sufficient to demonstrate how the commercial cannabis business will comply

with the requirements of section 17223, or a copy of the standard operating procedure addressing cannabis waste management.

(11) A copy of the signed closed-loop system certification and a document evidencing approval of the extraction operation by the local fire code official required pursuant to section 17205 or 17206, if applicable.

(12) Any manufacturer submitting operating procedures and protocols to the Department pursuant to the Act and this division may claim such information as a trade secret or confidential by clearly identifying such information as “confidential” on the document at the time of submission. Any claim of confidentiality by a manufacturer must be based on the manufacturer’s good faith belief that the information marked as confidential constitutes a trade secret as defined in Civil Code section 3426.1(d), or is otherwise exempt from public disclosure under the California Public Records Act, Government Code section 6250 et seq.

(13) Applications for a Type S manufacturing license shall:

(A) Be submitted in accordance with section 15002;

(B) Include the license number and address of the registered shared-use facility at which the commercial cannabis business will conduct manufacturing operations;

(C) Include a copy of the use agreement signed by both the Type S applicant and the primary licensee; and

(D) On the premises diagram submitted pursuant to section 15002(c)(21), indicate the designated area to be used by the Type S commercial cannabis business and detail where the commercial cannabis business will store its cannabis, cannabis concentrates, and cannabis products.

(E) A Type S license shall only be available to commercial cannabis businesses with a gross annual revenue of less than \$1,000,000 as calculated pursuant to section 15014.

(F) A Type S licensee may conduct the following operational activities:

(i) Infusions, as defined in section 15000(ee);

(ii) Packaging and labeling of cannabis products; and

(iii) Extractions with butter or food-grade oils, provided that the resulting extract or concentrate shall be used solely in the manufacture of the Type S licensee’s infused product and shall not be sold to any other licensee.

(c) A commercial cannabis business applying for a license to distribute cannabis and cannabis products shall provide the following information, upon the request of the Department:

(1) The following standard operating procedures:

(A) Transportation Procedures, Form DCC-LIC-015 (Amended 9/21);

(B) Inventory Procedures, Form DCC-LIC-016 (Amended 9/21);

(C) Non-Laboratory Quality Control Procedures, Form DCC-LIC-017 (Amended 9/21);
and

- (D) Security Procedures, Form DCC-LIC-018 (Amended 9/21).
- (2) Proof of compliance with the insurance requirements in section 15308.
- (3) Transport vehicle information required by section 15312.
- (d) A commercial cannabis business applying for a license to sell cannabis and cannabis products at retail shall provide the following information, upon request by the Department:
 - (1) The following standard operating procedures:
 - (A) Inventory Procedures, Form DCC-LIC-016 (Amended 9/21);
 - (B) Non-Laboratory Quality Control Procedures, Form DCC-LIC-017 (Amended 9/21);
 - (C) Security Procedures, Form DCC-LIC-018 (Amended 9/21); and
 - (D) Delivery Procedures, Form DCC-LIC-020 (Amended 9/21).
 - (2) Delivery employee information required by section 15415.
 - (3) Delivery vehicle information required by section 15417.
- (e) A commercial cannabis business applying for a license to operate as a microbusiness shall provide the information required in subsections (a) through (d) as applicable for the activities they will be conducting under the license.
- (f) Applicants for a cannabis event organizer license shall indicate whether the cannabis event organizer plans to hold 0-5 events, 6-10 events, 11-20 events, or more than 20 events during the license period.
- (g) Applicants for a testing laboratory license shall provide the following information:
 - (1) The certificate(s) of accreditation required by sections 15701 and 15702, or the information required for an interim license required by section 15703.
 - (2) Upon the request by the Department, the following standard operating procedures:
 - (A) Transportation Procedures, Form DCC-LIC-015 (Amended 9/21);
 - (B) Inventory Procedures, Form DCC-LIC-016 (Amended 9/21);
 - (C) Non-Laboratory Quality Control Procedures, Form DCC-LIC-017 (Amended 9/21); and
 - (D) Security Procedures, Form DCC-LIC-018 (Amended 9/21).
 - (3) The operating procedures required by chapter 6 of this division.
- (h) The Department may request additional information and documents from the applicant. The Department will provide the applicant with a deadline for submittal of additional information. The Department will consider the complexity of the information requested and the ease with which the information can be obtained and transmitted to the Department by the applicant in determining the deadline.
- (i) Items required by this section may also be requested by the Department at any time following the issuance of a license. Licensees shall maintain the information required by this section and provide it to the Department upon request.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26031, 26050, 26051.5 and 26130, Business and Professions Code.

§15012. Incomplete and Abandoned Applications.

(a) Incomplete applications will not be processed. Applications will only be considered complete if all of the information required under sections 15002 and 15011 is included. The Department shall issue a written notice to the applicant, by mail or through Department's licensing system, informing them that the application is incomplete and identifying the information missing from the application.

(b) If the applicant fails to submit all required information within 180 days from the date of the initial written notice, the application shall be deemed abandoned.

(c) If the applicant fails to submit payment of the license fee within 60 calendar days from the date of the request for payment of the license fee, the application shall be deemed abandoned.

(d) The Department will not refund application fees for an incomplete or abandoned application.

(e) An applicant may reapply at any time following an abandoned application and will be required to submit a new application and application fee.

Authority: Section 26013 and 26130, Business and Professions Code. Reference: Sections 26012, 26050 and 26051.5, Business and Professions Code.

§15013. Withdrawal of Application.

(a) An applicant may withdraw an application at any time prior to the Department issuance of a license or denial of a license.

(b) Requests to withdraw an application must be submitted to the Department by mail in writing, dated, and signed by the applicant, or in writing by electronic mail to licensing@cannabis.ca.gov.

(c) In accordance with Business and Professions Code section 26057, withdrawal of an application shall not, unless the Department has consented in writing to such withdrawal, deprive the Department of its authority to institute or continue a proceeding against the commercial cannabis business for the denial of the license upon any ground provided by law or to enter an order denying the license upon any such ground.

(d) The Department will not refund application fees for a withdrawn application.

(e) An applicant may reapply at any time following the withdrawal of an application and will be required to submit a new application and application fee.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26050 and 26057, Business and Professions Code.

Article 3. Licensing

§15014. Fees.

(a) The application fee for an annual license under section 15002 of this division, a cannabis event organizer license under section 15600 of this division, a temporary cannabis event license under section 15601 of this division for each event, and physical modification of the premises under section 15027 of this division shall be paid by an applicant or licensee as provided by this division. Applicants and licensees shall pay the appropriate fee as outlined in this section.

Application Fee Schedule

License Type	Fee Per Application
Testing Laboratory, Distributor, Retailer, Microbusiness Annual Licenses	\$1,000
Cannabis Event Organizer License	\$1,000
Temporary Cannabis Event License	\$1,000
Physical Modification of Premises for Testing Laboratory, Distributor, Retailer, Microbusiness, and Manufacturing Licenses	\$500
Type 6, 7, N, or P Annual Manufacturing Licenses	\$1,000
Type S Annual Manufacturing License	\$500
Cultivation Annual Licenses	See (f)

(b) The annual licensing fee for each license shall be paid by an applicant after the Department has approved the application. The renewal license fee shall be paid by the licensee as required by section 15020. The Department shall not issue the license until the annual licensing fee has been paid.

(c) To determine the appropriate annual license fee due for testing laboratory, distributor, retailer, and microbusiness license types, the applicant or licensee shall first estimate the gross revenue for the 12-month license period. Based on the license type sought, the applicant or licensee shall identify the appropriate tier category in which their expected gross revenue belongs, as identified in the Annual License Fee Schedule charts found in this section. The license fee associated with the licensing tier category the applicant or licensee has identified using their expected gross revenue shall be the license fee due for the original license or renewal. The following are the annual license fees due for these license types to be paid prior to issuance of a license or renewed license:

Annual License Fee Schedule for Testing Laboratory (Type 8)

Gross Revenue (\$ Max. Per License)	Fee Per License
Less than or equal to \$160,000	\$3,000
More than \$160,000 and less or equal to \$320,000	\$6,000
More than \$320,000 and less or equal to \$480,000	\$8,000
More than \$480,000 and less or equal to \$800,000	\$13,000
More than \$800,000 and less or equal to \$1.2 million	\$20,000
More than \$1.2 million and less or equal to \$2.0 million	\$32,000
More than \$2.0 million and less or equal to \$2.8 million	\$48,000
More than \$2.8 million and less or equal to \$4.4 million	\$72,000
More than \$4.4 million	\$112,000

Annual License Fee Schedule for Distributor (Type 11 or 13), unless only engaging in transport only self-distribution

Gross Revenue (\$ Max. Per License)	Fee Per License
Less than or equal to \$1.0 million	\$1,500
More than \$1.0 million and less or equal to \$2.5 million	\$6,000
More than \$2.5 million and less or equal to \$5.0 million	\$11,250
More than \$5.0 million and less or equal to \$10.0 million	\$22,500
More than \$10.0 million and less or equal to \$20.0 million	\$45,000
More than \$20.0 million and less or equal to \$30.0 million	\$75,000
More than \$30.0 million and less or equal to \$50.0 million	\$120,000
More than \$50.0 million and less or equal to \$70.0 million	\$180,000
More than \$70.0 million	\$240,000

Annual License Fee Schedule for Distributor Transport Only Self-Distribution (Type 13)

Gross Revenue (\$ Max. Per License)	Fee Per License
Less than or equal to \$1,000	\$200
More than \$1,000 and less or equal to \$3,000	\$500
More than \$3,000	\$1,000

Annual License Fee Schedule for Retailer (Type 9 or 10)

Gross Revenue (\$ Max. Per License)	Fee Per License
Less than or equal to \$500,000	\$2,500
More than \$500,000 and less or equal to \$750,000	\$5,500
More than \$750,000 and less or equal to \$1.0 million	\$7,500
More than \$1.0 million and less or equal to \$1.5 million	\$11,000
More than \$1.5 million and less or equal to \$2.0 million	\$14,500
More than \$2.0 million and less or equal to \$3.0 million	\$22,500
More than \$3.0 million and less or equal to \$4.0 million	\$30,500
More than \$4.0 million and less or equal to \$5.0 million	\$38,500
More than \$5.0 million and less or equal to \$6.0 million	\$46,500
More than \$6.0 million and less or equal to \$7.5 million	\$57,000
More than \$7.5 million	\$96,000

Annual License Fee Schedule for Microbusiness (Type 12)

Gross Revenue (\$ Max. Per License)	Fee Per License
Less than or equal to \$1.0 million	\$5,000
More than \$1.0 and less or equal to \$2.0 million	\$12,000
More than \$2.0 and less or equal to \$3.0 million	\$20,000
More than \$3.0 and less or equal to \$4.0 million	\$32,000
More than \$4.0 and less or equal to \$6.0 million	\$45,000
More than \$6.0 and less or equal to \$7.0 million	\$60,000
More than \$7.0 and less or equal to \$10.0 million	\$80,000
More than \$10.0 and less or equal to \$20.0 million	\$100,000
More than \$20.0 and less or equal to \$30.0 million	\$120,000
More than \$30.0 and less or equal to \$40.0 million	\$140,000
More than \$40.0 and less or equal to \$50.0 million	\$160,000
More than \$50.0 and less or equal to \$60.0 million	\$180,000
More than \$60.0 and less than or equal to \$80.0 million	\$220,000
More than \$80 million	\$300,000

(d) The annual license fee for a cannabis event organizer license shall be based on the number of planned operations during the license period as indicated in the chart below.

Annual License Fee Schedule for Cannabis Event Organizers

Planned Operations (Number of Operations)	Fee Per License
0-5 events annually	\$3,000
6-10 events annually	\$5,000
11-20 events annually	\$9,000
Greater than 20 events annually	\$20,000

(e) The annual license fee for a manufacturer license shall be based on gross revenue as indicated in the chart below.

(1) The applicant shall calculate the gross annual revenue for the licensed premises based on the annual gross sales of cannabis products and, if applicable, the annual revenue received from manufacturing, packaging, labeling or otherwise handling cannabis or cannabis products for other licensees, in the 12 months preceding the date of application.

(2) For a new license applicant, the gross annual revenue shall be based on the gross sales and revenue expected during the first 12 months following licensure.

(3) For a manufacturer licensee that is also licensed as a distributor or retailer, and that sells or transfers cannabis products manufactured on the licensed premises in a non-arm's length transaction, the annual gross sales or revenue for such transactions shall be based on the product's fair market value if it were to be sold in an arm's length transaction at wholesale.

(4) For purposes of this section, an "arm's length transaction" means a sale entered into in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction.

Annual License Fee Schedule for Manufacturing (Type 6, 7, N, P, or S)

Gross Revenue (\$ Max. Per License)	Fee Per License
Less than or equal to \$100,000	\$2,000
More than \$100,000 and less or equal to \$500,000	\$7,500
More than \$500,000 and less or equal to \$1.5 million	\$15,000
More than \$1.5 million and less or equal to \$3.0 million	\$25,000
More than \$3.0 million and less or equal to \$5.0 million	\$35,000
More than \$5.0 million and less or equal to \$10 million	\$50,000
More than \$10 million	\$75,000

(f) The following are the application fees due for the specified annual cultivation license types to be paid at the time the complete application is submitted to the Department:

Application Fee Schedule for Cultivation

License Type	Fee Per License
Specialty Cottage Outdoor	\$135
Specialty Cottage Indoor	\$205
Specialty Cottage Mixed-Light Tier 1	\$340
Specialty Cottage Mixed-Light Tier 2	\$580
Specialty Outdoor	\$270
Specialty Indoor	\$2,170
Specialty Mixed Light-Tier 1	\$655
Specialty Mixed Light-Tier 2	\$1,125
Small Outdoor	\$535
Small Indoor	\$3,935
Small Mixed-Light Tier 1	\$1,310
Small Mixed-Light Tier 2	\$2,250
Medium Outdoor	\$1,555
Medium Indoor	\$8,655
Medium Mixed-Light Tier 1	\$2,885
Medium Mixed-Light Tier 2	\$4,945
Nursery	\$520
Processor	\$1,040

(g) The following are the annual license fees due for the specified annual cultivation license types to be paid prior to issuance of a license or renewal of a license:

Annual License Fee Schedule for Cultivation

License Type	Fee Per License
Specialty Cottage Outdoor	\$1,205
Specialty Cottage Indoor	\$1,830
Specialty Cottage Mixed-Light Tier 1	\$3,035
Specialty Cottage Mixed-Light Tier 2	\$5,200
Specialty Outdoor	\$2,410
Specialty Indoor	\$19,540
Specialty Mixed-Light Tier 1	\$5,900
Specialty Mixed-Light Tier 2	\$10,120
Small Outdoor	\$4,820

License Type	Fee Per License
Small Indoor	\$35,410
Small Mixed-Light Tier 1	\$11,800
Small Mixed-Light Tier 2	\$20,235
Medium Outdoor	\$13,990
Medium Indoor	\$77,905
Medium Mixed-Light Tier 1	\$25,970
Medium Mixed-Light Tier 2	\$44,517
Nursery	\$4,685
Processor	\$9,370

(i) All fees are nonrefundable.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26051.5 and 26180, Business and Professions Code.

§15015. Payment of Fees.

(a) Any fee specified in this division shall be paid to the Department of Cannabis Control by cash, check, money order, debit card, or credit card. Check and money order payments may be made out to the Department of Cannabis Control.

(b) If the fee is paid by debit or credit card:

- (1) The payment shall be made through the Department’s online licensing system; and
- (2) The applicant or licensee may be required to pay any associated processing or convenience fees to the third-party vendor processing the payment on behalf of the Department.

(c) Failure to pay the appropriate licensing fee is grounds for discipline. If the Department determines that the licensee paid an amount less than the appropriate licensing fee under section 15014 of this division, the licensee will be required to pay the balance of the appropriate fee and a penalty fee of 50 percent of the appropriate licensing fee. The Department in its discretion may waive the penalty fee.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26051.5 and 26180, Business and Professions Code.

§15017. Substantially Related Offenses and Criteria for Rehabilitation.

(a) When evaluating whether an applicant or licensee has been convicted of a criminal offense, act, or professional misconduct that is substantially related to the qualifications, functions, or duties of the business for which the application is made, the Department shall consider all of the following criteria:

- (1) The nature and gravity of the offense;

- (2) The number of years that have elapsed since the date of the offense; and
- (3) The nature and duties of the particular license in which the applicant seeks licensure or in which the licensee is licensed.

(b) For the purpose of denial, suspension, or revocation of a license, convictions that are substantially related to the qualifications, functions, or duties of the business for which the application is made include, but are not limited to:

- (1) A violent felony conviction, as specified in Penal Code section 667.5(c).
- (2) A serious felony conviction, as specified in Penal Code section 1192.7(c).
- (3) A felony conviction involving fraud, deceit, or embezzlement.
- (4) A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.
- (5) A felony conviction for drug trafficking with enhancements pursuant to Health and Safety Code section 11370.4 or 11379.8.

(c) For the purpose of denial of a license to engage in commercial cannabis manufacturing, a conviction or violation from any jurisdiction that is substantially related to the qualifications, functions, or duties of the business for which the application is made include:

- (1) A violation of section 110620, 110625, 110630, 110760, 110765, 110770, 110775, 111295, 111300, 111305, 111440, 111445, 111450, or 111455 of the Health and Safety Code that resulted in suspension or revocation of a license, administrative penalty, civil proceeding, or criminal conviction;
- (2) A violation of Chapter 4 (sections 111950 through 112130) of Part 6 of Division 104 of the Health and Safety Code that resulted in suspension or revocation of a license, administrative penalty, civil proceeding, or criminal conviction;
- (3) A conviction under section 382 or 383 of the Penal Code; and
- (4) A violation identified in subsections (c)(1) or (c)(2) committed by a business entity in which an owner was an officer or had an ownership interest.

(d) Except as provided in subsections (b)(4) and (b)(5) of this section and notwithstanding Chapter 2 (commencing with Section 480) of Division 1.5 of the Business and Professions Code, a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is not considered substantially related, and shall not be the sole ground for denial of a license. Conviction for any controlled substance felony, subsequent to licensure, shall be grounds for revocation of a license or denial of the renewal of a license.

(e) When evaluating whether an applicant who has been convicted of a criminal offense, act, or professional misconduct that is substantially related to the qualifications,

functions, or duties of the business for which the application is made should be issued a license, the Department shall consider the following criteria of rehabilitation:

- (1) The nature and gravity of the act, professional misconduct, or offense;
 - (2) Whether the person has a felony conviction based on possession or use of cannabis or cannabis products that would not be a felony if the person was convicted of the offense on the date of the person's application;
 - (3) The applicant's criminal record as a whole;
 - (4) Evidence of any act, professional misconduct, or offense committed subsequent to the act, professional misconduct, or offense under consideration that could be considered grounds for denial, suspension, or revocation of a commercial cannabis activity license;
 - (5) The time that has elapsed since commission of the act, professional misconduct, or offense;
 - (6) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant;
 - (7) If applicable, evidence of dismissal under Penal Code sections 1203.4, 1203.4a, 1203.41, 1203.42, or pursuant to another state's similar law;
 - (8) If applicable, evidence the applicant has been granted clemency or a pardon by a state or federal executive;
 - (9) If applicable, a certificate of rehabilitation obtained under Penal Code section 4852.01 or another state's similar law; and
 - (10) Other evidence of rehabilitation submitted by the applicant.
- (f) If an applicant has been denied a license based on a conviction, the applicant may request a hearing pursuant to Business and Professions Code section 26058 to determine if the applicant should be issued a license.
- (g) For the purpose of this section, conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

Authority cited: Section 26013, Business and Professions Code. Reference: Sections 480, 481, 482, 26012 and 26057, Business and Professions Code.

§15018. Additional Grounds for Denial of a License.

In addition to the reasons for denial in Business and Professions Code section 26057, a license may be denied for the following reasons:

- (a) The applicant's proposed premises does not fully comply with standards set in regulation.
- (b) The applicant's proposed or licensed premises is substantially different from the diagram of the proposed premises submitted by the applicant, in that the size, layout, location of common entryways, doorways, or passage ways means of public entry or exit,

or identification of limited- access areas within the licensed premises is not the same.

(c) The applicant denied the Department access to the licensed premises or the property identified in the application as the premises.

(d) The applicant made a material misrepresentation on the application.

(e) The applicant did not correct the deficiencies within the application in accordance with sections 15002 and 15012 of this division.

(f) The applicant has been denied a license, permit, or other authorization to engage in commercial cannabis activity by a state or local licensing authority.

(g) The applicant's proposed premises is not in compliance with Division 13 (commencing with Section 21000) of the Public Resources Code.

(h) The applicant has failed to remit taxes as required under the Revenue and Taxation Code.

(i) The applicant may be denied a license for any violations of law related to the operations of the commercial cannabis business or for any violations of law related to licensure.

(j) The applicant has engaged in conduct that is grounds for disciplinary action specified in section 26030 of the Act.

Authority: Section 26013, Business and Professions Code. Reference: Sections 480, 490, 26012, 26030 and 26050, Business and Professions Code.

§15019. Excessive Concentration.

(a) In determining whether to grant, deny, or renew a license for a retail premises or microbusiness premises authorized to engage in retail sales, the Department shall consider if an excessive concentration exists in the area where the licensee will operate. For the purposes of this section "excessive concentration" applies when either of the following conditions exist:

(1) The ratio of licensees to population within the census tract or census division in which the applicant premises is located exceeds the ratio of licensees to population in the county in which the applicant premises is located, unless denial of the application would unduly limit the development of the legal market so as to perpetuate the illegal market for cannabis goods.

(2) The ratio of retail licenses or microbusiness licenses to the population within the census tract, census division, or jurisdiction exceeds that allowable by local ordinance adopted under Business and Professions Code section 26200.

(b) "Population Within the Census Tract or Census Division" as used in this section means the population as determined by the most recent United States decennial or special census. Such population determination shall not operate to prevent an applicant from establishing that an increase of resident population has occurred within the census tract or census division.

(c) "Population in the County" as used in this section shall be determined by the most recent annual population estimate for California counties published by the Demographic Research Unit, State Department of Finance.

(d) Beginning July 1, 2018, the Department shall calculate the ratios described in subsection (a) of this section once every six months using the most current available data. The Department's consideration of whether to grant, deny, or renew a license shall be based upon the most recent ratio calculated by the Department on the date of the Department's decision.

(e) The existence of an excessive concentration shall not be considered in determining whether to grant, deny, or extend a temporary license under Business and Professions Code section 26050.1.

(f) The applicant may provide reliable evidence establishing, to the satisfaction of the Department, that a denial of a license would unduly limit the development of the legal market so as to perpetuate the illegal market for cannabis goods.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26051, Business and Professions Code.

§15020. Renewal of License.

(a) To timely renew a license, a completed license renewal form and annual license fee pursuant to section 15014 of this division shall be received by the Department from the licensee no earlier than 60 calendar days before the expiration of the license and no later than 5:00 p.m. Pacific Time on the last business day before the expiration of the license if the renewal form is submitted to the Department at its office(s), or no later than 11:59 p.m. on the last business day before the expiration of the license if the renewal form is submitted to the Department through its electronic licensing system. Failure to receive a notice for license renewal does not relieve a licensee of the obligation to renew all licenses as required.

(b) In the event the license is not submitted for renewal prior to the expiration date, the licensee must not sell, transfer, transport, manufacture, test, or distribute any commercial cannabis or cannabis products until the license is renewed.

(c) A licensee may submit a license renewal form up to 30 calendar days after the license expires. Any late renewal form will be subject to a late fee equal to 50 percent of the applicable licensing fee required by subsection (a) of this section. A licensee who does not submit a complete license renewal application, including the late fee, to the Department within 30 calendar days after the expiration of the license shall forfeit their eligibility for a license renewal and be required to submit a new license application.

(d) The license renewal form shall contain the following:

(1) The name of the licensee. For licensees who are individuals, the applicant shall provide both the first and last name of the individual. For licensees who are business entities, the licensee shall provide the legal business name of the commercial cannabis business.

- (2) The license number and expiration date.
 - (3) The licensee's address of record and licensed premises address.
 - (4) Documentation demonstrating the licensee's gross revenue for the current licensed period, such as a copy of the licensee's state tax return filed with the California Department of Tax and Fee Administration. This subsection does not apply to the renewal of cultivation licenses.
 - (5) Documentation of any change to any item listed in the original application under section 15002 of this division that has not been reported to the Department through another process pursuant to the Act or this division.
 - (6) An attestation that all information provided to the Department in the license renewal form and the original application under section 15002 of this division or subsequent notification under sections 15023 and 15024 of this division is accurate and current.
 - (7) If applicable, a limited waiver of sovereign immunity pursuant to section 15009 of this division.
 - (8) For a licensee with more than one employee, the licensee shall attest that it employs, or will employ within one year of renewing the license, one supervisor and one employee who has successfully completed a Cal-OSHA 30-hour general industry outreach course offered by a training provider that is authorized by an OSHA Training Institute Education Center to provide the course.
- (e) A cultivation licensee may request a license designation change from an A-License to an M-License or an M-License to an A-License during the annual license renewal timeframes outlined in subsections (a)-(c) of this section for the annual license for which the license designation change is being requested. License designation changes will be considered only if the annual licensed cultivation premises for which the change is being requested contains only one A-License or only one M-License designation pursuant to section 15002(c)(3).
- (f) Beginning January 1, 2022, an application for renewal of a license to engage in commercial cannabis cultivation shall include the following records, for each power source indicated on the application for licensure for the previous annual licensed period:
- (1) Total electricity supplied by local utility provider, name of local utility provider, and greenhouse gas emission intensity per kilowatt hour reported by the utility provider under section 398.4(c) of the Public Utilities Code for the most recent calendar year available at time of submission;
 - (2) Total electricity supplied by a zero net energy renewable source, as set forth in section 398.4(h)(5) of the Public Utilities Code, that is not part of a net metering or other utility benefit;
 - (3) Total electricity supplied from other unspecified sources, as defined in section 398.2(e) of the Public Utilities Code, and other onsite sources of generation not reported to the local utility provider (e.g., generators, fuel cells) and the greenhouse gas emission intensity from these sources; and

(4) Average weighted greenhouse gas emission intensity considering all electricity use in subsections (f)(1)-(f)(3).

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26050, Business and Professions Code.

§15021. Denial of License.

(a) The Department may deny an application for a new license or a renewal of a license for any reason specified in Business and Professions Code section 26057, and on any additional grounds including grounds for denial under section 15018 of this division, and grounds for discipline under the Act or this division.

(b) Upon denial of an application for a license or renewal of a license, the Department shall notify the applicant in writing of the reasons for denial, and the right to a hearing to contest the denial.

(c) The applicant may request a hearing to contest the denial by submitting a written request to the Department.

(1) The written request for a hearing must be postmarked within 30 calendar days of service of the notification of denial.

(2) If the written request for a hearing is not received within the required timeframe, the applicant's right to a hearing is waived.

(3) Upon timely receipt of the written request for hearing, the Department shall set a date for hearing to be conducted in accordance with chapter 5 (commencing with section 11500) of part 1 of division 3 of title 2 of the Government Code.

(d) If a license application is denied due to an owner's conviction history, the Department shall notify the applicant of the process for the owner to request a copy of their complete conviction history and question the accuracy or completeness of the record pursuant to Penal Code sections 11122 through 11127.

Authority: Section 26013, Business and Professions Code; Reference: Sections 26012, 26057 and 26058, Business and Professions Code.

§15023. Business Modifications.

Business modifications shall be made in accordance with the following:

(a) Changes to standard operating procedures may be made without providing notification to the Department, except as required by the Act or this division. Licensees shall maintain a copy of all current and prior operating procedures as required by section 15037 of this division.

(b) If at the time of licensure, a licensee employed less than 20 employees and later employs 20 or more employees, within 60 days of employing 20 or more employees, the licensee shall provide to the Department a notarized statement that the licensee will enter into a labor peace agreement and will abide by the terms of the agreement.

(c) Licenses are not transferrable or assignable to another person or owner. In the event of the sale or other transfer of the business or operations covered by the licensee, changes in ownership shall be made in accordance with the following:

(1) If one or more of the owners change, the new owners shall submit the information required under section 15002(c)(16) for each new owner to the Department within 14 calendar days of the effective date of the ownership change. The business may continue to operate under the active license while the Department reviews the qualifications of the new owner(s) in accordance with the Act and these regulations to determine whether the change would constitute grounds for denial of the license, if at least one existing owner is not transferring his or her ownership interest and will remain as an owner under the new ownership structure. If all owners will be transferring their ownership interest, the business shall not operate under the new ownership structure until a new license application has been submitted to and approved by the Department, and all application and license fees for the new application have been paid.

(A) A change in ownership occurs when a new person meets the definition of owner in section 15003 of this division.

(B) A change in ownership does not occur when one or more owners leave the business by transferring their ownership interest to the other existing owner(s).

(2) In cases where one or more owners leave the business by transferring their ownership interest to the other existing owner(s), the owner or owners that are transferring their interest shall provide a signed statement to the Department confirming that they have transferred their interest within 14 calendar days of the change.

(d) When there is a change in financial interest holder(s) in the commercial cannabis business who do not meet the requirements for a new license application under this section, the licensee shall submit the information required by section 15002(c)(15) of this division to the Department within 14 calendar days of the change.

(e) When any of the following changes occur, the licensee shall notify the Department within 14 calendar days of the change:

(1) Any change to contact information from the information provided to the Department in the original application.

(2) Any change in name if the licensee is an individual, or any change in legal business name if the licensee is a business entity.

(3) Any change in business trade names, fictitious business names, or doing business as ("DBA").

(4) Any change in the bond required under section 15002(c)(22) of this division.

(f) Licensees for all activities except cultivation may request to add an A-designation or M-designation to their license by sending a notification to the Department signed by at least one owner as defined in section 15003 of this division. A licensee shall not operate under the requested designation until they have received approval from the Department.

(g) Microbusiness licensees may add a commercial cannabis activity to their license or remove a commercial cannabis activity from their license if doing so is consistent with the

requirement set forth in section 15500(a) of this division that licensees engage in at least three (3) commercial cannabis activities. Licensees shall request the modification by completing a request to modify the licensed premises pursuant to section 15027 of this division. A licensee shall not engage in a new commercial cannabis activity until they have paid for the modification and received approval from the Department.

(h) Except as permitted under Business and Professions Code section 26050.2(h), licensees may not be transferred from one premises to another. Licensees shall not operate out of a new premises until they have been issued a new license.

(i) For any business modification or notification under this section, licensees shall use and submit to the Department the Licensee Notification and Request Form, Notifications and Requests to Modify a License, DCC-LIC-027 (Amended 9/21), which is incorporated herein by reference, unless the change relates to contact information and can be made through the Department's online system.

Authority: Section 26013, Business and Professions Code. Reference: Section 26012, Business and Professions Code.

§15024. Death, Incapacity, or Insolvency of a Licensee.

(a) In the event of the death, incapacity, receivership, assignment for the benefit of creditors or other event rendering one or more owners incapable of performing the duties associated with the license, the owner or owners' successor in interest (e.g., appointed guardian, executor, administrator, receiver, trustee, or assignee) shall notify the Department in writing, within 14 calendar days, by submitting the Licensee Notification and Request Form, Notifications and Requests to Modify a License, DCC-LIC-027 (Amended 9/21), which is incorporated herein by reference.

(b) To continue operations or surrender the existing license, the successor in interest shall submit to the Department the following:

(1) The name of the successor in interest.

(2) The name of the owner(s) for which the successor in interest is succeeding and the license number;

(3) The phone number, mailing address, and email address of the successor in interest; and

(4) Documentation demonstrating that the owner(s) is incapable of performing the duties associated with the license such as a death certificate or a court order, and documentation demonstrating that the person making the request is the owner or owners' successor in interest such as a court order appointing guardianship, receivership, or a will or trust agreement.

(c) The Department may give the successor in interest written approval to continue operations on the licensed business premises for a period of time specified by the Department:

(1) If the successor in interest or another person has applied for a license from the Department for the licensed premises and that application is under review;

- (2) If the successor in interest needs additional time to destroy or sell cannabis or cannabis products; or
- (3) At the discretion of the Department.
- (d) The successor in interest is held subject to all terms and conditions under which a state cannabis license is held pursuant to the Act.
- (e) The approval creates no vested right to the issuance of a state cannabis license.

Authority: Section 26013, Business and Professions Code. Reference: Section 26012, Business and Professions Code.

§15024.1. Cannabis and Cannabis Products After Termination of License.

In the event a license is terminated for any reason while cannabis or cannabis products remain on the premises, the following actions may be taken:

- (a) The cannabis or cannabis products may be destroyed by the former licensee; or
- (b) A licensed distributor or licensed microbusiness authorized to engage in distribution may be authorized by the Department to procure and distribute the former licensee's entire inventory stock in accordance with the following:
 - (1) A licensed distributor or licensed microbusiness authorized to engage in distribution shall, within 14 calendar days of the termination of the former licensee's license, submit a written request to the Department, on the Licensee Notification and Request Form, Notifications and Requests Regarding Regulatory Compliance, DCC-LIC-028 (New 9/21), which is incorporated by reference, for authorization to procure the cannabis or cannabis products from the former licensee; and
 - (2) Upon approval from the Department, the licensed distributor or licensed microbusiness authorized to engage in distribution shall transport the cannabis or cannabis products as follows:
 - (A) Cannabis goods shall be transported to a licensed distribution premises where the distributor shall arrange for laboratory testing and perform quality assurance in accordance with chapter 2 of this division. If the cannabis goods have already been tested in accordance with chapter 6 of this division and have a valid certificate of analysis for regulatory compliance testing that is less than 12 months old, the cannabis goods are not required to undergo additional testing.
 - (B) Cannabis that requires further processing as defined in section 15000(e), or further manufacturing as defined in section 15000(pp), shall be transported to a licensee licensed to conduct the additional processing or manufacturing.
 - (C) Cannabis or cannabis products that require packaging and labeling shall be transported to a licensee licensed to conduct packaging and labeling of the cannabis or cannabis products.

(D) Cannabis products that require further manufacturing as defined in section 15000(pp) shall be transported to a licensed manufacturer.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26011.5 and 26013, Business and Professions Code.

§15025. Additional Premises Requirements for Retailers and Microbusinesses Authorized to Engage in Retail.

(a) Licensed retailers and licensed microbusinesses authorized to engage in retail sales shall only serve customers who are within the licensed premises, or at a delivery address that meets the requirements of this division.

(1) The sale and delivery of cannabis goods shall not occur through a pass-out window or a slide-out tray to the exterior of the licensed premises.

(2) Licensed retailers or licensed microbusinesses authorized to engage in retail sales shall not operate as or with a drive-in or drive-through at which cannabis goods are sold to persons within or about a motor vehicle.

(3) No cannabis goods shall be sold and/or delivered by any means or method to any person within a motor vehicle.

(b) Alcoholic beverages as defined in Business and Professions Code section 23004 shall not be stored or consumed on a licensed premises.

(c) Any licensed retailer or microbusiness authorized to conduct retail sales that is adjacent to another premises engaging in manufacturing, cultivation, or distribution shall be separated from those premises by walls, and any doors leading to the cultivation, distribution, or manufacturing premises shall remain closed.

(d) Cannabis goods shall not be dispersed in the air throughout the premises or throughout a portion of the premises by an oil diffuser or any other vaporizing device that is intended to disperse the vapor throughout the premises or throughout a portion of the premises. This section shall not be interpreted to prohibit cannabis goods consumption on the premises of a licensed retailer or licensed microbusiness authorized to engage in retail sales that is conducted in accordance with Business and Professions Code section 26200(g).

(e) Notwithstanding subsection (a), a commercial cannabis business may have a drive-in or drive-through window only if, prior to June 1, 2018:

(1) The commercial cannabis business received a license or permit from the local jurisdiction for a premises including a drive-in or drive-through window which was disclosed on the local application; or

(2) The commercial cannabis business has submitted an application to the local jurisdiction for a license or permit which, at the time of submission of the application, included information that a drive-in or drive-through window was already part of, or proposed to be part of, the premises, and after June 1, 2018, the local jurisdiction approves the premises with a drive-in or drive-through window.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26001, 26012 and 26053, Business and Professions Code.

§15027. Physical Modification of Premises.

(a) A licensee shall not, without the prior written approval of the Department, make a physical change, alteration, or modification of the licensed premises that materially or substantially alters the licensed premises or the use of the licensed premises from the premises diagram originally filed with the license application. A licensee whose licensed premises is to be materially or substantially changed, modified, or altered is responsible for filing a request for premises modification with the Department.

(b) Material or substantial changes, alterations, or modifications requiring approval include, but are not limited to:

(1) The removal, creation, or relocation of a common entryway, doorway, passage, or a means of public entry or exit, when such common entryway, doorway, or passage alters or changes limited-access areas within the licensed premises;

(2) The removal, creation, or relocation of a wall or barrier; and

(3) Changing the activities conducted in or the use of an area identified in the last premises diagram provided to the Department.

(c) Licensees who are engaging in the cultivation of cannabis must obtain approval under this section for the following modifications:

(1) Modification to any area described in the licensee's cultivation plan including, but not limited to, the removal, creation, or relocation of canopy, processing, packaging, composting, harvest storage, and chemical storage areas;

(2) Change in water or power source(s); and

(3) Modifications or upgrades to electrical systems at a licensed premises shall be performed by a licensed electrician. A copy of the electrician's license shall be submitted with any premises modification requests for electrical systems.

(d) Licensees who are engaging in commercial cannabis manufacturing must obtain approval under this section for the following modifications:

(1) The addition of any extraction method subject to the requirements of section 17206;

(2) The addition of any other extraction method that necessitates a substantial or material alteration of the premises;

(3) The addition of infusion operations if no infusion activity is listed in the current license application on file with the Department; and

(4) A substantial or material alteration of the licensed premises from the current premises diagram on file with the Department.

(e) Licensed cultivators shall request approval of a physical change, alteration, or modification through the online licensing system. All other licensees shall request approval of a physical change, alteration, or modification in writing, by submitting the Licensee Notification and Request Form, Notifications and Requests to Modify a License, DCC-LIC-027 (Amended 9/21), which is incorporated herein by reference, and the request shall include:

(1) A new premises diagram that conforms to requirements in section 15006 of this division; and

(2) A fee pursuant to section 15014 of this division for all licensees except licensed cultivators.

(f) A licensee shall provide additional documentation requested by the Department to evaluate the licensee's request to modify the licensed premises.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26055, Business and Professions Code.

§15034. Significant Discrepancy in Inventory.

A determination by a licensed retailer, licensed distributor, or microbusiness authorized to engage in retail or distribution on whether a discrepancy in inventory is significant shall be made in accordance with the following:

(a) A significant discrepancy in inventory means a difference in actual inventory compared to records pertaining to inventory of at least 3 percent of the average monthly sales of the licensee.

(b) For the purposes of this section, average monthly sales shall be calculated by taking a per month average of the total sales for the previous 6 months. If the licensee has not been in operation for at least 6 months, only the months in which the licensee was operating shall be used in determining average monthly sales.

(c) For the purposes of this section, the licensee's acquisition price shall be used to determine the value of cannabis or cannabis products in a licensee's inventory.

Authority: Section 26013, Business and Professions Code. Reference: Section 26070, Business and Professions Code.

§15035. Notification of Criminal Acts, Civil Judgments, Violations of Labor Standards, and Revocation of a Local License, Permit, or Other Authorization After Licensure.

(a) A licensee shall ensure that the Department is notified in writing of a criminal conviction of any owner, either by mail or electronic mail, within 48 hours of the conviction. The written notification to the Department shall include the date of conviction, the court docket number, the name of the court in which the licensee was convicted, and

the specific offense(s) for which the licensee was convicted.

(b) A licensee shall ensure that the Department is notified in writing of a civil penalty or judgment rendered against the licensee or any owner in their individual capacity, either by mail or electronic mail, within 48 hours of delivery of the verdict or entry of judgment, whichever is sooner. The written notification shall include the date of verdict or entry of judgment, the court docket number, the name of the court in which the matter was adjudicated, and a description of the civil penalty or judgment rendered against the licensee.

(c) A licensee shall ensure that the Department is notified in writing of an administrative order or civil judgment for violations of labor standards against the licensee or any owner in their individual capacity, either by mail or electronic mail, within 48 hours of delivery of the order. The written notification shall include the date of the order, the name of the agency issuing the order, and a description of the administrative penalty or judgment rendered against the licensee.

(d) A licensee shall ensure that the Department is notified in writing of the revocation of a local license, permit, or other authorization, either by mail or electronic mail, within 48 hours of receiving notice of the revocation. The written notification shall include the name of the local agency involved, a written explanation of the proceeding or enforcement action, and the specific violation(s) that led to revocation.

(e) For any notification required under this section, licensees shall use and submit to the Department the Licensee Notification and Request Form, Notifications and Requests to Modify a License, DCC-LIC-027 (Amended 9/21), which is incorporated herein by reference.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26030 and 26031, Business and Professions Code.

§15036. Notification of Theft, Loss, and Criminal Activity.

(a) A licensee shall notify the Department and local law enforcement within 24 hours of discovery of any of the following situations:

(1) The licensee discovers a significant discrepancy, as defined in section 15034 of this division, in its inventory.

(2) The licensee discovers diversion, theft, loss, or any other criminal activity pertaining to the operations of the licensee.

(3) The licensee discovers diversion, theft, loss, or any other criminal activity by an agent or employee of the licensee pertaining to the operations of the licensee.

(4) The licensee discovers loss or unauthorized alteration of records related to cannabis or cannabis products, customers, or the licensee's employees or agents.

(5) The licensee discovers any other breach of security.

(b) The notification to the Department pursuant to subsection (a) of this section shall be submitted on the Licensee Notification and Request Form, Notifications and Requests

Regarding Regulatory Compliance, DCC-LIC-028 (New 9/21), which is incorporated herein by reference, and shall include the date and time of occurrence of the theft, loss, or criminal activity, the name of the local law enforcement agency that was notified, and a description of the incident including, where applicable, the item(s) that were taken or lost.

Authority: Section 26013, Business and Professions Code. Reference: Section 26070, Business and Professions Code.

§15037. General Record Retention Requirements.

(a) Licensees must keep and maintain records in connection with the licensed commercial cannabis business. Records must be kept for at least seven years from the date of creation, unless a shorter time is specified. Records include, but are not limited to:

(1) Financial records including, but not limited to, bank statements, sales invoices, receipts, tax records, and all records required by the California Department of Tax and Fee Administration (formerly Board of Equalization) under title 18, California Code of Regulations, sections 1698 and 4901.

(2) Personnel records, including each employee's full name, Social Security number or individual taxpayer identification number, date employment begins, and date of termination of employment, if applicable.

(3) Training records including, but not limited to, the content of the training provided and the names of the employees who received the training.

(4) Contracts regarding commercial cannabis activity.

(5) Permits, licenses, and other local authorizations to conduct the licensee's commercial cannabis activity.

(6) All other documents prepared or executed by an owner or their employees or assignees in connection with the licensed commercial cannabis business.

(7) Records required by the Act or this division.

(b) Records must be kept in a manner that allows the records to be produced for the Department in either hard-copy or electronic form.

(c) Records must be legible and accurate. No person may intentionally misrepresent or falsify records.

(d) Records must be stored in a secured area where the records are protected from debris, moisture, contamination, hazardous waste, and theft.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26160 and 26161, Business and Professions Code.

§ 15037.1. Licensee Authorization to Release Data to Financial Institutions.

(a) A licensee may authorize the Department to provide information to a financial institution for purposes of facilitating the provision of financial services. The authorization

shall be made in writing, through a form prescribed by the Department, which shall include the following information:

- (1) The name of the licensed business for which the licensee is authorizing the release of information;
- (2) The business' license number(s);
- (3) The financial institution authorized to receive information;
- (4) The name, phone number, email address, and signature of the owner submitting the authorization;
- (5) The categories of information specified in subsection (b) that are authorized for release; and
- (6) An acknowledgement that the authorization to release information includes information that is otherwise protected from disclosure, that the licensee is waiving privilege and confidentiality, and that the scope of the release is strictly limited to the purposes of disclosure to the financial institution.

(b) After receipt of the authorization, the Department shall release the following information, as designated by the licensee, when requested by an authorized financial institution pursuant to section 15037.2 of this division:

- (1) The license application(s), including renewal applications, excluding information required to be kept confidential pursuant to Penal Code section 11105 and confidential personal information of individual owners of the licensed business;
- (2) Information captured in the track-and-trace system established pursuant to Business and Professions Code section 26067, including, but not limited to, aggregated sales or transfer information, as applicable; and
- (3) Documents issued to the licensee pursuant to disciplinary or enforcement proceedings.

(c) A licensee may withdraw the authorization to provide information to a financial institution at any time. The withdrawal shall be made in writing, through a form prescribed by the Department, and shall include the following information:

- (1) The name of the licensed business for which the licensee is withdrawing the authorization of the release of information;
- (2) The business' license number(s);
- (3) The financial institution from which authorization to receive information is withdrawn; and
- (4) The name, phone number, email address, and signature of the owner submitting the withdrawal.

Authority: Section 26013, Business and Professions Code. Reference: Section 26260, Business and Professions Code.

§ 15037.2. Financial Institution Request for Licensee Information.

A financial institution, as defined in Business and Professions Code section 26260(c)(3), may request information related to a licensee for purposes of facilitating the provision of financial services for that licensee. The request shall be made in writing, through a form prescribed by the Department, which shall include the following information:

- (a) The name of the financial institution;
- (b) The name, phone number, email, and signature of the representative of the financial institution requesting information;
- (c) The business name and license number of the licensee for which the financial institution is requesting information;
- (d) The type of financial services for which the information is requested (including, but not limited to, establishment or maintenance of bank accounts, extending loans, and providing insurance) and whether the request is for consideration of a new service or maintenance of an existing service;
- (e) The specific information requested as described in section 15037.1(b), if authorized by the licensee; and
- (f) An acknowledgment that use of the information is limited to that information which is necessary for the provision of financial services.

Authority: Section 26013, Business and Professions Code. Reference: Section 26260, Business and Professions Code.

§15038. Disaster Relief.

- (a) If a licensee is unable to comply with any licensing requirements due to a disaster, the licensee may notify the Department of this inability to comply and request relief from the specific licensing requirement.
- (b) The Department may exercise its discretion to provide temporary relief from specific regulatory requirements in this division and from other licensing requirements when allowed by law.
- (c) Temporary relief from specific licensing requirements shall be issued for a reasonable amount of time in order to allow the licensee to recover from the disaster.
- (d) The Department may require that certain conditions be followed in order for a licensee to receive temporary relief from specific licensing requirements.
- (e) A licensee shall not be subject to an enforcement action for a violation of a licensing requirement in which the licensee has received temporary relief.
- (f) For the purposes of this section, “disaster” means condition of extreme peril to the safety of persons and property within the state or a county, city and county, or city caused by such conditions as air pollution, fire, flood, storm, tidal wave, epidemic, riot, drought, terrorism, sudden and severe energy shortage, plant or animal infestation or

disease, Governor's warning of an earthquake or volcanic prediction, or an earthquake, or similar public calamity, other than conditions resulting from a labor controversy, for which the Governor has proclaimed a state of emergency in accordance with Government Code sections 8558 and 8625, or for which a local governing body has proclaimed a local emergency in accordance with Government Code sections 8558 and 8630.

(g) A licensed premises that has been vacated by a licensee due to a disaster shall not be deemed to have been abandoned.

(h) Notwithstanding subsection (a), if a licensee needs to move cannabis or cannabis products stored on the licensed premises to another location immediately to prevent loss, theft, or degradation of the cannabis or cannabis products from the disaster, the licensee may move the cannabis or cannabis products without obtaining prior approval from the Department if the following conditions are met:

(1) The cannabis or cannabis products are moved to a secure location where access to the cannabis or cannabis products can be restricted to the licensee, its employees, and contractors;

(2) The licensee notifies the Department in writing that the cannabis or cannabis products have been moved and that the licensee is requesting relief from complying with specific licensing requirements pursuant to subsection (a) within 24 hours of moving the cannabis or cannabis products;

(3) The licensee agrees to grant the Department access to the location where the cannabis or cannabis products have been moved for inspection; and

(4) The licensee submits a request for temporary relief as described in subsection (i) in writing to the Department within 14 calendar days of moving the cannabis or cannabis products.

(i) Requests for temporary disaster relief shall include the following:

(1) Name of the licensed commercial cannabis business requesting relief.

(2) License number issued by the Department.

(3) Premises address.

(4) Contact information for the owner submitting the request, including name, phone number, and email address.

(5) Date of request.

(6) Specific statutes and regulations from which relief is requested.

(7) Time period for which the relief is requested.

(8) Reason(s) for the request, including a clear explanation of how the relief requested is tied to the specific circumstances of the declared disaster.

Authority: Section 26013, Business and Professions Code. Reference: Section 26012, Business and Professions Code.

Article 4. Posting and Advertising

§15039. License Posting Requirement.

(a) Upon issuance of any license, the licensee shall prominently display the license on the licensed premises where it can be viewed by state and local agencies. If the licensed premises is open to the public, the license shall be displayed in an area that is within plain sight of the public.

(b) Upon issuance of any license, a retailer, whose licensed premises is open to the public, shall prominently display the Quick Response Code (QR Code) Certificate issued by the Department so that it can be viewed and scanned from outside of the licensed premises.

(c) The QR Code Certificate displayed by a licensee, as required by subsection (b), shall be posted in the front window of the licensed premises within three (3) feet of any public entrance to the licensed premises, or in a locked display case mounted on the outside wall of the licensed premises within three (3) feet of any public entrance to the licensed premises. The QR Code Certificate shall be posted in a manner that is clearly visible from outside of the licensed premises to the public and all persons entering the premises.

(d) The QR Code Certificate displayed by the licensee as required by subsection (b) shall comply with the following requirements:

(1) The QR Code Certificate shall be printed on paper, glass, metal, or other material not less than 8 ½ inches by 11 inches.

(2) The QR Code on the Certificate posted, as required by this section, shall not be less than 3.75 inches by 3.75 inches.

(3) The QR Code on the Certificate shall be of sufficient clarity that the code can be read by a smartphone or device capable of reading QR Codes from a distance of at least three (3) feet.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26053, Business and Professions Code.

§15040. Advertising Placement.

(a) Any advertising or marketing, as defined in Business and Professions Code section 26150, that is placed in broadcast, cable, radio, print, and digital communications:

(1) Shall only be displayed after a licensee has obtained reliable up-to-date audience composition data demonstrating that at least 71.6 percent of the audience viewing the advertising or marketing is reasonably expected to be 21 years of age or older;

(2) Shall not use any depictions or images of minors or anyone under 21 years of age;

(3) Shall not use any images that are attractive to children, including, but not limited to:

(A) Cartoons;

(B) Any likeness to images, characters, or phrases that are popularly used to advertise to children;

- (C) Any imitation of candy packaging or labeling; or
- (D) The terms “candy” or “candies” or variants in spelling such as “kandy” or “kandeez.”

(4) Shall not advertise free cannabis goods or cannabis accessories. This includes promotions such as:

- (A) Buy one product, get one product free;
- (B) Free product with any donation; and
- (C) Contests, sweepstakes, or raffles.

(b) In addition to the requirements for advertising and marketing in subsection (a), all outdoor signs, including billboards, shall:

- (1) Be affixed to a building or permanent structure; and
- (2) Comply with the provisions of the Outdoor Advertising Act, commencing with section 5200 of the Business and Professions Code, if applicable.

(c) For the purposes of this section, “reliable up-to-date audience composition data” means data regarding the age and location demographics of the audience viewing a particular advertising or marketing medium. “Reliable up-to-date audience composition data” does not include data from the most recent United States decennial or special census, or the annual population estimate for California counties published by the Demographic Research Unit, State Department of Finance.

(d) Immediately upon request, a licensee shall provide to the Department audience composition data as required in subsection (a) for advertising or marketing placed by the licensee.

(e) If the Department determines that audience composition data for advertising or marketing provided by a licensee does not comply with the requirements of subsection (a) of this section, or the licensee fails to provide audience composition data to the Department upon request, the licensee shall remove the advertising or marketing placement in question.

(f) In construing and enforcing the advertising provisions of the Act and this division, any action, omission, or failure of an advertising agent, representative, or contractor retained by the licensee shall in every case be deemed the act, omission, or failure of the licensee.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26151 and 26152, Business and Professions Code.

§15040.1. Marketing Cannabis Goods as Alcoholic Products.

Distributor and retailer licensees shall not sell or transport cannabis goods that are labeled as beer, wine, liquor, spirits, or any other term that may create a misleading impression that the product is an alcoholic beverage as defined in division 9 of the Business and Professions Code.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26054, 26151 and 26152, Business and Professions Code.

§15041. Age Confirmation in Advertising.

(a) Prior to any advertising or marketing from the licensee involving direct, individualized communication or dialogue, the licensee shall use age affirmation to verify that the recipient is 21 years of age or older.

(b) For the purposes of this section, direct, individualized communication or dialogue may occur through any form of communication, including in-person, telephone, physical mail, or electronic.

(c) A method of age verification is not necessary for a communication if the licensee can verify that the licensee has previously had the intended recipient undergo a method of age affirmation and the licensee is reasonably certain that the communication will only be received by the intended recipient.

(d) A licensee shall use a method of age affirmation before having a potential customer added to a mailing list, subscribe, or otherwise consent to receiving direct, individualized communication or dialogue controlled by a licensee.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26151 and 26152, Business and Professions Code.

§15041.1. Branded Merchandise.

(a) “Branded merchandise” means non-consumable consumer goods utilized by a licensee for advertising and marketing purposes. Examples of branded merchandise include clothing, bags, pens, keychains, mugs, water bottles, lanyards, stickers, pins, and posters. “Branded merchandise” does not include items containing cannabis or any items that are considered food as defined by Health and Safety Code section 109935.

(b) After December 31, 2021, branded merchandise shall identify the licensee responsible for its content by displaying the licensee’s license number in a manner that is permanently affixed to the merchandise, legible, and clearly visible from the outside of the merchandise.

(c) Branded merchandise shall not be designed in any manner that is attractive to children as specified in section 15040(a)(3).

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013 and 26152, Business and Professions Code.

§15041.2. Trade Samples.

(a) For the purposes of this division, “trade sample” means a limited amount of cannabis goods that has been designated by a licensee to be provided to other licensees for the purposes of targeted advertising.

(b) Cannabis goods that have been designated as trade samples may be provided from one licensee to another licensee for the purpose of providing the recipient licensee with product information to aid in making purchasing decisions about new or existing cannabis goods.

(c) Live plants and seeds cannot be designated or provided to licensees as trade samples.

Authority: Sections 26013 and 26153.1, Business and Professions Code. Reference: Section 26153.1 Business and Professions Code.

§15041.3. Designating Trade Samples.

(a) Licensees shall designate cannabis goods as trade samples through the track and trace system.

(b) At the time of designation as a trade sample, cannabis goods must be in the possession of the licensee making the designation.

(c) Once cannabis goods have been designated as a trade sample, the designation cannot be changed.

(d) After laboratory testing, cannabis goods that have been designated as trade samples may be transferred to licensees in accordance with section 15041.4.

Authority: Sections 26013 and 26153.1, Business and Professions Code. Reference: Section 26153.1 Business and Professions Code.

§15041.4. Providing Trade Samples.

(a) Cannabis goods that have been designated as trade samples may be provided to any licensee except licensed cannabis event organizers, distributor transport only licensees, and testing laboratory licensees.

(b) The following licensees may designate and provide trade samples to other licensees:

(1) Cultivators;

(2) Manufacturers;

(3) Distributors; and

(4) Microbusinesses authorized to engage in cultivation, manufacturing, or distribution.

(c) The following licenses shall not designate or provide trade samples to other licensees:

(1) Retailers;

(2) Cannabis event organizers;

(3) Distributor transport only licensees; and

(4) Testing laboratories.

(d) Cannabis goods designated as trade samples may not be provided:

(1) For any payment or consideration;

(2) Without adhering to sales and excise tax requirements, if any;

(3) To employees as compensation;

- (4) To an unlicensed person, including retail customers; or
- (5) For a cost.
- (e) The transfer from one licensee to another of cannabis goods designated as a trade sample must be recorded in the track and trace system.
- (f) A licensee may provide cannabis goods that have been received from another licensee as a trade sample to an employee for that employee's inspection or consumption.
- (g) Cannabis goods provided to employees as trade samples must be properly recorded in the track and trace system. The transaction shall be recorded as a package adjustment when provided to the employee. The adjustment note must include the name or licensee-assigned employee number of the employee and the date and time the cannabis goods were provided to the employee.
- (h) Cannabis goods provided to employees as trade samples shall not be sold, given away, or otherwise transferred by the employee to any person.

Authority: Sections 26013 and 26153.1, Business and Professions Code. Reference: Section 26153.1 Business and Professions Code.

§15041.5. Requirements for Trade Samples.

- (a) In addition to the requirements of section 15041.3(d), cannabis goods provided to another licensee as a trade sample must be packaged and labeled in accordance with the packaging and labeling requirements found in the Act and this division for cannabis goods sold at retail.
- (b) Cannabis goods provided to another licensee as a trade sample must comply with all laboratory testing requirements applicable to cannabis goods sold at retail.
- (c) Cannabis goods must be labeled with the following: "TRADE SAMPLE. NOT FOR RESALE OR DONATION."
- (d) After laboratory testing, cannabis goods designated as trade samples must remain in the packaging until provided to a licensee's employee for inspection or consumption and must not be opened, resealed, or repackaged in any way.
- (e) Transportation of cannabis goods designated as trade samples must be conducted in accordance with the transportation requirements in the Act and this division. Any licensee authorized to engage in distribution activities may transport trade samples.
- (f) Notwithstanding subsection (e), an employee of a licensee authorized to engage in transportation may transport cannabis goods designated as trade samples in a vehicle that is not registered to the licensee and shall not be required to comply with the requirements of section 15311(g). Employees transporting cannabis goods under this subsection shall not transport an amount of cannabis goods that exceeds the possession limits established in section 11357 of the Health and Safety Code.

Authority: Sections 26013 and 26153.1, Business and Professions Code. Reference: Section 26153.1 Business and Professions Code.

§15041.6. Consumption of Trade Samples.

- (a) All consumption of cannabis goods provided as a trade sample must comply with all laws regarding the consumption of cannabis goods.
- (b) Cannabis goods provided to employees as trade samples shall not be consumed by employees who are engaging in the transportation of cannabis goods, delivery of cannabis goods, or any activity that requires the operation of a motor vehicle.
- (c) Cannabis trade samples provided to licensee employees that are not consumed by the employee must be destroyed in accordance with the requirements of the Act and this division.

Authority: Sections 26013 and 26153.1, Business and Professions Code. Reference: Section 26153.1 Business and Professions Code.

§15041.7. Trade Sample Limits.

- (a) A licensee is limited to designating the following aggregate amounts of cannabis goods as trade samples in a calendar month period:
 - (1) For cannabis in the form of dried flower, a total of two pounds; and
 - (2) For manufactured and nonmanufactured cannabis products, a total of 900 individual units.
- (b) Licensees authorized to provide trade samples may provide trade samples to multiple recipient licensees.
- (c) A licensee is limited to providing the following aggregate amounts of cannabis goods as trade samples to each recipient licensee in a calendar month period:
 - (1) For cannabis in the form of dried flower, five (5) grams per strain and no more than six (6) strains to each recipient licensee; and
 - (2) For manufactured and nonmanufactured cannabis products, five (5) individual units, as packaged for retail sale, per cannabis product line and no more than six (6) individual cannabis product lines to each recipient licensee.
- (d) The limits provided in subsection (c) apply to the transfer of cannabis trade samples from one licensee to each recipient licensee and do not limit the total amount of cannabis trade samples that a licensed distributor may transport.

Authority: Sections 26013 and 26153.1, Business and Professions Code. Reference: Section 26153.1 Business and Professions Code.

Article 5. Security Measures

§15042. Premises Access Requirements.

- (a) For a premises that is not open to the public, the licensee shall establish and implement an identification and sign-in/sign-out procedure for all persons accessing the premises, including authorized individuals, suppliers, and visitors.
- (b) Licensees shall ensure that only employees of the licensee and other authorized

individuals access the limited-access areas of the licensed premises.

(c) For the purpose of this section, authorized individuals include outside vendors, contractors, or other individuals conducting business that requires access to the limited-access areas.

(d) An individual who enters the limited-access area and is not employed by the licensee shall be escorted by an employee of the licensee at all times while within the limited-access area.

(e) A licensee shall maintain a record of all authorized individuals who are not employees of the licensee who enter the limited-access areas. The record shall include the name of the individual, the company the individual works for, the reason the individual entered the limited-access area, the date, and the times the individual entered and exited the limited-access area. These records shall be made available to the Department immediately upon request.

(f) A licensee shall not receive consideration or compensation for permitting an individual to enter the limited-access areas.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26160, Business and Professions Code.

§15042.1. Security Plan for Licensed Manufacturers.

A licensed manufacturer shall develop and implement a written security plan. At a minimum, the security plan shall include a description of the security measures to:

(a) Prevent access to the manufacturing premises by unauthorized persons and protect the physical safety of employees. This includes, but is not limited to:

(1) Establishing physical barriers to secure perimeter access and all points of entry into a manufacturing premises (such as locking primary entrances with commercial-grade, non-residential door locks, providing fencing around the grounds and driveway, and securing any secondary entrances including windows, roofs, and ventilation systems);

(2) Installing a security alarm system to notify and record incident(s) where physical barriers have been breached;

(3) Establishing an identification and sign-in/sign-out procedure for authorized personnel, individuals, suppliers, and visitors;

(4) Maintaining the premises such that visibility and security monitoring of the premises is possible; and

(5) Establishing procedures for the investigation of suspicious activities.

(b) Deterring theft or loss of cannabis and cannabis products. This includes, but is not limited to:

(1) Establishing an inventory system to track cannabis and cannabis products and the personnel responsible for processing it throughout the manufacturing process;

(2) Limiting access of personnel within the premises to those areas necessary to

complete job duties, and to those timeframes specifically scheduled for completion of job duties, including access by outside vendors, suppliers, contractors or other individuals conducting business with the licensee that requires access to the premises;

(3) Supervising tasks or processes with high potential for diversion, including the loading and unloading of cannabis and cannabis products from transportation vehicles; and

(4) Providing areas in which personnel may store and access personal items that are separate from the manufacturing areas.

(c) Securing and backing up electronic records in a manner that prevents unauthorized access and ensures that the integrity of the records is maintained.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26051.5, Business and Professions Code.

§15043. Licensee Employee Badge Requirement.

All agents, officers, or other persons acting for or employed by a licensee conducting retail sales or participating in a temporary cannabis event shall display a laminated or plastic-coated identification badge issued by the licensee at all times while engaging in commercial cannabis activity. The identification badge shall, at a minimum, include the licensee's "doing business as" name and license number, the employee's first name, an employee number exclusively assigned to that employee for identification purposes, and a color photograph of the employee that clearly shows the full front of the employee's face and that is at least 1 inch in width and 1.5 inches in height.

Authority: Section 26013, Business and Professions Code. Reference: Section 26070, Business and Professions Code.

§15044. Video Surveillance System.

(a) Each licensed premises shall have a digital video surveillance system with a minimum camera resolution of 1280 × 720 pixels on the licensed premises. This requirement does not apply to a licensed premises authorized exclusively for cultivation activities or the cultivation area of a licensed microbusiness premises.

(b) The video surveillance system shall at all times be able to effectively and clearly record images of the area under surveillance.

(c) Each camera shall be permanently mounted and in a fixed location. Each camera shall be placed in a location that allows the camera to clearly record activity occurring within 20 feet of all points of entry and exit on the licensed premises, and allows for the clear and certain identification of any person and activities in all areas required to be filmed under subsection (d) of this section.

(d) Areas that shall be recorded on the video surveillance system include the following:

(1) Areas where cannabis or cannabis products are weighed, packed, stored, loaded, and unloaded for transportation, prepared, or moved within the licensed premises;

(2) Limited-access areas;

- (3) Security rooms;
 - (4) Areas storing a surveillance-system storage device with at least one camera recording the access points to the secured surveillance recording area; and
 - (5) Entrances and exits to the licensed premises, which shall be recorded from both indoor and outdoor vantage points.
- (e) Licensed retailers and licensed microbusinesses authorized to engage in retail sales shall also record point-of-sale areas and areas where cannabis goods are displayed for sale on the video surveillance system. At each point-of-sale location, camera placement must allow for the recording of the facial features of any person purchasing or selling cannabis goods, or any person in the retail area, with sufficient clarity to determine identity.
- (f) Cameras shall record continuously 24 hours per day and at a minimum of 15 frames per second (FPS).
- (g) The physical media or storage device on which surveillance recordings are stored shall be secured in a manner to protect the recording from tampering or theft.
- (h) Surveillance recordings shall be kept for a minimum of 90 calendar days.
- (i) Surveillance recordings are subject to inspection by the Department and shall be kept in a manner that allows the Department to view and obtain copies of the recordings at the licensed premises immediately upon request. The licensee shall also send or otherwise provide copies of the recordings to the Department upon request within the time specified by the Department.
- (j) Recorded images shall clearly and accurately display the time and date. Time is to be measured in accordance with the standards issued by the United States National Institute of Standards and Technology. The displayed date and time shall not significantly obstruct the view of recorded images.
- (k) The video surveillance system shall be equipped with a failure notification system that provides notification to the licensee of any interruption or failure of the video surveillance system or video surveillance-system storage device.
- (l) If multiple licensed premises are contained within the same building, a single video surveillance system covering the entire building may be used by all of the licensees under the following conditions:
- (1) All licensees shall have immediate access to the surveillance recordings to produce them pursuant to subsection (i).
 - (2) All licensees shall be held responsible and subject to discipline for any violations of the video surveillance requirements.

(m) Notwithstanding subsection (a), a licensed distributor transport only licensee engaged in self-distribution whose premises is on the same parcel of land as their licensed cultivation premises shall not be required to comply with the provisions of this section.

Authority: Section 26013, Business and Professions Code. Reference: Section 26070, Business and Professions Code.

§15045. Security Personnel.

(a) A licensed retailer or licensed microbusiness authorized to engage in retail sales shall hire or contract for security personnel who are at least 21 years of age to provide onsite security services for the licensed retail premises during the hours of operation. All security personnel hired or contracted for by the licensee shall be licensed by the Bureau of Security and Investigative Services and shall comply with chapters 11.4 and 11.5 of division 3 of the Business and Professions Code.

(b) Notwithstanding subsection (a), a licensed non-storefront retailer or licensed microbusiness who is not engaged in storefront retail sale is not required to hire or contract for security personnel.

(c) If multiple licensed premises are contained within the same building, security personnel may be shared by all of the licensees to cover the entire building. However, all licensees shall be held responsible and subject to discipline for any violations of the security personnel requirements.

Authority: Section 26013, Business and Professions Code. Reference: Section 26070, Business and Professions Code.

§15046. Locks.

A licensee shall ensure that all limited-access areas can be securely locked using commercial-grade, nonresidential door locks. A licensee shall also use commercial-grade, nonresidential door locks on all points of entry and exit to the licensed premises. This requirement does not apply to a licensed premises authorized exclusively for cultivation activities or the cultivation area of a licensed microbusiness premises.

Authority: Section 26013, Business and Professions Code. Reference: Section 26070, Business and Professions Code.

§15047. Alarm System.

(a) A licensee shall maintain an alarm system as defined in Business and Professions Code section 7590.1(c) at the licensed premises. This requirement does not apply to a licensed premises authorized exclusively for cultivation activities or the cultivation area of a licensed microbusiness premises.

(b) A licensee shall ensure a licensed alarm company operator or one or more of its registered alarm agents installs, maintains, monitors, and responds to the alarm system.

(c) Upon request, a licensee shall make available to the Department all information related to the alarm system, monitoring, and alarm activity.

(d) If multiple licensed premises are contained within the same building, a single alarm system covering the entire building may be used by all of the licensees under the following conditions:

(1) All licensees shall have access to and be able to provide the information under subsection (c).

(2) All licensees shall be held responsible and subject to discipline for any violations of the alarm system requirements.

Authority: Section 26013, Business and Professions Code. Reference: Section 26070, Business and Professions Code.

Article 6. Track and Trace Requirements

§15047.1. Definitions.

(a) “Plant tag” means the RFID-enabled tag that is labeled with a UID number and provided by the Department or the Department’s designee for attaching to a cannabis plant.

(b) “Package tag” means the RFID-enabled tag that is labeled with a UID number and provided by the Department or the Department’s designee for attaching to batches of cannabis or cannabis products.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26067, 26070, 26160 and 26161, Business and Professions Code.

§15047.2. General Requirements.

(a) A licensee shall create and maintain an account within the track and trace system prior to engaging in any commercial cannabis activity.

(b) All commercial cannabis activity shall be accurately recorded in the track and trace system.

(c) A licensee is responsible for the accuracy and completeness of all data and information entered into the track and trace system. The licensee is responsible for all actions taken by the designated account manager or other account users while performing track and trace activities.

(d) A person shall not intentionally misrepresent or falsify information entered into the track and trace system.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26067, 26070, 26160, and 26161, Business and Professions Code.

§15048. Training and Credentialing.

(a) Each applicant or licensee shall identify an owner of the commercial cannabis business as the track and trace system account manager. A licensee may change the account manager by submitting a written request to the Department.

(b) No later than 10 calendar days after license issuance, the designated account manager shall:

(1) Complete new user system training provided by the Department.

(2) Email support@metrc.com from the designated account manager's email address to request access to the track and trace system.

(3) Complete the credentialing process to establish a login.

(c) The account manager and each user shall utilize a unique login, consisting of a username and password. The account manager and each user shall only access the track and trace system under their assigned login. No account manager or user shall share their login, username, or password, with any other individual for any reason.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26067, 26070, 26160 and 26161, Business and Professions Code.

§15048.1. Responsibilities of the Designated Account Manager.

(a) A licensee and their designated account manager(s) shall:

(1) Designate track and trace system users, as needed, and require the system users to be trained in the proper and lawful use of the track and trace system before the users are permitted to access the track and trace system;

(2) Maintain an accurate and complete list of all of the licensee's track and trace system users, including full names and usernames, and update the list immediately when changes occur;

(3) Remove a user from the licensee's track and trace system account when that individual is no longer authorized to represent the licensee;

(4) Correct any data entry errors within three (3) calendar days of discovery of the error;

(5) Tag and enter all inventory in the track and trace system as required by section 15049;

(6) Monitor all system notifications and resolve all issues identified. The notification shall not be dismissed by an account manager before resolution of the issue(s) identified in the notification;

(7) Notify the Department of any loss of access to the track and trace system that exceeds 72 hours; and

(8) Reconcile the inventory of cannabis and cannabis products on the licensed premises with the track and trace system database at least once every thirty (30) calendar days.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26067, 26070 and 26160, Business and Professions Code.

§15048.2. General Tag Requirements.

(a) A licensee shall only use plant and package tags provided and distributed by the Department or the Department's designee.

(b) A licensee shall only use plant and package tags assigned in the track and trace system to that licensee and shall not transfer unused tags to any other licensee.

(c) A licensee shall maintain a sufficient supply of tags to support tagging in accordance with this chapter.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26050.1, 26067, 26070, 26160 and 26161, Business and Professions Code.

§15048.3. Ordering Tags.

(a) For licensees conducting cultivation, manufacturing, distribution, or testing:

(1) A licensee's account manager shall place the initial order of plant or package tags within ten (10) calendar days of initial credentialing into the track and trace system and shall reorder plant or package tags as needed.

(2) The receipt of plant or package tags shall be recorded in the track and trace system within three (3) calendar days of receipt. If ordered plant or package tags are not received by the licensee, the licensee shall notify the Department.

(3) For cultivation licensees, if the Department approves a request for a license designation change pursuant to section 15020(e), the licensee is required to order, apply, and report applicable plant and package tags in accordance with this article.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26067, 26069 and 26160, Business and Professions Code.

§15048.4. Tagging of Cannabis Plants.

(a) Immature cannabis plants shall be tagged as follows:

(1) Each established lot of immature plants shall be assigned a plant tag. Each lot of immature plants under a single plant tag shall be uniform in strain or cultivar and contain no more than 100 individual immature plants at any one time. The lot plant tag shall be visible and within clear view of an individual standing next to the immature lot and kept free from dirt and debris. Each lot shall either:

(A) Have each immature plant in the lot labeled with the UID number and placed contiguous to one another to facilitate identification by the Department; or

(B) Be fully separated from other lots of immature or mature plants by a physical barrier. In such cases, each individual plant does not need to be labeled with the corresponding UID number.

(2) Immature plants transferred from a licensed nursery for retail sale shall each be labeled with the UID number that corresponds to the UID number of the immature lot. The receiving licensee shall remove the licensed nursery's package tag and assign a plant or package tag, as applicable, belonging to the receiving licensee within three (3) calendar days of receiving the immature plants.

(3) A plant tag shall be applied to each individual plant in accordance with subsection (b) at the time the plant is moved to the designated canopy area or begins flowering.

(b) Mature cannabis plants shall be tagged as follows:

(1) Each mature plant shall be tagged with a plant tag. A plant tag shall be attached to the main stem at the base of each plant, placed in a position so it is visible and within clear view of an individual standing next to the mature plant, and kept free from dirt and debris.

(2) Licensees are prohibited from removing the plant tag from the mature plant to which it was attached and assigned until the plant is harvested, destroyed, or disposed of.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26067 and 26069, Business and Professions Code.

§15048.5. Use of Harvest Batch Name and Package Tags.

(a) Harvested plants that are hanging, drying, or curing shall be assigned a unique harvest batch name, which shall be recorded in the track and trace system and placed within clear view of an individual standing next to the batch. The assigned harvest batch name shall match what is in the track and trace system and the harvest batch name next to the batch shall be the same.

(b) Each harvest batch and manufactured cannabis batch shall be assigned a package tag and recorded in the track and trace system. For batches held in containers, the package tag shall be affixed to the container holding the batch. If a batch of cannabis or cannabis products is held in multiple containers, the package tag shall be affixed to one of the containers and the other containers shall be labeled with the applicable UID number. Each unit within the container shall be labeled with the applicable UID number. All containers with the same UID number shall be placed contiguous to one another to facilitate identification by the Department.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26067, 26070, 26160 and 26161, Business and Professions Code.

§15049. Track and Trace Reporting.

(a) All cannabis and cannabis products on the licensed premises shall be assigned a plant or package tag, except for harvested plants that are being dried, cured, graded, or trimmed, as specified in this division, and recorded in the track and trace system.

(b) Each of the following activities shall be recorded in the track and trace system within 24 hours of occurrence:

- (1) Receipt of cannabis or cannabis products.
- (2) Rejection of transferred cannabis or cannabis products.
- (3) Manufacturing of cannabis or cannabis products.
- (4) Use of cannabis or cannabis product for internal quality control testing or product research and development.
- (5) Destruction or disposal of cannabis or cannabis products.
- (6) Packaging or repackaging of cannabis or cannabis products, except that cultivation licensees shall comply with section 15049.1(b)(5).
- (7) Laboratory testing, including testing results.
- (8) Sale or donation of cannabis or cannabis products.

(c) The following information shall be recorded in the track and trace system for each activity entered pursuant to subsection (b):

- (1) The type of cannabis or cannabis products.
- (2) The weight, volume, or count of the cannabis or cannabis products.
- (3) The date of activity.
- (4) The UID assigned to the cannabis or cannabis products.
- (5) If cannabis or cannabis products are being destroyed or disposed of, the licensee shall record the following information in the notes section:
 - (A) The name of the employee performing the destruction or disposal;
 - (B) The reason for destruction or disposal; and
 - (C) The method of disposal.
- (d) If a package adjustment is used to adjust the quantity of cannabis or cannabis products in the track and trace system, the licensee shall include a description explaining the reason for adjustment.

(e) If a licensee rejects a partial shipment of cannabis goods pursuant to section 15052.1(b), the licensee shall record the partial rejection in the track and trace system.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26067 and 26169, Business and Professions Code.

§15049.1. Additional Requirements for Recording Cultivation Activities.

(a) The licensee shall record the following cultivation activities in the track and trace system within three (3) calendar days of occurrence:

- (1) Planting of an immature lot;

(2) Moving immature plants to a designated canopy area, flowering of an individual plant, or application of a plant tag to an immature plant, in accordance with section 15048.4;

(3) Destruction or disposal of an immature or mature plant; and

(4) Harvesting of a mature plant, or portion thereof.

(b) The following information shall be reported in the track and trace system for each harvested plant or portion thereof, or harvest batch:

(1) The wet weight of each harvested plant or portion thereof, which shall be obtained by the licensee immediately after harvest;

(2) The weight of cannabis waste associated with each harvest batch;

(3) The unique name of the harvest batch;

(4) The initiating date of the harvest. For purposes of this section, the initiating date of the harvest is the month, day, and year the first mature cannabis plants in the harvest batch were cut, picked, or removed from the soil or other growing media; and

(5) Packaging and repackaging of cannabis or nonmanufactured cannabis.

(c) After the entire harvest batch has been dried, trimmed, cured, and packaged, the licensee shall indicate in the track and trace system that the harvest is finished.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26067 and 26069, Business and Professions Code.

§15049.2. Recording Transfers of Cannabis and Cannabis Products.

(a) A licensee shall prepare a shipping manifest through the track and trace system prior to transferring cannabis and cannabis products off of a licensed premises. The following information shall be recorded on the shipping manifest by the licensee initiating the transfer:

(1) The name, license number, and premises address of the originating licensee;

(2) The name and license number of the distributor transporting the cannabis and cannabis products;

(3) The name, license number, and premises address of the licensee receiving the cannabis or cannabis products into inventory or storage;

(4) The UID numbers for all items being transferred;

(5) The item name, item category and weight or count of cannabis or cannabis products associated with each package tag;

(6) The estimated date and time of departure from the licensed premises;

(7) The estimated date and time of arrival at each licensed premises; and

(8) The driver's license number of the personnel transporting the cannabis and cannabis products, and the make, model, and license plate number of the vehicle used for transport.

(b) The distributor who transports the cannabis or cannabis product shall record the following additional information on the shipping manifest:

(1) The actual date and time of departure from the licensed premises; and

(2) The actual date and time of arrival at each licensed premises.

(c) Upon pick-up or receipt of cannabis and cannabis products for transport, storage, or inventory, a licensee shall ensure that the cannabis or cannabis products received are as described in the shipping manifest. The licensee shall record acceptance or receipt, and acknowledgment of the cannabis or cannabis products in the track and trace system.

(d) If there are any discrepancies between type or quantity of cannabis or cannabis products specified in the shipping manifest and the type or quantity received by the licensee, the licensee shall reject the shipment.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26067, 26070, 26160 and 26161, Business and Professions Code.

§15050. Loss of Access.

(a) If at any point a licensee loses access to the track and trace system for any reason, the licensee shall prepare and maintain comprehensive records detailing all commercial cannabis activities that were conducted during the loss of access.

(b) The licensee shall not initiate transport for, receive, or deliver any cannabis or cannabis products until such time as access is restored.

(c) Once access has been restored, the licensee shall:

(1) Within three calendar days, enter all commercial cannabis activity that occurred during the loss of access into the track and trace system.

(2) Document the cause for loss of access, and the dates and times for when access to the track and trace system was lost and when it was restored.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26067, 26070 and 26160, Business and Professions Code.

§15051. Track and Trace System Reconciliation.

(a) The license shall review the information recorded in the track and trace system at least once every 30 calendar days to ensure its accuracy, including, at a minimum:

(1) Reconciling on-hand inventory of cannabis and cannabis product with the records in the track and trace system; and

(2) Reviewing the licensee's authorized users and removing any users who are no longer authorized to enter information into the track and trace system.

(b) If a licensee finds a discrepancy between the on-hand inventory and the track and trace system, the licensee shall conduct an audit.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26067, 26070 and 26160, Business and Professions Code.

Article 7. Acceptance or Rejection of Shipments

§15052.1. Acceptance or Rejection of Shipments.

(a) Licensees shall accept or reject, in whole, shipments of cannabis or cannabis products.

(b) Notwithstanding subsection (a), partial shipments of cannabis or cannabis products shall be rejected in the following circumstances:

(1) If a licensee receives a shipment containing cannabis or cannabis products that differ from those listed on the sales invoice or receipt, the licensee shall reject the portion of the shipment that is not accurately reflected on the sales invoice or receipt.

(2) If a licensee receives a shipment containing any cannabis or cannabis products that were damaged during transportation, the licensee shall reject that portion of the shipment that was damaged.

(3) If a licensee receives a shipment containing cannabis or cannabis products that is non-compliant with labeling requirements or exceeds its provided expiration date, the licensee shall reject the portion of the shipment that is non-compliant with labeling requirements or expired.

(c) The licensee rejecting a shipment of cannabis or cannabis products, whether in whole or in part, shall record in the track and trace system and indicate on any relevant manifest, invoice, or sales receipt the specific reason for rejection.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26067, 26070 and 26161, Business and Professions Code.

Chapter 2. Distributors

§15300. Distribution Activities.

A licensed distributor shall distribute only cannabis and cannabis products, cannabis accessories, and licensees' branded merchandise or promotional materials.

Authority: Sections 26013, Business and Professions Code. Reference: Section 26070, Business and Professions Code.

§15301. Storage Services.

(a) A licensed distributor may provide storage services, including storage-only services that are unrelated to the quality assurance and laboratory testing processes, to a licensed cultivator, licensed manufacturer, licensed microbusiness, licensed retailer, or another licensed distributor.

(b) A licensed distributor may provide storage services to other licensees for cannabis goods packaged as they will be sold at retail, cannabis accessories, and licensees' branded merchandise or promotional materials only.

(c) A licensed distributor shall ensure that each batch of cannabis goods that are stored for another licensee are stored in accordance with section 15302 of this division.

(d) Notwithstanding subsection (b) of this section, a licensed distributor shall not store live plants, except for seeds, on the licensed premises.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26110, Business and Professions Code.

§15302. Storage of Batches for Testing.

(a) A licensed distributor shall ensure that all batches of cannabis or cannabis products are stored separately and distinctly from other batches of cannabis or cannabis products on the licensed distributor's premises.

(b) A licensed distributor shall ensure a label with the following information is physically attached to each container of each batch:

(1) The name, license number, and licensed premises address of the licensee who provided the batch;

(2) The date of entry into the licensed distributor's storage area;

(3) The unique identifiers and batch number, if any, associated with the batch;

(4) A description of the cannabis or cannabis products with enough detail to easily identify the batch;

(5) The weight of or quantity of units in the batch; and

(6) The best-by, sell-by, or expiration date of the batch, if any.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26110 and 26120, Business and Professions Code.

§15303. Packaging, Labeling, and Rolling.

(a) A licensed distributor may package, re-package, label, and re-label cannabis in the form of dried flower, including pre-rolls, for retail sale. All packages of cannabis in the form of dried flower, including pre-rolls, shall comply with the requirements in chapter 11 of this division.

(b) A licensed distributor shall not process cannabis, but may roll pre-rolls that consist exclusively of any combination of flower, shake, leaf, or kief. Pre-rolls shall be rolled prior to regulatory compliance testing.

(c) Licensed distributors may label and re-label a package containing manufactured cannabis or cannabis products with the amount of cannabinoids and terpenoids based on regulatory compliance testing results.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013 and 26120, Business and Professions Code.

§15303.1. Net Weight of Dried Flower.

For purposes of this division, the net weight on any package of dried flower shall not be considered inaccurate if the actual weight is within plus or minus 3% of the labeled weight.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26120 and 26152, Business and Professions Code.

§15304. Testing Arrangements.

After taking physical possession of a batch of cannabis or cannabis products, the licensed distributor shall contact a licensed testing laboratory and arrange for a laboratory employee to come to the licensed distributor's licensed premises to select a representative sample for laboratory testing.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26104 and 26110, Business and Professions Code.

§15305. Testing Sample.

(a) The licensed distributor shall ensure that the batch size from which the sample is taken meets the requirements of this division.

(b) A licensed distributor or an employee of the licensed distributor shall be physically present to observe the laboratory employee obtain the sample of cannabis or cannabis products for testing and shall ensure that the increments are taken from throughout the batch.

(c) The sampling shall be video-recorded with the batch number stated verbally or in writing on the video at the beginning of the video and a visible time and date indication on the video recording footage. The video recordings shall be maintained for 90 calendar days by the licensed distributor.

(d) After the sample has been selected, both the licensed distributor and the laboratory employee shall sign and date the chain of custody form pursuant to section 15706, attesting to the sample selection having occurred.

(e) A licensed distributor shall not assist the laboratory employee nor touch the cannabis or cannabis products or the sampling equipment while the laboratory employee is obtaining the sample.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26104 and 26110, Business and Professions Code.

§15305.1. Re-sampling.

Once a sample has been obtained from a batch for regulatory compliance testing, a licensed distributor may not arrange for or allow another licensed testing laboratory to sample or re-sample the same batch for regulatory compliance testing, unless all of the requirements of section 15705 subsection (g) of this division are met.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15306. Laboratory Testing Results.

(a) A sample batch “passes” a laboratory test when the sample meets specifications in chapter 6 of this division.

(b) When a batch from a manufactured or harvest batch passes, the cannabis or cannabis products may be transported to one or more licensed retailers, licensed distributors, or licensed microbusinesses. A printed copy of the certificate of analysis for regulatory compliance testing shall accompany the batch and be provided to the licensee receiving the cannabis or cannabis products.

(c) A batch “fails” a laboratory test when the sample does not meet specifications in chapter 6 of this division.

(d) If a failed batch may be remediated pursuant to section 15727, a licensed distributor may transport or arrange for the transportation of the batch to a licensed manufacturer for remediation in accordance with the following:

(1) The licensed distributor shall ensure that a corrective action plan is submitted by a licensed manufacturer to the Department, or by a licensed microbusiness authorized to engage in manufacturing to the Department, within 30 calendar days of issuance of the certificate of analysis for regulatory compliance testing by the licensed testing laboratory.

(2) The licensed distributor shall ensure that the licensed manufacturer or licensed microbusiness authorized to engage in manufacturing begins remediating the cannabis or cannabis products within 30 calendar days of receiving approval from the Department to remediate the cannabis or cannabis products.

(3) If the licensed distributor is unable to arrange for a licensed manufacturer or licensed microbusiness authorized to engage in manufacturing to remediate the cannabis or cannabis products within 30 calendar days of issuance of the certificate of analysis for regulatory compliance testing by the licensed testing laboratory, the licensed distributor shall destroy the cannabis or cannabis products immediately.

(e) A licensed distributor shall destroy a batch that failed laboratory testing and cannot be remediated pursuant to section 15727 within 30 calendar days of issuance of the certificate of analysis for regulatory compliance testing by the licensed testing laboratory.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070, 26100, 26104 and 26110, Business and Professions Code.

§15307. Quality-Assurance Review.

When a licensed distributor receives a certificate of analysis for regulatory compliance testing from the licensed testing laboratory or upon transfer from another licensed distributor stating that the batch meets specifications required by law, the licensed distributor shall ensure the following before transporting the cannabis goods to one or more licensed retailers or licensed microbusinesses authorized to engage in retail sales:

(a) The certificate of analysis for regulatory compliance testing that the licensed distributor received from the licensed testing laboratory or another licensed distributor is the certificate of analysis that corresponds to the batch;

(b) The date on the certificate of analysis for the regulatory compliance testing is less than 12 months old;

(c) The label on the cannabis goods is consistent with the certificate of analysis for regulatory compliance testing regarding cannabinoid content required to be listed by law as follows:

(1) If the cannabis goods are labeled with the content for cannabinoids, terpenoids, Total THC, and/or Total CBD prior to receiving the certificate of analysis for regulatory compliance testing, the licensed distributor shall ensure that the labeled amounts are accurate in accordance with section 15307.1, and

(2) If the cannabis goods are not labeled with the content for cannabinoids, terpenoids, Total THC, and/or Total CBD prior to receiving the certificate of analysis for regulatory compliance testing, the licensed distributor shall label the cannabis goods with the amounts listed on the certificate of analysis pursuant to section 15303;

(d) The packaging and labeling of the cannabis goods complies with Business and Professions Code section 26120 and this division, except cannabis goods are not required to be labeled or otherwise identified as medicinal products prior to retail sale unless the cannabis goods must be labeled as such pursuant to this division;

(e) The cannabis goods have not exceeded their expiration or sell-by date if one is provided;

(f) The weight or count of the batch comports with that in the track and trace system. A licensed distributor shall use scales as required by this division; and

(g) All events prior to receipt of the certificate of analysis for regulatory compliance testing have been entered into the track and trace system.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070, 26110 and 26120, Business and Professions Code.

§15307.1. Quality-Assurance Review for Labeling Cannabinoids and Terpenoids.

(a) For purposes of this division, any one cannabinoid, Total THC, and/or Total CBD claimed to be present on a label shall not be considered inaccurate if the difference in percentage on the certificate of analysis is plus or minus 10.0%.

(b) For purposes of this division, the terpenoid testing results on the label of any one terpenoid claimed to be present shall not be considered inaccurate if the difference in percentage on the certificate of analysis is plus or minus 10.0%.

(c) For purposes of this section, the difference in percent shall be calculated using the following equation:

$$\text{Difference in percent} = \left| \frac{\text{laboratory measurement} - \text{label claim}}{\text{label claim}} \right| \times 100\%$$

For purposes of this section, Total THC and Total CBD shall have the same meaning as defined in Chapter 6 of this division.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100 and 26110, Business and Professions Code.

§15307.2. Licensed Distributor to Licensed Distributor Transfers.

Cannabis goods, packaged as they will be sold at retail, that have undergone and passed regulatory compliance testing and have an accompanying certificate of analysis may be transferred to one or more licensed distributors. However, cannabis goods that have not been transported to retail within 12 months of the date on the certificate of analysis must be destroyed or retested by the licensed distributor in possession of the cannabis goods.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26110, Business and Professions Code.

§15308. Insurance Requirements.

(a) A distributor licensee shall at all times carry and maintain commercial general liability insurance in the aggregate in an amount no less than \$2,000,000 and in an amount no less than \$1,000,000 for each loss.

(b) A distributor licensee shall maintain the insurance required in subsection (a) from an insurance company that is:

(1) A non-admitted insurer that meets the requirements of Insurance Code section 1765.1 or 1765.2, and the insurance is placed pursuant to Insurance Code section 1763 and through a surplus line broker licensed under Insurance Code section 1765;

(2) An insurer qualified to do business in California by the Secretary of State and authorized by the Insurance Commissioner to write the liability and property classes of insurance as defined by Insurance Code sections 102, 103, 107, 108, 114, and 120; or

(3) A registered risk retention group compliant with the California Risk Retention Act of 1991. (See Insurance Code sections 125-140.)

(c) Admitted insurers and risk retention groups must show proof of capitalization in the amount of at least \$10,000,000.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26051.5 and 26070, Business and Professions Code.

§15309. Inventory Accounting.

(a) A licensed distributor shall be able to account for all inventory and provide that information to the Department upon request.

(b) To account for inventory, a licensed distributor shall ensure all batches of cannabis or cannabis products are stored in accordance with section 15302 and shall be able to provide the Department with the status of the batch as follows:

- (1) The batch is being held in storage for another licensee;
- (2) The batch is awaiting sampling for regulatory compliance testing;
- (3) The batch has been sampled and is awaiting testing results;
- (4) The batch has passed testing;
- (5) The batch has failed testing and is awaiting approval for remediation;
- (6) The batch has failed testing and is awaiting destruction; and
- (7) The batch is being stored or held for any other lawful purpose under the Act or this division.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26160, Business and Professions Code.

§ 15311. Requirements for the Transportation of Cannabis Goods.

The following requirements apply when transporting cannabis goods between licensees or licensed premises:

(a) Transportation shall only be conducted by persons holding a distributor license under the Act, or employees of those persons. All vehicles and trailers used for transportation shall be owned or leased, in accordance with the Vehicle Code, by the licensee.

(b) Prior to transporting any cannabis goods, the licensed distributor shall have a completed sales invoice or receipt that meets the requirements of Business and Professions Code section 26161. The licensed distributor shall only transport cannabis goods listed on the sales invoice or receipt. The sales invoice or receipt may not be altered or changed once transport begins.

(c) A licensed distributor employee shall always carry a copy of the distributor's license and a copy of the QR Code Certificate issued by the Department while engaging in the transportation of cannabis goods. The QR Code Certificate shall comply with the requirements of section 15039, subsection (d) of this division.

(d) All vehicles transporting cannabis goods for hire shall be required to have a motor

carrier permit pursuant to Chapter 2 (commencing with Section 34620) of Division 14.85 of the Vehicle Code.

(e) Transportation by means of aircraft, watercraft, drone, rail, human powered vehicle, or unmanned vehicle is prohibited.

(f) Cannabis goods shall only be transported inside of a vehicle or trailer and shall not be visible or identifiable from outside of the vehicle or trailer.

(g) Cannabis goods shall be locked in a fully enclosed box, container, or cage that is secured to the inside of the vehicle or trailer. No portion of the enclosed box, container, or cage shall be comprised of any part of the body of the vehicle or trailer. For the purposes of this section, the inside of the vehicle includes the trunk.

(h) While left unattended, vehicles and trailers shall be locked and secured.

(i) A licensed distributor shall not leave a vehicle or trailer containing cannabis goods unattended in a residential area or parked overnight in a residential area.

(j) At a minimum, a licensed distributor shall have a vehicle alarm system on all transport vehicles and trailers. Motion detectors, pressure switches, duress, panic, and hold-up alarms may also be used.

(k) Packages or containers holding cannabis goods shall not be tampered with, or opened, during transport.

(l) A licensed distributor transporting cannabis goods shall only travel between licensees shipping or receiving cannabis goods and its own licensed premises when engaged in the transportation of cannabis goods. The licensed distributor may transport multiple shipments of cannabis goods at once in accordance with applicable laws. A licensed distributor shall not deviate from the travel requirements described in this section, except for necessary rest, fuel, or vehicle repair stops.

(m) Under no circumstances may non-cannabis goods, except for cannabis accessories and licensees' branded merchandise or promotional materials, be transported with cannabis goods.

(n) Vehicles and trailers transporting cannabis goods are subject to inspection by the Department at any licensed premises or during transport at any time.

(o) Notwithstanding subsections (e) through (g) of this section, if it is not operationally feasible to transport cannabis goods inside of a vehicle or trailer because the licensed premises that the cannabis goods will be transported from and the licensed premises that will be receiving the cannabis goods are located within the same building or on the same parcel of land, the cannabis goods may be transported by foot, hand truck, fork lift, or other similar means. A shipping manifest that complies with this division is required when transporting cannabis goods pursuant to this subsection.

(p) Notwithstanding subsection (e) of this section, transportation of cannabis goods may be conducted via waterway to licensees located on Catalina Island. The provisions of this section and other sections regarding vehicle requirements also apply to vessels used to transport cannabis goods via waterway pursuant to this section.

Authority: Section 26013, Business and Professions Code. Reference: Section 26070, Business and Professions Code.

§15312. Required Transport Vehicle Information.

(a) Upon request, the licensed distributor shall provide the Department with a copy of the certificate of ownership or registration card issued by the California Department of Motor Vehicles, the year, make, model, license plate number, and Vehicle Identification Number in writing, and proof of insurance for any vehicle or trailer used to transport cannabis or cannabis products.

Authority: Section 26013, Business and Professions Code. Reference: Section 26070, Business and Professions Code.

§15313. Transport Personnel Requirements.

(a) No person under the age of 21 years old shall be in a commercial vehicle or trailer transporting cannabis or cannabis products; and

(b) Only a licensee, an employee of the licensed distributor, or security personnel who meets the requirements of section 15045 of this division shall be in a vehicle while transporting cannabis or cannabis products.

Authority: Section 26013, Business and Professions Code. Reference: Section 26070, Business and Professions Code.

§15314. Shipping Manifest.

(a) Prior to transporting cannabis or cannabis products, a licensed distributor shall generate a shipping manifest through the track and trace system for the following activities:

- (1) Testing and sampling;
- (2) Sale of cannabis or cannabis products to a licensee;
- (3) Destruction or disposal of cannabis or cannabis products; and
- (4) Any other activity, as required pursuant to this division, or by the Department.

(b) The licensed distributor shall transmit the shipping manifest to the Department and the licensee that will receive the cannabis or cannabis products prior to transporting the cannabis or cannabis products.

(c) The licensed distributor shall ensure and verify that the cannabis or cannabis products being taken into possession for transport at the originating licensed premises are as described and accurately reflected in the shipping manifest. For purposes of this

section, the licensed distributor may verify that the cannabis or cannabis products are accurately reflected in the shipping manifest by confirming that the number of boxes of cannabis or cannabis products, type of cannabis or cannabis products, weight and/or units of cannabis or cannabis products matches the label on the boxes containing the cannabis or cannabis products.

(1) The licensed distributor shall not take into possession or transport:

(A) Any cannabis or cannabis products that are not on the shipping manifest; or

(B) Any cannabis or cannabis products that are less than or greater than the amount reflected on the shipping manifest.

(2) The licensed distributor is responsible for any discrepancies between the shipping manifest and the cannabis or cannabis products in its possession during transport, and subject to any enforcement or disciplinary action related to such discrepancy.

(3) A licensed distributor shall not void or change a shipping manifest after departing from the originating licensed premises.

(d) A shipping manifest shall accompany every transport of cannabis or cannabis products.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26067 and 26070, Business and Professions Code.

§15315. Distributor Transport Only License.

(a) A licensed distributor transport only licensee may transport cannabis or cannabis products between licensees; however, they shall not transport any cannabis or cannabis products except for immature cannabis plants, seeds, and trade samples to a licensed retailer or licensed microbusiness authorized to engage in retail sales.

(b) A complete application for a distributor transport only license shall include all the information required in an application for a distributor license.

(c) The licensing fee for a distributor transport only license will be based in part upon whether the licensee intends to transport only cannabis or cannabis products that the licensee has cultivated or manufactured (self-distribution), or whether the licensee intends to transport cannabis or cannabis products cultivated or manufactured by other licensees.

(d) A distributor transport only licensee shall comply with all of the requirements for a holder of a distributor license, except for those related to quality assurance and testing.

(e) A distributor transport only licensee shall not hold title to any cannabis or cannabis products unless the licensee also holds a Department-issued cultivation, manufacturing, retailer, or microbusiness license.

(f) Holding a distributor transport only license shall not authorize a licensee to:

(1) Engage in the delivery of cannabis or cannabis products as defined in Business and Professions Code section 26001(o);

(2) Engage in the wholesale, destruction, packaging, labeling, or storing of cannabis or cannabis products; or

(3) Arrange for the testing of cannabis or cannabis products by a testing laboratory.

(g) A distributor transport only licensee who is licensed to engage in self-distribution and whose licensed premises will be on the same property as their licensed cultivation or licensed manufacturing premises shall comply with the security provisions contained in chapter 1, article 5 of this division that are applicable to their licensed cultivation or licensed manufacturing premises.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26070, Business and Professions Code.

Chapter 3. Retailers

§15400. Access to Retailer Premises.

(a) Access to the licensed premises of a retailer with only an A-designation shall be limited to individuals who are at least 21 years of age.

(b) Access to the licensed premises of a retailer with only an M-designation shall be limited to individuals who are at least 18 years of age and have a valid physician's recommendation for medicinal cannabis, and individuals who are at least 21 years of age.

(c) Access to the licensed premises of a retailer with both an A- designation and an M-designation may include persons identified in subsections (a) and (b) of this section.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26140, Business and Professions Code.

§15402. Customer Access to the Retail Area.

(a) Individuals shall be granted access to the retail area to purchase cannabis goods only after the retailer or an employee of the retailer has confirmed the individual's age and identity pursuant to section 15404 of this division.

(b) The licensed retailer or at least one employee shall be physically present in the retail area at all times when individuals who are not employees of the licensed retailer are in the retail area.

(c) All sales of cannabis goods must take place within the retail area of the retailer's licensed premises, except for cannabis goods sold through delivery, or a drive-in or drive-through window as authorized by section 15025(e) of this division.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26140, Business and Professions Code.

§15403. Hours of Operation.

A licensed retailer shall sell and deliver cannabis goods only between the hours of 6:00 a.m. Pacific Time and 10:00 p.m. Pacific Time.

Authority: Section 26013, Business and Professions Code. Reference: Section 26070, Business and Professions Code.

§15403.1. Requirements While Not Open for Business.

At any time the licensed premises is not open for retail sales, a licensed retailer shall ensure that:

- (a) The licensed premises is securely locked with commercial-grade, nonresidential door locks as required in section 15046 of this division;
- (b) The licensed premises is equipped with an active alarm system pursuant to section 15047 of this division, which shall be activated when the licensed retailer or its employees are not on the licensed premises; and
- (c) Only employees of the licensee and other authorized individuals are allowed access to the licensed premises. For the purposes of this section, authorized individuals include individuals employed by the licensee as well as any outside vendors, contractors, or other individuals conducting business that requires access to the licensed premises.

Authority: Section 26013, Business and Professions Code. Reference: Section 26070, Business and Professions Code.

§15404. Retail Customers.

(a) A licensed retailer shall only sell adult-use cannabis goods to individuals who are at least 21 years of age after confirming the customer's age and identity by inspecting a valid form of identification provided by the customer as required by subsection (c) of this section.

(b) A licensed retailer shall only sell medicinal cannabis goods to individuals who are at least 18 years of age and possesses a valid physician's recommendation after confirming the customer's age, identity, and physician's recommendation as required by subsection (c) of this section.

(c) Acceptable forms of identification include the following:

- (1) A document issued by a federal, state, county, or municipal government, or a political subdivision or agency thereof, including, but not limited to, a valid motor vehicle operator's license, that contains the name, date of birth, height, gender, and photo of the person;
- (2) A valid identification card issued to a member of the Armed Forces that includes the person's name, date of birth, and photo; or

(3) A valid passport issued by the United States or by a foreign government.

Authority: Section 26013, Business and Professions Code. Reference: Section 26140, Business and Professions Code.

§15405. Cannabis Goods Display.

- (a) Cannabis goods for inspection and sale shall only be displayed in the retail area.
- (b) Cannabis goods may be removed from their packaging and placed in containers to allow for customer inspection. The containers shall not be readily accessible to customers without assistance of retailer personnel. A container must be provided to the customer by the licensed retailer or its employees, who shall remain with the customer at all times that the container is being inspected by the customer.
- (c) Cannabis goods removed from their packaging for display shall not be sold or consumed when the cannabis goods are no longer used for display.

Authority: Section 26013, Business and Professions Code. Reference: Section 26070, Business and Professions Code.

§15406. Cannabis Goods for Sale.

A licensed retailer shall not make any cannabis goods available for sale or delivery to a customer unless:

- (a) The cannabis goods were received by the licensed retailer from a licensed distributor or licensed microbusiness authorized to engage in distribution;
- (b) The licensed retailer has verified that the cannabis goods have not exceeded their best-by, sell-by, or expiration date if one is provided;
- (c) In the case of manufactured cannabis products, the product complies with all requirements of Business and Professions Code section 26130;
- (d) The cannabis goods have undergone laboratory testing as required by the Act and chapter 6 of this division;
- (e) The batch number, if any, is labeled on the package of cannabis goods and matches the batch number on the corresponding certificate of analysis for regulatory compliance testing;
- (f) The packaging and labeling of the cannabis goods complies with Business and Professions Code section 26120 and this division; and
- (g) The cannabis goods comply with all applicable requirements found in the Act and this division.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26120, Business and Professions Code.

§15407. Sale of Non-Cannabis Goods.

In addition to cannabis goods, a licensed retailer may sell only cannabis accessories and the branded merchandise of any licensee. Licensed retailers may provide customers with promotional materials.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070, 26151 and 26152, Business and Professions Code.

§15408. Sale of Live Plants and Seeds.

(a) A licensed retailer shall only sell live, immature cannabis plants and cannabis seeds if all of the following requirements are met:

- (1) The plant is not flowering and is shorter and narrower than 18 inches; and
- (2) The plant or seed originated from a licensed nursery that holds a valid license from the Department or a licensed microbusiness authorized to engage in cultivation.

(b) A licensed retailer shall not apply or use any pesticide on live plants. A licensed retailer shall not cause any pesticide to be applied or used on live plants.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26100, Business and Professions Code.

§15409. Daily Limits.

(a) A licensed retailer shall not sell more than the following amounts to a single adult-use cannabis customer in a single day:

- (1) 28.5 grams of non-concentrated cannabis.
- (2) 8 grams of cannabis concentrate as defined in Business and Professions Code section 26001, including cannabis concentrate contained in cannabis products.
- (3) 6 immature cannabis plants.

(b) A licensed retailer shall not sell more than the following amounts to a single medicinal cannabis patient, or to a patient's primary caregiver purchasing medicinal cannabis on behalf of the patient, in a single day:

- (1) 8 ounces of medicinal cannabis in the form of dried mature flowers or the plant conversion as provided in Health and Safety Code section 11362.77.
- (2) 12 immature cannabis plants.

(c) Notwithstanding subsection (b) of this section, if a medicinal cannabis patient's valid physician's recommendation contains a different amount than the limits listed in this section, the medicinal cannabis patient may purchase an amount of medicinal cannabis consistent with the patient's needs as recommended by a physician and documented in the physician's recommendation.

(d) The limits provided in subsection (a) and subsection (b) of this section shall not be combined to allow a customer to purchase cannabis goods in excess of any of the limits

provided in this section.

(e) For the purposes of this section, a licensed retailer shall be responsible for determining that the amount of cannabis concentrates found in manufactured cannabis products sold to customers comply with the requirements of this section.

Authority: Section 26013, Business and Professions Code. Reference: Section 26012, Business and Professions Code; and Sections 11362.1 and 11362.77, Health and Safety Code.

§15410. Customer Return of Cannabis Goods.

(a) For the purposes of this section, “customer return” means a customer’s return of cannabis goods that were purchased from a licensed retailer, back to the licensed retailer from whom the cannabis goods were purchased.

(b) A licensed retailer may accept customer returns of cannabis goods that were previously sold to a customer.

(c) A licensed retailer shall not resell cannabis goods that have been returned.

(d) A licensed retailer shall treat any cannabis goods abandoned on the licensed retailer premises as a customer return.

(e) Defective manufactured cannabis products returned by customers to a licensed retailer may be destroyed or returned to the licensed distributor from whom the cannabis goods were obtained.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26011.5, 26012 and 26070, Business and Professions Code.

§15411. Free Cannabis Goods.

(a) A licensed retailer shall not provide free cannabis goods to any person. A licensed retailer shall not allow individuals who are not employed by the licensed retailer to provide free cannabis goods to any person on the licensed premises.

(b) Notwithstanding subsection (a), in order to provide access to medicinal cannabis patients who have difficulty accessing medicinal cannabis goods, a licensee who holds an M-Retailer license, an M-Retailer Non-storefront license, or an M-Microbusiness license that is authorized for retail sales may provide free medicinal cannabis goods if the following criteria are met:

(1) Free cannabis goods are provided only to a medicinal cannabis patient or primary caregiver for the patient in possession of an identification card issued under section 11362.71 of the Health and Safety Code.

(2) The cannabis goods comply with all applicable laboratory testing requirements under this division.

(3) Prior to being provided to the patient or primary caregiver, the cannabis goods have been properly recorded in the track and trace system as belonging to the licensed

retailer.

(4) The cannabis goods shall not leave the licensed premises unless placed in an opaque package as required for purchased cannabis goods under Business and Professions Code section 26070.1. The cannabis goods must comply with all packaging and labeling requirements in this division applicable to cannabis goods for sale by a licensed retailer.

(5) The cannabis goods shall be applied toward the daily purchase limit for a medicinal cannabis customer pursuant to section 15409.

(6) The event shall be properly recorded in the licensed retailer's inventory records and the track and trace system.

(c) In addition to the provision of free cannabis goods in subsection (b), a licensee may donate cannabis goods and the use of equipment in compliance with any compassionate use, equity, or other similar program administered by a local jurisdiction. The licensee shall ensure that all cannabis goods provided pursuant to this subsection comply with subsections (b)(2) and (b)(6).

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26153 and 26160, Business and Professions Code.

§15412. Prohibition on Packaging and Labeling by a Retailer.

(a) A licensed retailer shall not accept, possess, or sell cannabis goods that are not packaged as they will be sold at final sale, in compliance with this division.

(b) A licensed retailer shall not package or label cannabis goods.

(c) Notwithstanding subsection (b) of this section, a licensed retailer may place a barcode or similar sticker on the packaging of cannabis goods to be used in inventory tracking. A barcode or similar sticker placed on the packaging of a cannabis goods shall not obscure any labels required by the Act or this division.

Authority: Section 26013, Business and Professions Code. Reference: Section 26120, Business and Professions Code.

§15413. Cannabis Goods Packaging and Exit Packaging.

(a) All cannabis goods sold by a licensed retailer shall be in compliance with the packaging requirements in chapter 11 of this division.

(b) A package containing cannabis goods shall be tamper-evident and child-resistant. If the package contains multiple servings, the package must also be resealable.

(c) All cannabis goods purchased by a customer shall not leave the licensed retailer's premises unless the goods are placed in an opaque exit package.

(d) Immature plants and seeds sold by a licensed retailer are not required to be placed in resealable, tamper-evident, child-resistant packaging.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070.1 and 26120, Business and Professions Code.

§15414. Non-Storefront Retailer.

(a) A non-storefront retailer licensee shall be authorized to conduct retail sales exclusively by delivery as defined in Business and Professions Code section 26001(o).

(b) A complete application for a non-storefront retailer license shall include all the information required in an application for a retailer license.

(c) A non-storefront retailer licensee shall comply with all the requirements applicable to retailer licensees, except for those provisions related to public access to the licensed premises and the retail area.

(d) The licensed premises of a non-storefront retailer licensee shall be closed to the public.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26070, Business and Professions Code.

§ 15415. Delivery Employees.

(a) All deliveries of cannabis goods shall be performed by a delivery employee who is directly employed by a licensed retailer.

(b) Each delivery employee of a licensed retailer shall be at least 21 years of age.

(c) All deliveries of cannabis goods shall be made in person. A delivery of cannabis goods shall not be made through the use of an unmanned vehicle.

(d) The process of delivery begins when the delivery employee leaves the retailer's licensed premises with the cannabis goods for delivery. The process of delivering ends when the delivery employee returns to the retailer's licensed premises after delivering the cannabis goods, or attempting to deliver cannabis goods, to the customer(s). During the process of delivery, the licensed retailer's delivery employee may not engage in any activities except for cannabis goods delivery and necessary rest, fuel, or vehicle repair stops.

(e) A delivery employee of a licensed retailer shall, during deliveries, carry a copy of the retailer's current license, a copy of the QR Code Certificate issued by the Department, which complies with section 15039, subsection (d) of this division, the employee's government-issued identification, and an identification badge provided by the employer pursuant to section 15043 of this division. A delivery employee shall provide a copy of the retail license, a copy of the QR Code Certificate, and their employee identification badge to a delivery customer upon request.

(f) Prior to providing cannabis goods to a delivery customer, a delivery employee shall confirm the identity and age of the delivery customer as required by section 15404 of this

division and ensure that all cannabis goods sold comply with requirements of section 15413 of this division.

(g) A licensed retailer shall maintain an accurate list of the retailer's delivery employees and shall provide the list to the Department upon request.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26090, Business and Professions Code.

§15415.1. Deliveries Facilitated by Technology Platforms.

(a) A licensed retailer or licensed microbusiness shall not sell or otherwise transfer any cannabis goods to a customer through the use of an unlicensed third party, intermediary business, broker, or any other business or entity.

(b) Notwithstanding subsection (a) of this section, a licensed retailer or licensed microbusiness may contract with a service that provides a technology platform to facilitate the sale and delivery of cannabis goods, in accordance with all of the following:

(1) The licensed retailer or licensed microbusiness does not allow for delivery of cannabis goods by the technology platform service provider.

(2) The licensed retailer or licensed microbusiness does not share in the profits of the sale of cannabis goods with the technology platform service provider, or otherwise provide for a percentage or portion of the cannabis goods sales to the technology platform service provider.

(3) The licensed retailer or licensed microbusiness shall not advertise or market cannabis goods in conjunction with the technology platform service provider, outside of the technology platform, and shall ensure that the technology platform service provider does not use the licensed retailer's or licensed microbusiness's license number or legal business name on any advertisement or marketing that primarily promotes the services of the technology platform.

(4) The licensed retailer or licensed microbusiness shall ensure the following information is provided to customers:

(A) Any cannabis goods advertised or offered for sale on or through the technology platform shall disclose, at a minimum, the licensed retailer's or licensed microbusiness's legal business name and license number.

(B) Customers placing an order for cannabis goods through the technology platform shall be able to easily identify the licensed retailer or licensed microbusiness that each cannabis good is being ordered or purchased from. This information shall be available to the customer prior to the customer placing an order or purchasing the cannabis goods.

(5) All required sales invoices and receipts, including any receipts provided to the customer, shall disclose, at a minimum, the licensed retailer's or licensed microbusiness's legal business name and license number.

(6) All other delivery, marketing, and advertising requirements under this division are complied with.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26001, 26070, 26090, 26151 and 26152, Business and Professions Code.

§15416. Delivery to a Physical Address.

- (a) A delivery employee may only deliver cannabis goods to a physical address in California.
- (b) A delivery employee shall not leave the State of California while possessing cannabis goods.
- (c) A delivery employee shall not deliver cannabis goods to an address located on publicly owned land or any address on land or in a building leased by a public agency. This prohibition applies to land held in trust by the United States for a tribe or an individual tribal member unless the delivery is authorized by and consistent with applicable tribal law.
- (d) A delivery employee may deliver to any jurisdiction within the State of California provided that such delivery is conducted in compliance with all delivery provisions of this division.
- (e) A delivery employee shall not deliver cannabis goods to a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26090, Business and Professions Code.

§15417. Delivery Vehicle Requirements.

- (a) A licensed retailer's delivery employee, carrying cannabis goods for delivery, shall only travel in an enclosed motor vehicle. Any vehicle used in the delivery of cannabis goods shall be operated by a delivery employee of the licensee. A vehicle used in the delivery of cannabis goods shall not have any marking or other indications on the exterior of the vehicle that may indicate that the delivery employee is carrying cannabis goods for delivery. Only the licensee or an employee of the retailer licensee for whom delivery is being performed shall be in the delivery vehicle.
- (b) While carrying cannabis goods for delivery, a licensed retailer's delivery employee shall ensure the cannabis goods are not visible to the public. Cannabis goods shall be locked in a fully enclosed box, container, or cage that is secured on the inside of the vehicle. No portion of the enclosed box, container, or cage shall be comprised of any part of the body of the vehicle or trailer. For purposes of this section, the inside of the vehicle includes the trunk.
- (c) A licensed retailer's delivery employee shall not leave cannabis goods in an unattended motor vehicle unless the motor vehicle is locked and equipped with an active vehicle alarm system. Any cannabis goods left in an unattended vehicle must be stored

in a container as required in subsection (b) of this section.

(d) A vehicle used for the delivery of cannabis goods shall be outfitted with a dedicated Global Positioning System (GPS) device for identifying the geographic location of the delivery vehicle and recording a history of all locations traveled to by the delivery employee while engaged in delivery. A dedicated GPS device must be owned by the licensee and used for delivery only. The device shall be either permanently or temporarily affixed to the delivery vehicle and shall remain active and inside of the delivery vehicle at all times during delivery. At all times, the licensed retailer shall be able to identify the geographic location of all delivery vehicles that are making deliveries for the licensed retailer and document the history of all locations traveled to by a delivery employee while engaged in delivery. A licensed retailer shall provide this information to the Department upon request. The history of all locations traveled to by a delivery employee while engaging in delivery shall be maintained by the licensee for a minimum of 90 days.

(e) Upon request, a licensed retailer shall provide the Department with information regarding any motor vehicle used for the delivery of cannabis goods, including the vehicle's make, model, color, Vehicle Identification Number, license plate number and Department of Motor Vehicles registration information.

(f) Any motor vehicle used by a licensed retailer to deliver cannabis goods is subject to inspection by the Department. Vehicles used to deliver cannabis goods may be stopped and inspected by the Department at any licensed premises or during delivery.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26090, Business and Professions Code.

§15418. Cannabis Goods Carried During Delivery.

(a) A licensed retailer's delivery employee shall not carry cannabis goods in the delivery vehicle with a value in excess of \$5,000 at any time. The value of cannabis goods carried in the delivery vehicle for which a delivery order was not received and processed by the licensed retailer prior to the delivery employee departing from the licensed premises may not exceed \$3,000.

(b) For the purposes of this section, the value of cannabis goods shall be determined using the current retail price of all cannabis goods carried by, or within the delivery vehicle of, the licensed retailer's delivery employee.

(c) A delivery employee may only carry cannabis goods, cannabis accessories, branded merchandise of any licensee, or promotional materials in the delivery vehicle and may only perform deliveries for one licensed retailer at a time. A delivery employee must depart and return to the same licensed premises before taking possession of any cannabis goods from another licensee to perform deliveries.

(d) A licensed retailer's delivery employee shall not leave the licensed premises with cannabis goods without at least one delivery order that has already been received and processed by the licensed retailer.

(e) Before leaving the licensed premises, the licensed retailer's delivery driver must have

a delivery inventory ledger of all cannabis goods provided to the licensed retailer's delivery driver. For each cannabis good, the delivery inventory ledger shall include the type of good, the brand, the retail value, the track and trace identifier, and the weight, volume or other accurate measure of the cannabis good. All cannabis goods prepared for an order that was received and processed by the licensed retailer prior to the delivery driver's departure from the licensed premises must be clearly identified on the inventory ledger. After each customer delivery, the delivery inventory ledger must be updated to reflect the current inventory in possession of the licensed retailer's delivery driver. Delivery inventory ledgers may be maintained electronically.

(f) The licensed retailer's delivery driver shall maintain a log that includes all stops from the time the licensed retailer's delivery driver leaves the licensed premises to the time that the licensed retailer's delivery driver returns to the licensed premises, and the reason for each stop. The log shall be turned in to the licensed retailer when the licensed retailer's delivery driver returns to the licensed premises. The licensed retailer must maintain the log as a commercial cannabis activity record as required by this division. The log may be maintained electronically.

(g) Prior to arrival at any delivery location, the licensed retailer must have received a delivery request from the customer and provided the delivery request receipt to the licensed retailer's delivery driver electronically or in hard copy. The delivery request receipt provided to the licensed retailer's delivery driver shall contain all of the information required in section 15420, except for the date and time the delivery was made, and the signature of the customer.

(h) Immediately upon request by the Department or any law enforcement officer, the licensed retailer's delivery driver shall provide:

- (1) All delivery inventory ledgers from the time the licensed retailer's delivery driver left the licensed premises up to the time of the request;
- (2) All delivery request receipts for cannabis goods carried by the driver, in the delivery vehicle, or any deliveries that have already been made to customers; and
- (3) The log of all stops from the time the licensed retailer's delivery driver left the licensed premises up to the time of the request.

(i) If a licensed retailer's delivery driver does not have any delivery requests to be performed for a 30-minute period, the licensed retailer's delivery driver shall not make any additional deliveries and shall return to the licensed premises. Required meal breaks shall not count toward the 30-minute period.

(j) Upon returning to the licensed premises, all undelivered cannabis goods shall be returned to inventory and all necessary inventory and track and trace records shall be updated as appropriate that same day.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070, 26090 and 26160, Business and Professions Code.

§15419. Cannabis Consumption During Delivery.

A licensed retailer's delivery employees shall not consume cannabis goods while delivering cannabis goods to customers.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26090, Business and Professions Code.

§15420. Delivery Request Receipt.

A licensed retailer shall prepare a hard copy or electronic delivery request receipt for each delivery of cannabis goods.

(a) The delivery request receipt shall contain the following:

- (1) The legal business name and license number of the licensed retailer;
- (2) The first name and employee number of the licensed retailer's delivery employee who delivered the order;
- (3) The first name and employee number of the licensed retailer's employee who prepared the order for delivery;
- (4) The first name of the customer and a licensed retailer-assigned customer number for the person who requested the delivery;
- (5) The date and time the delivery request was made;
- (6) The delivery address;
- (7) A detailed description of all cannabis goods requested for delivery. The description shall include the weight, volume, or any other accurate measure of the amount of all cannabis goods requested;
- (8) The total amount paid for the delivery, including any taxes or fees, the cost of the cannabis goods, and any other charges related to the delivery; and
- (9) Upon delivery, the date and time the delivery was made, and the handwritten or electronic signature of the customer who received the delivery.

(b) At the time of the delivery, the delivery employee of the retailer shall provide the customer who placed the order with a hard or electronic copy of the delivery request receipt. The delivery employee shall retain a hard or electronic copy of the signed delivery request receipt for the licensed retailer's records.

(c) For the purposes of this section, an employee number is a distinct number assigned by a licensed retailer to an employee that would allow the licensed retailer to identify the employee in documents or records using the employee number rather than the employee's full name. A licensed retailer shall be able to identify the employee associated with each employee number upon request from the Department.

(d) For the purposes of this section, a customer number is a distinct number assigned by a licensed retailer to a customer that would allow the licensed retailer to identify the customer in documents or records using the customer number rather than the customer's full name. A licensed retailer shall be able to identify the customer associated with each customer number upon request from the Department.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070, 26090 and 26160, Business and Professions Code.

§15421. Delivery Route.

While making deliveries of cannabis goods, a licensed retailer's delivery employee shall only travel from the retailer's licensed premises to the delivery address; from one delivery address to another delivery address; or from a delivery address back to the retailer's licensed premises. A delivery employee of a licensed retailer shall not deviate from the delivery path described in this section, except for necessary rest, fuel, or vehicle repair stops, or because road conditions make continued use of the route unsafe, impossible, or impracticable.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26090, Business and Professions Code.

§15422. Receiving Shipments of Inventory.

(a) A licensed retailer shall receive a shipment of cannabis goods only from a licensed distributor or licensed microbusiness authorized to engage in distribution.

(b) A licensed retailer shall accept shipments of cannabis goods only between the hours of 6:00 a.m. Pacific Time and 10:00 p.m. Pacific Time.

(c) During business hours, shipments of cannabis goods shall not enter the licensed premises through an entrance or exit that is available for use by the public.

(d) A licensed retailer whose licensed premises only has one entryway may be exempt from the requirements of subsection (c) of this section if the licensed retailer obtains authorization from the local jurisdiction explicitly authorizing this activity. The licensed retailer shall be required to provide this authorization to the Department upon request. For this section to apply, the licensed premises must physically have only one entryway and cannot have any other entryways.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26070, Business and Professions Code.

§15423. Inventory Documentation.

A licensed retailer shall maintain an accurate record of its inventory. A licensed retailer shall provide the Department with the record of inventory immediately upon request. A licensed retailer shall keep a record of the following information for all cannabis goods the licensed retailer has in its inventory:

- (a) A description of each item such that the cannabis goods can easily be identified;
- (b) An accurate measurement of the quantity of the item;
- (c) The date and time the cannabis goods were received by the licensed retailer;
- (d) The sell-by or expiration date provided on the package of cannabis goods, if any;
- (e) The name and license number of the licensed distributor or licensed microbusiness that transported the cannabis goods to the licensed retailer; and
- (f) The price the licensed retailer paid for the cannabis goods, including taxes, delivery costs, and any other costs.

Authority: Section 26013, Business and Professions Code. Reference: Section 26160, Business and Professions Code.

§15424. Inventory Reconciliation.

- (a) A licensed retailer shall be able to account for all of its inventory.
- (b) In conducting an inventory reconciliation, a licensed retailer shall verify that the licensed retailer's physical inventory is consistent with the licensed retailer's records pertaining to inventory.
- (c) The result of inventory reconciliation shall be retained in the licensed retailer's records and shall be made available to the Department upon request.
- (d) If a licensed retailer identifies any evidence of theft, diversion, or loss, the licensed retailer shall notify the Department and law enforcement pursuant to section 15036 of this division.
- (e) If a significant discrepancy as defined in section 15034 of this division is discovered between a licensed retailer's physical inventory and the licensed retailer's inventory records, the licensed retailer shall notify the Department and law enforcement pursuant to section 15036 of this division.

Authority: Section 26013, Business and Professions Code. Reference: Section 26160, Business and Professions Code.

§15427. Retailer Premises-to-Retailer Premises Transfer.

- (a) A licensee who holds multiple retail licenses may arrange for the transfer of cannabis goods from one licensed retail premises to another licensed retail premises if both retail licenses are held by the same sole proprietor or business entity.
- (b) Cannabis goods transferred to a licensed retail premises under subsection (a) of this section may be sold by the licensed retailer receiving the cannabis goods only if the cannabis goods comply with all requirements found in the Act and this division.
- (c) The transportation of cannabis goods under this section must comply with all requirements found within the Act and this division.

(d) Any movement of cannabis goods under this section shall be properly entered into the track and trace system.

Authority: Section 26013, Business and Professions Code. Reference: Section 26070, Business and Professions Code.

Chapter 4. Microbusiness

§15500. Microbusiness.

(a) In order to hold a microbusiness license, a licensee must engage in at least three (3) of the following commercial cannabis activities: cultivation, manufacturing, distribution, and retail sale. License types created by the Department in regulation shall not be considered qualifying commercial cannabis activities for purposes of obtaining a microbusiness license, except for the Type N manufacturing license and the distributor transport only license.

(b) An applicant for a microbusiness license shall indicate on the application for licensure all commercial cannabis activities in which the applicant intends to engage.

(c) All cultivation, manufacturing, distribution, and retail activities performed by a licensee under a microbusiness license shall occur on the same licensed premises.

(d) A holder of a microbusiness license engaged in cultivation shall comply with all the rules and requirements applicable to the cultivation license type suitable for the cultivation activities of the licensee.

(e) A holder of a microbusiness license engaged in manufacturing shall comply with all the rules and requirements applicable to a Manufacturer 1 license in this division.

(f) A holder of a microbusiness license engaged in distribution shall comply with all the rules and requirements applicable to a distributor license in this division.

(g) A holder of a microbusiness license engaged in retail sale shall comply with all the rules and requirements applicable to a retailer license, or a non-storefront retailer license if retail sales are conducted by delivery only, in this division.

(h) A holder of a microbusiness license may only engage in the commercial cannabis activity requested in the license application and approved by the Department at the time the license is issued. If the holder of a microbusiness license wants to engage in an additional commercial cannabis activity after the license is issued, the licensee shall submit a request for a modification of the licensed premises pursuant to section 15027.

(i) A holder of a microbusiness license shall comply with all the security rules and requirements applicable to the corresponding license type suitable for the activities of the licensee.

(j) Areas of the licensed premises for manufacturing, cultivation, and distribution shall be separated from the retail areas by a wall and all doors between the areas shall remain closed when not in use.

(k) A suspension or revocation of a microbusiness licensee shall affect all commercial cannabis activities allowed pursuant to that license.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26050, 26051.5 and 26070, Business and Professions Code.

Chapter 5. Cannabis Events

§15600. Cannabis Event Organizer License.

(a) To obtain a temporary cannabis event license, the event organizer must first apply for and obtain a cannabis event organizer license.

(b) A cannabis event organizer licensed under this section shall comply with chapter 1 of this division except for sections 15006, 15007, 15010, 15019, 15025, 15027, 15034, 15038, 15042, 15044, and 15046-15052.1.

(c) A cannabis event organizer licensee is not authorized or licensed to cultivate, distribute, manufacture, or retail cannabis or cannabis products without first obtaining the appropriate licenses or authorizations to engage in such commercial cannabis activities.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26200, Business and Professions Code.

§15601. Temporary Cannabis Event Requirements.

(a) A temporary cannabis event license authorizes a licensed cannabis event organizer to hold a temporary cannabis event where the onsite sale and consumption of cannabis goods is authorized at the location indicated on the license during the dates indicated on the license.

(b) Violations of the requirements applicable to temporary cannabis events may result in disciplinary action against the cannabis event organizer license or any other licenses held by a licensee participating in the temporary cannabis event and responsible for a violation under this division or the Act.

(c) A temporary cannabis event license shall only be issued for a single day or up to 4 consecutive days. No temporary cannabis event license will be issued for more than 4 days.

(d) An application for a temporary cannabis event license shall be submitted to the Department no less than 60 calendar days before the first day of the temporary cannabis event.

(e) A temporary cannabis event may only be held at a county fair event, district agricultural association event, or at another venue expressly approved by a local jurisdiction for the purpose of holding a temporary cannabis event.

(f) A temporary cannabis event license shall not be issued for a premises that is licensed for the sale of alcohol or tobacco.

(g) If the list of licensees and employees participating in the temporary cannabis event changes after the application is submitted or after the license is issued, the applicant

shall submit with the Licensee Notification and Request Form, Notifications and Requests Regarding Regulatory Compliance, DCC-LIC-028 (New 9/21), incorporated herein by reference, an updated list and an updated diagram, as required in section 15002.1(b)(5), to the Department no less than 72 hours before the event. Licensees not on the list submitted to the Department shall not participate in the temporary cannabis event.

(h) The licensed cannabis event organizer shall hire or contract for security personnel to provide security services at the licensed temporary cannabis event. All security personnel hired or contracted for by the licensee shall be at least 21 years of age, licensed by the Bureau of Security and Investigative Services, and comply with chapters 11.4 and 11.5 of division 3 of the Business and Professions Code. Security personnel shall be present on the licensed premises at all times cannabis goods are available for sale and/or cannabis goods consumption is allowed on the licensed premises.

(i) A licensed cannabis event organizer shall maintain a clearly legible sign not less than 7 inches by 11 inches in size, reading “No Persons Under 21 Allowed” at or near each public entrance to any area where the sale or consumption of cannabis goods is allowed. The lettering of the sign shall be no less than 1 inch in height.

(j) All cannabis waste generated at a temporary cannabis event shall be collected and disposed of in accordance with the requirements of section 17223. The licensed cannabis event organizer may contract or arrange for the collection and disposal of cannabis waste generated during the temporary cannabis event.

(k) A licensed cannabis event organizer and all other licensees participating in a temporary cannabis event are required to comply with section 15037 and all other applicable requirements in the Act and this division pertaining to record keeping.

(l) The Department may require the event organizer and all participants to cease operations without delay if, in the opinion of the Department or local law enforcement, it is necessary to protect the immediate public health and safety of the people of the state. Upon notification from the Department that the event is to cease operations, the event organizer shall immediately stop the event and all participants shall be removed from the premises within the time frame provided by the Department.

(m) Upon notification from the Department, the event organizer shall immediately expel from the event any person selling cannabis goods without a license from the Department that authorizes the participant to sell cannabis goods. The event organizer or their representative shall remain with the person being expelled from the premises at all times until he or she vacates the premises. If the person does not vacate the premises, the Department may inform the event organizer that the event must cease operations. Upon notification from the Department that the event is to cease operations, the event organizer shall immediately stop the event and all participants shall be removed from the premises within the time frame provided by the Department.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26200, Business and Professions Code.

§15602. Temporary Cannabis Event Sales.

(a) Only persons age 21 or older may purchase and consume cannabis goods at a temporary cannabis event. Prior to selling cannabis goods to a customer, the licensee making the sale shall confirm, using valid identification as specified in section 15404 of this division, the age and identity of the customer.

(b) All sales of cannabis goods at a temporary cannabis event must occur in a retail area as designated in the premises diagram pursuant to section 15002.1(b)(5) of this division.

(c) Each sale at a temporary cannabis event shall be performed by a licensed retailer, a licensed non-storefront retailer, or licensed microbusiness that is authorized to engage in retail sales. The cannabis event organizer may also sell cannabis goods at the temporary cannabis event if the organizer separately holds a license authorizing the retail sale of cannabis goods.

(1) Licensed retailers or licensed microbusinesses shall only conduct sales activities within their specifically assigned area, identified in the diagram of the physical layout of the temporary cannabis event.

(2) Mobile sales activities via wagon, cart, or similar means are prohibited at the temporary cannabis event site.

(d) Licensed retailers or licensed microbusinesses must prominently display their temporary cannabis event location number and state license within plain sight of the public.

(e) All sales at a temporary cannabis event shall occur on the dates stated on the license and shall occur at the location stated on the license. All onsite sales of cannabis goods must comply with the hours of operation requirements of section 15403 of this division.

(f) Sale of alcohol or tobacco shall not be allowed on the licensed temporary cannabis event premises.

(g) The cannabis goods sold onsite at a temporary cannabis event shall be transported by a licensed distributor or licensed microbusiness in compliance with the Act and this division. All shipments of cannabis goods and non-cannabis goods intended for sale at a temporary cannabis event must be checked by the temporary cannabis event organizer staff to prevent prohibited items, such as alcohol and tobacco, from entering the licensed premises.

(h) Except small amounts of cannabis goods used for display, all cannabis goods for sale at a temporary cannabis event shall be stored in a secure, locked container that is not accessible to the public. Cannabis goods being stored by a licensee at a temporary cannabis event shall not be left unattended. Licensees may share the secure, locked container; however, each licensee using the container shall be held responsible for any violations of this section and subject to disciplinary action.

(i) All cannabis goods made available for sale at a cannabis event shall comply with all requirements for the retail sale of cannabis goods within the Act and section 15406 of this division.

(j) All cannabis goods made available for sale at a temporary cannabis event shall

comply with all track and trace requirements within the Act and this division.

(k) All cannabis goods used for display at a temporary cannabis event shall comply with the requirements of section 15405 of this division.

(l) All cannabis goods sold at a temporary cannabis event shall comply with section 15413 of this division.

(m) All customer returns of cannabis goods at a temporary cannabis event shall comply with section 15410 of this division.

(n) The daily sales limits under section 15409 of this division apply to all sales made at a temporary cannabis event.

(o) A licensed retailer shall only provide free cannabis goods to a person at a temporary cannabis event if the licensed retailer complies with all requirements of section 15411 of this division.

(p) The licensed cannabis event organizer shall be responsible for ensuring that all rules and requirements for the onsite sale of cannabis goods are followed.

(q) Any compensation paid from a licensed retailer to a licensed cannabis event organizer for participation in a temporary cannabis event shall not be determined based on, or be contingent on, the sale of cannabis goods.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26200, Business and Professions Code.

§15603. Temporary Cannabis Event Consumption.

(a) Access to the area where cannabis consumption is allowed shall be restricted to persons 21 years of age or older.

(b) The event organizer licensee shall ensure that cannabis consumption is not visible from any public place or non-age-restricted area.

(c) Consumption of alcohol or tobacco shall not be allowed on the licensed premises.

(d) All requirements for onsite cannabis consumption imposed by the relevant local jurisdiction shall be followed and smoking of cannabis goods shall be prohibited in any areas where smoking is prohibited by law.

(e) The licensed cannabis event organizer, who holds the temporary cannabis event license, shall be responsible for ensuring that all rules and requirements for the onsite consumption of cannabis goods are followed.

(f) A licensed cannabis event organizer and all other licensees participating in a temporary cannabis event are required to follow all applicable requirements in this division pertaining to record keeping and waste management.

Authority: Section 26013, Business and Professions Code. Reference: Section 26200, Business and Professions Code.

§15604. Informational or Educational Cannabis Events.

(a) Informational or educational cannabis events where no sales of cannabis goods or consumption of cannabis goods is occurring are not required to be licensed by the Department.

(b) A person may display cannabis or cannabis products for informational or educational purposes consistent with Health and Safety Code sections 11362.1 and 11362.77.

Authority: Section 26013, Business and Professions Code. Reference: Section 26013, Business and Professions Code; and Sections 11362.1 and 11362.77, Health and Safety Code.

Chapter 6. Testing Laboratories

Article 1. Chapter Definitions

§15700. Definitions.

In addition to the definitions in section 15000 of this division, the following definitions apply to this chapter.

(a) “Acceptance criteria” means the specified limits placed on the characteristics of an item or method that are used to determine data quality.

(b) “Accreditation body” means an impartial non-profit organization that operates in conformance with the International Organization for Standardization (ISO) / International Electrotechnical Commission (IEC) standard 17011 and is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement (MRA) for Testing.

(c) “Accredited college or university” means a college or university accredited by a regional or national accrediting agency that is an accreditor recognized by the Secretary of the US Department of Education.

(d) “Action level” means the threshold value that provides the criterion for determining whether a sample passes or fails an analytical test.

(e) “Analyte” means a chemical, compound, element, bacteria, yeast, fungus, or toxin to be identified or measured.

(f) “Analytical batch” means a set of no more than 20 samples that is prepared together for the same analysis and are prepared with laboratory quality control (LQC) samples.

(g) “Analytical method” means a technique used qualitatively or quantitatively to determine the composition of a sample or a microbial contamination of a sample.

(h) “Analytical sequence” means a group of samples that are analyzed sequentially using the same instrument calibration curve.

(i) “Cannabinoid” means a class of diverse chemical compounds derived from a cannabis plant.

(j) “CAS number” means the unique numerical identifier assigned to every chemical substance by Chemical Abstracts Service, a division of the American Chemical Society.

- (k) “CBDA” means cannabidiolic acid, CAS number 1244-58-2.
- (l) “CBG” means cannabigerol, CAS number 25654-31-3.
- (m) “CBN” means cannabinal, CAS number 521-35-7.
- (n) “Certificate of accreditation” means a document issued by an accreditation body that attests to the laboratory’s competence to carry out specific testing analysis.
- (o) “Certified reference material” means a reference material prepared by a certifying body or a party independent of the laboratory with ISO/IEC 17034 accreditation.
- (p) “Chain of Custody” (COC) means the chronological documentation that records the sequence of custody, control, transfer, analysis, and disposal of a sample.
- (q) “Coefficient of Determination” (commonly denoted as “ r^2 ”) means a statistical measure that determines how well the regression approximates the actual data points in the calibration curve, with a regression of 1 being a perfect fit.
- (r) “Continuing calibration verification” (CCV) means a type of quality control sample that includes each of the target method analytes that is a mid-range calibration standard which checks the continued validity of the initial calibration of the instrument.
- (s) “Corrective action” means an action taken by the laboratory to resolve, and prevent from recurrence, a problem with the technical operations of the laboratory.
- (t) “Exclusivity” means the specificity of the test method for validating microbial testing methods. It evaluates the ability of the method to distinguish the target organisms from similar but genetically distinct non-target organisms.
- (u) “Foreign material” means any filthy, putrid, or decomposed substance including hair, insects, excreta, or related adulterant that may be hazardous or cause illness or injury to the consumer.
- (v) “Frequency” means the number of items occurring in each category. Frequency may be determined by analytical method or laboratory specific requirements for accuracy, precision of the analysis, or statistical calculation.
- (w) “Good laboratory practice” (GLP) means a system of management controls for laboratories to ensure the uniformity, consistency, reliability, reproducibility, quality, and integrity of analyses performed by the testing laboratory.
- (x) “Inclusivity” means, related to microbiological method validation, the sensitivity of the test method. It evaluates the ability of the test method to detect a wide range of target organisms by a defined relatedness.
- (y) “Inhalable” means consumable through the lungs.
- (z) “Initial Calibration Verification” (ICV) means a solution of each of the target method analytes of known concentration that is obtained from a source external to the laboratory and different from the source of calibration standards.
- (aa) “ISO/IEC” means the joint technical committee of the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC).

- (bb) “ISO/IEC 17025” means the general requirements specified by the ISO/IEC for the competence of testing and calibration laboratories.
- (cc) “ISO/IEC 17034” means the general requirements established by the ISO/IEC for the competence of reference material producers.
- (dd) “ISO/IEC 17043” means the general requirements established by the ISO/IEC for proficiency testing.
- (ee) “Laboratory” means “testing laboratory” as defined at Business and Professions Code section 26001(av).
- (ff) “Laboratory Control Sample” (LCS) means a blank matrix to which known concentrations of each of the target method analytes are added. The spiked concentration must be at a mid-range concentration of the calibration curve for the target analytes. The LCS is analyzed in the same manner as the representative sample.
- (gg) “Laboratory replicate sample” means a sub-sample taken of the representative sample used for laboratory quality control purposes to demonstrate reproducibility. It is prepared and analyzed in the identical manner as the representative sample. The results from replicate analyses are used to evaluate analytical precision.
- (hh) “Laboratory employee” means any person directly employed by the laboratory for wages, salary, barter, or trade by the laboratory and who is not employed by any other licensee under the Act except for another testing laboratory. “Laboratory employee” does not mean an independent contractor, third party entity, or any other entity acting on behalf of the laboratory.
- (ii) “Laboratory quality assurance” means the set of operating principles that enable laboratories to produce defensible data of known accuracy and precision and includes employee training, equipment preventative maintenance procedures, calibration procedures, and quality control testing, among other things.
- (jj) “Limit of detection” (LOD) means the lowest quantity of a substance or analyte that can be distinguished from the absence of that substance within a stated confidence limit.
- (kk) “Limit of quantitation” (LOQ) means the minimum concentration of an analyte in a specific matrix that can be reliably quantified while also meeting predefined goals for bias and imprecision.
- (ll) “Linear regression” means the determination, in analytical chemistry, of the best linear equation for calibration data to generate a calibration curve. The concentration of an analyte in a sample can then be determined by comparing a measurement of the unknown to the calibration curve. A linear regression uses the following equation:
- $$y = mx + b; \text{ where } m = \text{slope, } b = \text{intercept}$$
- (mm) “Matrix” means the substances that are present in a sample except for the analyte(s) of interest.
- (nn) “Matrix spike sample” means a sample prepared by adding a known quantity of each of the target analyte to a sample matrix or to a matrix that is as closely representative of the matrix being analyzed as possible. The spiked concentration must be at a mid-range

concentration of the calibration curve for the target analytes.

(oo) “Method Blank” means an analyte free matrix to which all reagents are added in the same volumes or proportions as used in the sample preparation and is processed in exactly the same manner as the samples.

(pp) “Moisture content” means the percentage of water in a sample, by weight.

(qq) “Non-target organism” means an organism that the test method or analytical procedure is not testing for and can be used in evaluating the specificity of a test method.

(rr) “Percent recovery” means the percentage of a measured concentration relative to the added (spiked) concentration in a reference material or matrix spike sample. A laboratory shall calculate the percent recovery by dividing the sample result by the expected result then multiplying the quotient by 100.

(ss) “Practical experience” means experience performing scientific analytical tests in a laboratory setting using equipment, instruments, kits, and materials routinely found in a laboratory. “Practical experience” includes experience in any type of laboratory setting and is not limited to cannabis-specific laboratories.

(tt) “Proficiency test” means an evaluation of a laboratory’s performance against pre-established criteria by means of interlaboratory comparisons of test measurements.

(uu) “Proficiency test sample” means a sample that is prepared by a party independent of the testing laboratory with the ISO/IEC 17043 accreditation, where the concentration and identity of an analyte is known to the independent party, but is unknown to the testing laboratory and testing laboratory employees.

(vv) “Quadratic regression” means the determination, in analytical chemistry, of the best parabola equation for calibration data to generate a calibration curve. The concentration of an analyte in a sample can then be determined by comparing a measurement of the unknown to the calibration curve. A quadratic regression uses the following equation:

$$y = ax^2 + bx + c; \text{ where } a, b, \text{ and } c \text{ are numerical coefficients}$$

(ww) “Quality control” means the set of measures implemented within an analytical procedure to ensure that the measurement system is operating in a state of statistical control for which errors have been reduced to acceptable levels.

(xx) “Quality control sample” means a sample that is produced and used by a laboratory for the purpose of assuring the quality of the data and results. Quality control samples include blank samples, matrix spike samples, laboratory control samples, replicate samples, and reference material samples.

(yy) “Reagent” means a compound or mixture added to a system to cause a chemical reaction or test if a reaction occurs. A reagent may be used to tell whether a specific chemical substance is present by causing a reaction to occur with the chemical substance.

(zz) “Reference material” means material containing a known concentration of an analyte of interest that is in solution or in a homogeneous matrix.

(aaa) “Reference method” means the method by which the performance of an alternate

method is measured or evaluated.

(bbb) “Relative percent difference” (RPD) means the comparative statistic that is used to calculate precision or random error. RPD is calculated using the following equation:

$$\text{RPD} = \left| \frac{\text{representative sample measurement} - \text{replicate sample measurement}}{([\text{representative sample measurement} + \text{replicate sample measurement}] / 2)} \right| \times 100\%$$

(ccc) “Relative standard deviation” (RSD) means the standard deviation expressed as a percentage of the means recovery. RSD is calculated using the following equation:

$$\text{RSD} = (s / x) \times 100\%; \text{ where } s = \text{standard deviation and } x = \text{mean}$$

(ddd) “Representative” means a small quantity of the batch whose characteristics represent, as accurately as possible, the entire batch, thus allowing the results to be generalized.

(eee) “Representative sample” means a sample that is comprised of several sample increments of cannabis or cannabis products that are collected from a batch for testing.

(fff) “Requester” means the person who submits a request to the laboratory for testing of cannabis or cannabis products from an entity licensed under the Act.

(ggg) “Reserve sample” means any portion of a representative sample that was not used in the testing process.

(hhh) “Sample” means a representative part of, or a single item from, a batch which is comprised of several sample increments.

(jjj) “Sample increment” means a portion of a batch that, together with other increments, makes up the sample.

(kkk) “Sampler” means the laboratory employee responsible for obtaining samples of cannabis or cannabis products from a licensed distributor or licensed microbusiness authorized to engage in distribution.

(lll) “Sanitize” means to sterilize, disinfect, or make hygienic.

(mmm) “Scope of accreditation” means the tests or types of tests performed, materials or products tested, and the methods used for testing cannabis or cannabis products for which the accreditation has been granted.

(nnn) “Standard operating procedure” (SOP) means a written document that provides detailed instructions for the performance of all aspects of an analysis, operation, or action.

(ooo) “Target organism” means an organism that is being tested for in an analytical procedure or test method.

(ppp) “THCA” means tetrahydrocannabinolic acid, CAS number 23978-85-0.

(qqq) “Total CBD” means the sum of CBD and CBDA. Total CBD is calculated using the following equation:

$$\text{Total CBD concentration (mg/g)} = (\text{CBDA concentration (mg/g)} \times 0.877) + \text{CBD}$$

concentration (mg/g)

(rrr) "Total THC" means the sum of THC and THCA. Total THC is calculated using the following equation:

$$\text{Total THC concentration (mg/g)} = (\text{THCA concentration (mg/g)} \times 0.877) + \text{THC concentration (mg/g)}$$

(sss) "Validation" means the confirmation by examination and objective evidence that the requirements for a specific intended use or analytical method are fulfilled.

(ttt) "Water activity" means the measure of the quantity of water in a product that is available and therefore capable of supporting bacteria, yeasts, and fungi and which is reported in units A_w .

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013 and 26100, Business and Professions Code.

Article 2. Laboratory License

§15701. General Laboratory License Requirements.

(a) A licensed laboratory shall maintain ISO/IEC 17025 accreditation for the testing of the following:

- (1) Cannabinoids;
- (2) Heavy metals;
- (3) Microbial impurities;
- (4) Mycotoxins;
- (5) Residual pesticides;
- (6) Residual solvents and processing chemicals; and
- (7) If tested, terpenoids.

(b) Each testing laboratory licensed premises shall have ISO/IEC 17025 accreditation.

(c) A licensed laboratory shall retain, and make available to the Department upon request, all records associated with the licensee's ISO/IEC 17025 certificate of accreditation.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26100, Business and Professions Code.

§15702. Laboratory License Application.

In addition to the information required in section 15002 of this division, an application for a testing laboratory license includes the following:

(a) A valid certificate of accreditation, issued by an accreditation body, that attests to the laboratory's competence to perform testing, including all the required analytes for the following test methods:

- (1) Cannabinoids;
- (2) Heavy metals;
- (3) Microbial impurities;
- (4) Mycotoxins;
- (5) Residual pesticides;
- (6) Residual solvents and processing chemicals; and
- (7) If tested, terpenoids.

(b) Standard operating procedures for the following testing methods:

- (1) Cannabinoids;
- (2) Foreign material;
- (3) Heavy metals;
- (4) Microbial impurities;
- (5) Moisture content and water activity;
- (6) Mycotoxins;
- (7) Residual pesticides;
- (8) Residual solvents and processing chemicals; and
- (9) If tested, terpenoids.

(c) Method validation reports for the following testing methods:

- (1) Cannabinoids;
- (2) Heavy metals;
- (3) Microbial impurities;
- (4) Water activity;
- (5) Mycotoxins;
- (6) Residual pesticides;
- (7) Residual solvents; and processing chemicals; and
- (8) If tested, terpenoids.

(d) Standard operating procedures for the sampling of cannabis or cannabis products.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26050, 26055, 26102 and 26104, Business and Professions Code.

§15703. Interim Testing Laboratory License.

(a) An applicant may apply for an interim license prior to receiving ISO/IEC 17025 accreditation provided that the commercial cannabis business meets all other licensure requirements for a testing laboratory and submits to the Department an application in

compliance with section 15002 of this division and an attestation that the commercial cannabis business has or intends to seek ISO/IEC 17025 accreditation for all testing methods required by this division.

(b) An interim testing laboratory license shall be valid for 12 months. The annual license fee for an interim license shall be determined pursuant to the requirements in section 15014 of this division for determining the annual license fee for a testing laboratory license.

(c) To timely renew an interim license, a completed license renewal form and the annual renewal license fee pursuant to section 15014 of this division shall be received by the Department from the licensee no earlier than 60 calendar days before the expiration of the license and no later than 5:00 p.m. Pacific Time on the last business day before the expiration of the license if the renewal form is submitted to the Department at its office(s), or no later than 11:59 p.m. on the last business day before the expiration of the license if the renewal form is submitted to the Department through its electronic licensing system. Failure to receive a notice for license renewal does not relieve a licensee of the obligation to renew an interim license as required.

(d) In the event the license is not renewed prior to the expiration date, the licensee must not test any commercial cannabis or cannabis products until the license is renewed.

(e) A licensee may submit a license renewal form up to 30 calendar days after the license expires. Any late renewal form will be subject to a late fee equal to 50 percent of the applicable licensing fees required by subsection (c) of this section.

(f) The license renewal application shall contain the following:

(1) The name of the licensee. For licensees who are individuals, the applicant shall provide both the first and last name of the individual. For licensees who are business entities, the licensee shall provide the legal business name of the commercial cannabis business;

(2) The license number and expiration date;

(3) The licensee's address of record and licensed premises address; and

(4) An attestation that all information provided to the Department in the original application under section 15002 of this division or subsequent notification under sections 15023 and 15024 of this division is accurate and current.

(g) The Department may renew an interim license for an initial renewal period of 12 months.

(h) After one renewal, the Department may renew the interim license for additional 12-month periods if the licensee has submitted an application for the ISO/IEC 17025 accreditation. In addition to the information required for a renewal form pursuant to subsection (f) of this section, any renewal request pursuant to this section shall also include an attestation that the licensee's application for each ISO/IEC 17025 is pending with the accrediting body, the name of the accrediting body, and the date the application was submitted to the accrediting body.

(i) The licensee shall notify the Department if the application for each ISO/IEC 17025 accreditation is granted or denied within 1 business day of receiving the decision from the accrediting body. The licensee shall submit to the Department the information required, on the Licensee Notification and Request Form, Notifications and Requests Regarding Testing Laboratories, DCC-LIC-029 (New 9/21), which is incorporated herein by reference. If the accrediting body grants or denies the licensee's application for any ISO/IEC 17025 accreditation before the expiration of the interim license, the Department may terminate the interim license at that time.

(j) The Department may revoke an interim license at any time.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26031, 26050 and 26102, Business and Professions Code.

Article 3. Sampling Cannabis and Cannabis Products

§15704. Sampling Standard Operating Procedures.

(a) The licensed laboratory shall develop and implement a sampling standard operating procedure (SOP) that describes the laboratory's method for obtaining representative samples of cannabis or cannabis products. The licensed laboratory shall use and submit to the Department Sampling – Standard Operating Procedures, DCC-LIC-021 (Amended 9/21), which is incorporated herein by reference.

(b) The licensed laboratory shall retain a copy of the sampling SOP on the licensed laboratory premises and ensure that the sampling SOP is accessible to the sampler during sampling.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26102, 26104 and 26110, Business and Professions Code.

§15705. General Sampling Requirements.

(a) The licensed laboratory that obtains a representative sample from a licensed distributor or licensed microbusiness shall perform all the required testing at one licensed laboratory premises.

(b) The licensed laboratory may obtain and analyze samples only from cannabis products batches in final form as required by Business and Professions Code section 26100.

(c) The licensed laboratory sampler shall collect a representative sample from each batch following the procedures specified in the laboratory's sampling standard operating procedure(s).

(d) The licensed laboratory shall ensure that the sample is transported and subsequently stored at the licensed laboratory premises in a manner that prevents degradation, contamination, commingling, and tampering. If the cannabis or cannabis products specify on the label how the cannabis or cannabis products shall be stored, the laboratory shall store the sample as indicated on the label.

(e) The licensed laboratory shall complete a chain of custody form for each sample that the laboratory collects and analyzes.

(f) Once a representative sample has been obtained for regulatory compliance testing, the licensed laboratory that obtained the sample must complete the regulatory compliance testing.

(g) If a licensed laboratory is unable to competently complete the regulatory compliance testing after sampling and before a COA is issued, the licensed distributor or microbusiness authorized to engage in distribution who arranged for the testing of the batch may request approval from the Department to have the impacted batch re-sampled and tested by another licensed laboratory.

(1) The request shall be made in writing via email to testinglabs@cannabis.ca.gov and shall include all of the following:

(A) The name and license number of the distributor;

(B) The batch numbers;

(C) The type and quantity of cannabis or cannabis products;

(D) The name and license number of the laboratory that took the initial sample and is not able to competently complete the regulatory compliance testing;

(E) The name and license number of the laboratory proposed to re-sample and complete the regulatory compliance testing for the batch; and

(F) The reason why the laboratory that initially took the sample cannot competently complete the regulatory compliance testing.

(2) The Department will review the request and determine if the licensed laboratory that initially took the sample is unable to competently complete the regulatory compliance testing. If the Department determines that the licensed laboratory is unable to competently complete the regulatory compliance testing, the Department, in its discretion, may approve the request in whole or part and set conditions for the re-sampling and testing.

(3) No re-sampling of any batch shall occur prior to the licensed distributor or licensed microbusiness authorized to engaged in distribution receiving written approval from the Department.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15706. Chain of Custody (COC).

(a) The licensed laboratory shall develop and implement a COC protocol to ensure accurate documentation is recorded for the transport, handling, storage, and destruction of samples.

(b) The COC protocol shall require the use of a COC form. The sampler shall use a COC to record the following information for each sampled batch:

- (1) Laboratory's name, licensed premises address, and license number;
 - (2) Date and time sampling started and ended;
 - (3) Licensed distributor or licensed microbusiness' name, licensed premises address, and license number;
 - (4) Licensed cultivator's, licensed manufacturer's, or licensed microbusiness' name, licensed premises address, and license number;
 - (5) Batch number of the batch from which the representative sample was obtained and assigned unique sample identifier;
 - (6) Sample matrix;
 - (7) Total batch size, by weight, or unit count;
 - (8) Total weight, or unit count of the representative sample;
 - (9) Sampling conditions or problems encountered during the sampling process, if any;
 - (10) Printed name and signature of the licensed distributor or licensed microbusiness' authorized to engage in distribution employee; and
 - (11) Printed name and signature of the sampler.
- (c) Each time a sample changes custody between licensees, is transported, or is destroyed, the date, time, and the names and signatures of persons involved in these activities shall be recorded on the COC form.
- (d) Once the custody of the sample changes between licensees, the COC form for that change of custody may not be altered.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26102, 26104 and 26110, Business and Professions Code.

§15707. Harvest Batch Sampling.

- (a) The sampler shall obtain a representative sample from each prepacked or unpacked harvest batch. The representative sample must weigh 0.35% of the total harvest batch weight.
- (b) A sampler may collect a representative sample greater than 0.35% of the total harvest batch weight of a prepacked or unpacked harvest batch if necessary to perform the required testing or to ensure that the samples obtained are representative.
- (c) The prepacked or unpacked harvest batch from which a sample is obtained shall weigh no more than 50.0 pounds. Laboratory analyses of a sample collected from a harvest batch weighing more than 50.0 pounds shall be deemed invalid and the harvest batch from which the sample was obtained shall not be released for retail sale.
- (d) When the sampler obtains a representative sample from an unpacked harvest batch, the sampler shall do all the following:
 - (1) Collect the number of sample increments relative to the unpacked harvest batch size as listed in the following table;

(2) Obtain sample increments from random and varying locations of the unpacked harvest batch, both vertically and horizontally. To the extent practicable, the sample increments obtained from an unpacked harvest batch shall be of equal weight; and

(3) To the extent practicable, collect an equal number of sample increments from each container if the unpacked harvest batch is stored in multiple containers.

Unpacked Harvest Batch Size (pounds)	Number of Increments (per sample)
≤ 10.0	8
10.1 – 20.0	16
20.1 – 30.0	23
30.1 – 40.0	29
40.1 – 50.0	34

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15708. Cannabis Product Batch and Pre-Roll Sampling.

(a) The sampler shall obtain a representative sample from each cannabis product batch or pre-roll batch.

(b) The sampler may collect a greater number of sample increments if necessary to perform the required testing or to ensure that the samples obtained are representative.

(c) The cannabis product batch or pre-roll batch from which a representative sample is obtained shall contain no more than 150,000 units. Laboratory analyses of a sample collected from a cannabis product batch containing more than 150,000 units shall be deemed invalid and the cannabis product batch or pre-roll batch from which the representative sample was obtained shall not be released for retail sale.

(d) The sampler shall obtain a representative sample of a cannabis product or pre-roll batch by collecting, at minimum, the number of sample increments relative to the batch size as listed in the following table. Each sample increment consists of 1 packaged unit.

Cannabis Product or Pre-roll Batch Size (units)	Number of Sample Increments (per sample)
≤ 50	2
51 – 150	3
151 – 500	5
501 – 1,200	8
1,201 – 3,200	13
3,201 – 10,000	20
10,001 – 35,000	32
35,001 – 150,000	50

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15709. Laboratory Transportation of Cannabis and Cannabis Products Samples.

(a) The following requirements apply when a licensed testing laboratory transports cannabis or cannabis products samples:

(1) While transporting cannabis or cannabis products samples, a licensed testing laboratory employee shall ensure the cannabis or cannabis products are not visible to the public. Cannabis or cannabis products shall be locked in a fully enclosed box, container, or cage that is secured to the inside of the vehicle or trailer. No portion of the enclosed box, container, or cage shall be comprised of any part of the body of the vehicle or trailer. For the purposes of this section, the inside of the vehicle includes the trunk.

(2) While left unattended, vehicles and trailers shall be locked and secured.

(3) The licensed laboratory shall not leave a vehicle or trailer containing cannabis or cannabis products samples unattended in a residential area or parked overnight in a residential area.

(4) The licensed laboratory shall ensure that any vehicle or trailer transporting cannabis or cannabis products samples has an alarm system.

(5) The licensed laboratory shall ensure that packages or containers holding cannabis or cannabis products samples are neither tampered with nor opened during transport.

(6) The licensed laboratory transporting cannabis or cannabis products samples shall only travel between licensees for whom the laboratory is conducting regulatory compliance testing or quality assurance testing. A laboratory shall not deviate from the travel requirements described in this section, except for necessary rest, fuel, or vehicle repair stops.

(7) The licensed laboratory may transport multiple cannabis or cannabis products samples obtained from multiple licensees at once.

(8) Vehicles or trailers transporting cannabis or cannabis products samples are subject to inspection by the Department at any licensed premises or during transport at any time.

(9) No person under the age of 21 years old shall be in a vehicle or trailer transporting cannabis or cannabis products samples.

(10) Only an employee of the licensed laboratory or security personnel who meets the requirement of section 15045 of this division shall be in a vehicle while transporting cannabis or cannabis products samples.

(b) Upon request, the licensed laboratory shall provide the following required transport vehicle information to the Department:

(1) The certificate of ownership or registration card issued by the California Department of Motor Vehicles for each vehicle used to transport cannabis or cannabis products samples;

(2) The year, make, model, license plate number, and numerical Vehicle Identification Number (VIN) for each vehicle or trailer used to transport cannabis or cannabis products samples; and

(3) Proof of insurance for each vehicle used to transport cannabis or cannabis products

samples.

(c) The laboratory shall provide the Department with the information required by this section in writing for any new vehicle or trailer that will be used to transport cannabis or cannabis products samples prior to using the vehicle or trailer.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26102, 26104 and 26110, Business and Professions Code.

§15710. Laboratory Receipt of Samples Obtained from a Distributor or Microbusiness.

(a) The licensed laboratory may accept and analyze a sample from a licensed distributor or licensed microbusiness authorized to engage in distribution for the required testing under section 15714 of this division only if there is an accompanying COC form for the sample.

(b) The licensed laboratory employee who receives the sample shall date, print, and sign their name on the accompanying sample COC.

(c) The licensed laboratory shall not analyze a sample obtained from a licensed distributor or licensed microbusiness authorized to engage in distribution, and the batch from which the sample was obtained may not be released for retail sale, if any of the following occur:

(1) The sample is received at the laboratory without the requisite COC form;

(2) The tamper-evident material is broken prior to the sample being received at the laboratory; or

(3) There is evidence of sample commingling, contamination, degradation, or a related occurrence rendering the sample unusable for analytical testing when the sample is received at the laboratory.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

Article 4. Standard Operating Procedures

§15711. Laboratory Analyses Standard Operating Procedures.

(a) The licensed laboratory shall develop, implement, and maintain written standard operating procedures (SOP) for sample preparation and each required test method. The licensed laboratory shall use and submit to the Department the following forms which are incorporated by reference:

(1) Sample Preparation – Standard Operating Procedures, Form DCC-LIC-022 (Amended 9/21), which is incorporated herein by reference; and

(2) Test Methods – Standard Operating Procedures, Form DCC-LIC-023 (Amended 9/21), which is incorporated herein by reference.

(b) The licensed laboratory shall keep each SOP at the licensed laboratory premises and ensure that each SOP is accessible to laboratory employees during operating hours.

(c) The licensed laboratory shall make each SOP available for inspection by the Department upon request, as well as any other SOPs associated with the licensee's ISO/IEC 17025 certificate of accreditation.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26100, 26102, 26104 and 26110, Business and Professions Code.

§15712. Test Methods.

(a) The laboratory shall develop, implement, and validate test methods for the analyses of samples as required under this division.

(b) To the extent practicable, the laboratory test methods shall comport with the following guidelines:

(1) US Food and Drug Administration's *Bacterial Analytical Manual*, 2016;

(2) AOAC International's *Official Methods of Analysis for Contaminant Testing of AOAC International*, 20th Edition, 2016; and

(3) United States Pharmacopeia and the National Formulary's *Methods of Analysis for Contaminant Testing*, 2016.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26102, 26104 and 26110, Business and Professions Code.

§15713. Validation of Test Methods.

(a) The licensed laboratory may use a nonstandard, amplified, or modified test method or a method that is designed or developed by the licensed laboratory to validate the methods for analyses of samples.

(b) The licensed laboratory shall follow the guidelines set forth in the US Food and Drug Administration's *Guidelines for the Validation of Analytical Methods for the Detection of Microbial Pathogens in Foods and Feeds*, 2nd Edition, April 2015, incorporated herein by reference, to validate test methods for the microbial analysis of samples. The licensed laboratory shall include and address the criteria listed in the following table when validating test methods for microbial analyses of samples.

Criteria	Requirement
Number of target organisms; inclusivity	5
Number of non-target organisms; exclusivity	5
Number of analyte levels per matrix: Qualitative methods	3 levels: high and low inoculum levels and 1 uninoculated level
Number of analyte levels per matrix: Quantitative methods	4 levels: low, medium and high inoculum levels and 1 uninoculated level
Replicates per food at each level tested	2 or more replicates per level

(c) The licensed laboratory shall follow the guidelines set forth in the US Food and Drug Administration's *Guidelines for the Validation of Chemical Methods for the FDA FVM Program*, 2nd Edition, April 2015, incorporated herein by reference, to validate test methods for chemical analysis of samples.

(1) The licensed laboratory shall include and address the following criteria to validate test methods for chemical analyses of samples:

(A) Accuracy;

(B) Precision;

(C) Linearity and range;

(i) The Coefficient of Determination (r^2) for all calibration curves shall be greater than or equal to 0.99.

(ii) Linear regression or quadratic regression shall only be used for calibration curves. Curves shall not be weighted at all or only weighted at $1/x$.

(iii) LOQ for analytes tested shall be within the range of the calibration curve.

(D) Calibration standard;

(i) For calibration curves, there shall be a minimum of five calibration standards, not including zero; and

(ii) Each calibration curve must include an Initial Calibration Verification (ICV). The percent recovery must be between 70% to 130%.

(E) Sensitivity and selectivity;

(F) Limit of detection and limit of quantitation;

(G) Recovery;

(H) Reproducibility; and

(I) Robustness.

(2) The licensed laboratory shall use certified reference materials to validate the following chemical analyses. The test method used for analysis is valid if the percent recovery of the certified reference material is between 80% to 120% for all required analytes.

(A) Cannabinoids, if available;

(B) Heavy metals;

(C) Microbial impurities;

(D) Mycotoxins;

(E) Residual pesticides;

(F) Residual solvents and processing chemicals; and

(G) Terpenoids, if available.

(d) The licensed laboratory shall generate a validation report for each test method. Each validation report shall include the following information:

- (1) Instrument calibration data, if any;
- (2) Raw data, including instrument raw data, for each test method, if any;
- (3) Cannabis reference materials or certified reference material results;
- (4) Data and calculations pertaining to LOD and LOQ determinations, if any;
- (5) LQC report, as described in this chapter, for the validation of each method; and
- (6) Worksheets, forms, pictures, or copies of laboratory notebook pages and any other documentation necessary to meet the requirements described in subsections (b) and (c) of this section.
- (7) The supervisory or management laboratory employee shall review, approve, sign, and date the validation report for each test method.
- (8) Upon new test methods or altered test methods being used in the laboratory, the new validation report shall be submitted to the Department within 5 business days, accompanied by the Licensee Notification and Request Form, Notifications and Requests Regarding Testing Laboratories, DCC-LIC-029 (New 9/21), which is incorporated herein by reference.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26100, 26104 and 26110, Business and Professions Code.

Article 5. Laboratory Testing and Reporting

§15714. Required Testing.

- (a) All sample increments collected must be homogenized prior to sample analyses, notwithstanding foreign material testing.
- (b) The licensed laboratory shall test each representative sample for the following:
 - (1) Cannabinoids;
 - (2) Foreign material;
 - (3) Heavy metals;
 - (4) Microbial impurities;
 - (5) Mycotoxins;
 - (6) Moisture content and water activity;
 - (7) Residual pesticides;
 - (8) Residual solvents and processing chemicals; and
 - (9) If applicable, terpenoids.
- (c) The licensed laboratory shall report the results of each analysis performed by the laboratory on the certificate of analysis.

(d) The licensed laboratory that obtained the representative sample shall complete all required testing for each representative sample for regulatory compliance testing.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15717. Moisture Content and Water Activity Testing.

(a) The licensed laboratory shall analyze at minimum 0.5 grams of the representative sample of dried flower to determine the level of water activity and the percentage of moisture content.

(1) The dried flower sample, including pre-rolls, shall be deemed to have passed water activity testing if the water activity does not exceed 0.65 Aw. The laboratory shall report the result of the water activity test on the certificate of analysis (COA) and indicate “pass” or “fail” on the COA.

(2) The licensed laboratory shall report the result of the moisture content test on the COA as a percentage.

(b) The licensed laboratory shall analyze at least 0.5 grams of the representative sample of solid edible cannabis products to determine the level of water activity. A solid edible cannabis product shall be deemed to have passed water activity testing if the water activity does not exceed 0.85 Aw. The laboratory shall report the result of the water activity test on the COA and indicate “pass” or “fail” on the COA.

(c) If the sample fails water activity testing, the batch from which the sample was collected fails water activity testing and shall not be released for retail sale.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15718. Residual Solvents and Processing Chemicals Testing.

(a) The licensed laboratory shall analyze at minimum 0.25 grams of the representative sample of cannabis product or pre-rolls to determine whether residual solvents or processing chemicals are present.

(b) The licensed laboratory shall report the result of the residual solvents and processing chemicals testing in unit micrograms per gram (µg/g) on the COA and indicate “pass” or “fail” on the COA.

(c) The sample shall be deemed to have passed the residual solvents and processing chemicals testing if the presence of any residual solvent or processing chemical listed in the following tables in Category I and Category II does not exceed the indicated action levels.

(1) Notwithstanding subsection (c), the limit for ethanol does not apply to cannabis products that are tinctures.

(2) Notwithstanding subsection (c), the limit for ethanol or isopropyl alcohol does not apply to cannabis products that are topical cannabis products.

Category I Residual Solvent or Processing Chemical	CAS No.	Cannabis Product or Pre-Roll Action Level (µg/g)
1,2-Dichloroethane	107-06-2	1.0
Benzene	71-43-2	1.0
Chloroform	67-66-3	1.0
Ethylene oxide	75-21-8	1.0
Methylene chloride	75-09-2	1.0
Trichloroethylene	79-01-6	1.0

Category II Residual Solvent or Processing Chemical	CAS No.	Cannabis Product or Pre-roll Action Level (µg/g)
Acetone	67-64-1	5000
Acetonitrile	75-05-8	410
Butane	106-97-8	5000
Ethanol	64-17-5	5000
Ethyl acetate	141-78-6	5000
Ethyl ether	60-29-7	5000
Heptane	142-82-5	5000
Hexane	110-54-3	290
Isopropyl alcohol	67-63-0	5000
Methanol	67-56-1	3000
Pentane	109-66-0	5000
Propane	74-98-6	5000
Toluene	108-88-3	890
Total xylenes (ortho-, meta-, para-)	1330-20-7	2170

(d) If the sample fails residual solvents and processing chemicals testing, the batch from which the sample was collected fails residual solvents and processing chemicals testing and shall not be released for retail sale.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15719. Residual Pesticides Testing.

(a) The licensed laboratory shall analyze at minimum 0.5 grams of the representative sample of cannabis and cannabis products to determine whether residual pesticides are present.

(b) The licensed laboratory shall report whether any Category I Residual Pesticides are detected above the limit of detection (LOD) and shall report the result of the Category II Residual Pesticides testing in unit micrograms per gram ($\mu\text{g/g}$) on the COA. The laboratory shall indicate “pass” or “fail” on the COA.

(c) The licensed laboratory shall establish a limit of quantitation (LOQ) of 0.10 $\mu\text{g/g}$ or lower for all Category I Residual Pesticides.

(d) The sample shall be deemed to have passed the residual pesticides testing if both of the following conditions are met:

(1) The presence of any residual pesticide listed in the following tables in Category I are not detected, and

(2) The presence of any residual pesticide listed in the following tables in Category II does not exceed the indicated action levels.

Category I Residual Pesticide	CAS No.
Aldicarb	116-06-3
Carbofuran	1563-66-2
Chlordane	57-74-9
Chlorfenapyr	122453-73-0
Chlorpyrifos	2921-88-2
Coumaphos	56-72-4
Daminozide	1596-84-5
DDVP (Dichlorvos)	62-73-7
Dimethoate	60-51-5
Ethoprop(hos)	13194-48-4
Etofenprox	80844-07-1
Fenoxycarb	72490-01-8
Fipronil	120068-37-3
Imazalil	35554-44-0
Methiocarb	2032-65-7
Methyl parathion	298-00-0
Mevinphos	7786-34-7

Category I Residual Pesticide	CAS No.
Paclobutrazol	76738-62-0
Propoxur	114-26-1
Spiroxamine	118134-30-8
Thiacloprid	111988-49-9

Category II Residual Pesticide	CAS No.	Action Level (µg/g) for Inhalable Cannabis and Cannabis Products	Action Level (µg/g) for Non-Inhalable Cannabis Products
Abamectin	71751-41-2	0.1	0.3
Acephate	30560-19-1	0.1	5
Acequinocyl	57960-19-7	0.1	4
Acetamiprid	135410-20-7	0.1	5
Azoxystrobin	131860-33-8	0.1	40
Bifenazate	149877-41-8	0.1	5
Bifenthrin	82657-04-3	3	0.5
Boscalid	188425-85-6	0.1	10
Captan	133-06-2	0.7	5
Carbaryl	63-25-2	0.5	0.5
Chlorantraniliprole	500008-45-7	10	40
Clofentezine	74115-24-5	0.1	0.5
Cyfluthrin	68359-37-5	2	1
Cypermethrin	52315-07-8	1	1
Diazinon	333-41-5	0.1	0.2
Dimethomorph	110488-70-5	2	20
Etoxazole	153233-91-1	0.1	1.5
Fenhexamid	126833-17-8	0.1	10
Fenpyroximate	111812-58-9	0.1	2
Flonicamid	158062-67-0	0.1	2
Fludioxonil	131341-86-1	0.1	30
Hexythiazox	78587-05-0	0.1	2
Imidacloprid	138261-41-3	5	3

Category II Residual Pesticide	CAS No.	Action Level (µg/g) for Inhalable Cannabis and Cannabis Products	Action Level (µg/g) for Non-Inhalable Cannabis Products
Kresoxim-methyl	143390-89-0	0.1	1
Malathion	121-75-5	0.5	5
Metalaxyl	57837-19-1	2	15
Methomyl	16752-77-5	1	0.1
Myclobutanil	88671-89-0	0.1	9
Naled	300-76-5	0.1	0.5
Oxamyl	23135-22-0	0.5	0.2
Pentachloronitrobenzene	82-68-8	0.1	0.2
Permethrin	52645-53-1	0.5	20
Phosmet	732-11-6	0.1	0.2
Piperonylbutoxide	51-03-6	3	8
Prallethrin	23031-36-9	0.1	0.4
Propiconazole	60207-90-1	0.1	20
Pyrethrins	8003-34-7	0.5	1
Pyridaben	96489-71-3	0.1	3
Spinetoram	187166-15-0, 187166-40-1	0.1	3
Spinosad	131929-60-7, 131929-63-0	0.1	3
Spiromesifen	283594-90-1	0.1	12
Spirotetramat	203313-25-1	0.1	13
Tebuconazole	107534-96-3	0.1	2
Thiamethoxam	153719-23-4	5	4.5
Trifloxystrobin	141517-21-7	0.1	30

(e) If the sample fails residual pesticides testing, the batch from which the sample was collected fails residual pesticides testing and shall not be released for retail sale.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15720. Microbial Impurities Testing.

(a) The licensed laboratory shall analyze at minimum 1.0 grams of the representative sample of cannabis or cannabis products to determine whether microbial impurities are present.

(b) The licensed laboratory shall report the result of the microbial impurities testing by indicating “pass” or “fail” on the COA.

(c) The sample of inhalable cannabis and cannabis products shall be deemed to have passed the microbial impurities testing if all of the following conditions are met:

(1) Shiga toxin–producing *Escherichia coli* is not detected in 1 gram;

(2) *Salmonella* spp. is not detected in 1 gram; and

(3) Pathogenic *Aspergillus* species *A. fumigatus*, *A. flavus*, *A. niger*, and *A. terreus* are not detected in 1 gram.

(d) The sample of non-inhalable cannabis and cannabis products shall be deemed to have passed the microbial impurities testing if both the following conditions are met:

(1) Shiga toxin–producing *Escherichia coli* is not detected in 1 gram, and

(2) *Salmonella* spp. is not detected in 1 gram.

(e) If the sample fails microbial impurities testing, the batch from which the sample was collected fails microbial impurities testing and shall not be released for retail sale.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15721. Mycotoxin Testing.

(a) The licensed laboratory shall analyze at minimum 0.5 grams of the representative sample of cannabis and cannabis products to determine whether mycotoxins are present.

(b) The licensed laboratory shall report the result of the mycotoxins testing in unit micrograms per kilograms ($\mu\text{g}/\text{kg}$) on the COA and indicate “pass” or “fail” on the COA.

(c) The sample shall be deemed to have passed mycotoxin testing if both the following conditions are met:

(1) Total of aflatoxin B1, B2, G1, and G2 does not exceed 20 $\mu\text{g}/\text{kg}$ of substance, and

(2) Ochratoxin A does not exceed 20 $\mu\text{g}/\text{kg}$ of substance.

(d) If the sample fails mycotoxin testing, the batch from which the sample was collected fails mycotoxin testing and shall not be released for retail sale.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15722. Foreign Material Testing.

- (a) The licensed laboratory shall analyze the representative sample of cannabis and cannabis products to determine whether foreign material is present.
- (b) The licensed laboratory shall report the result of the foreign material test by indicating “pass” or “fail” on the COA.
- (c) The licensed laboratory shall perform foreign material testing on the total representative sample prior to sample homogenization.
- (d) When the licensed laboratory performs foreign material testing, at minimum, the laboratory shall do all of the following:
 - (1) Examine both the exterior and interior of the dried flower sample, and
 - (2) Examine the exterior of the cannabis product sample.
- (e) The sample shall be deemed to have passed the foreign material testing if the presence of foreign material does not exceed:
 - (1) 1/4 of the total sample area covered by sand, soil, cinders, or dirt;
 - (2) 1/4 of the total sample area covered by mold;
 - (3) 1 insect fragment, 1 hair, or 1 count mammalian excreta per 3.0 grams; or
 - (4) 1/4 of the total sample area covered by an imbedded foreign material.
- (f) If the sample fails foreign material testing, the batch from which the sample was collected fails foreign material testing and shall not be released for retail sale.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15723. Heavy Metals Testing.

- (a) The licensed laboratory shall analyze at minimum 0.5 grams of the representative sample of cannabis and cannabis products to determine whether heavy metals are present.
- (b) The licensed laboratory shall report the result of the heavy metals test in unit micrograms per gram ($\mu\text{g/g}$) on the COA and indicate “pass” or “fail” on the COA.
- (c) The sample shall be deemed to have passed the heavy metals testing if the presence of heavy metals does not exceed the action levels listed in the following table.

Heavy Metal	Action Level (µg/g) for Inhalable Cannabis and Cannabis Products	Action Level (µg/g) for Non-Inhalable Cannabis and Cannabis Products
Cadmium	0.2	0.5
Lead	0.5	0.5
Arsenic	0.2	1.5
Mercury	0.1	3.0

(d) If the sample fails heavy metals testing, the batch from which the sample was collected fails heavy metals testing and shall not be released for retail sale.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15724. Cannabinoid Testing.

(a) The licensed laboratory shall analyze at minimum 0.5 grams of the representative sample of cannabis and cannabis products to determine the cannabinoid profile such as THC; THCA; CBD; CBDA; CBG; and CBN.

(b) The licensed laboratory shall establish a limit of quantitation (LOQ) of 1.0 mg/g or lower for all cannabinoids analyzed and reported.

(c) The licensed laboratory shall report the result of the cannabinoid testing on the COA, including, at minimum:

(1) A percentage for THC, THCA, CBD, and CBDA;

(A) When the licensed laboratory reports the result of the cannabinoid testing for harvest batch representative samples on the COA in dry-weight percent, they shall use the following equation:

$$\text{Dry-weight percent cannabinoid} = \text{wet-weight percent cannabinoid} / (1 - \text{percent moisture} / 100)$$

(2) A percentage for Total THC and Total CBD, if applicable;

(3) Milligrams per gram (mg/g) if by dry-weight or milligrams per milliliter (mg/mL) if by volume for THC, THCA, CBD, and CBDA.

(4) Milligrams per gram (mg/g) if by dry-weight or milligrams per milliliter (mg/mL) if by volume for Total THC and Total CBD, if applicable;

(A) The licensed laboratory shall calculate the total cannabinoid concentration as follows:

(i) For concentration expressed in weight:

$$\text{Total cannabinoid concentration (mg/g)} = (\text{cannabinoid acid form concentration (mg/g)} \times 0.877) + \text{cannabinoid concentration (mg/g)}$$

(ii) For concentration expressed in volume:

Total cannabinoid concentration (mg/mL) = (cannabinoid acid form concentration (mg/mL) x 0.877) + cannabinoid concentration (mg/mL)

(5) Milligrams per package for THC and CBD;

(6) Milligrams per package for Total THC and Total CBD, if applicable;

(7) Milligrams per serving for THC and CBD, if any;

(8) Milligrams per serving for Total THC and Total CBD, if any and if applicable; and

(9) The licensed laboratory shall report the results of all other cannabinoids analyzed on the COA both as a percentage and in either milligrams per gram (mg/g) if by weight or milligrams per milliliter (mg/mL) if by volume.

(d) The sample shall be deemed to have passed the cannabinoid testing if the amount of THC does not exceed the limits established in section 17304 of this division.

(e) The licensed laboratory shall report the test results and indicate an overall “pass” or “fail” for the cannabinoid testing on the COA.

(f) Any cannabinoids found to be less than the LOQ shall be reported on the COA as “<1 mg/g” if by dry-weight or “<1 mg/mL” if by volume.

(g) If the sample fails cannabinoid testing, the batch from which the sample was collected fails cannabinoid testing and shall not be released for retail sale.

(h) For purposes of this division, any one cannabinoid, Total THC, and/or Total CBD claimed to be present on a label shall not be considered inaccurate if the difference in percentage on the certificate of analysis is plus or minus 10.0%.

(i) Notwithstanding subsection (h), until January 1, 2022, for edible cannabis products where milligrams per serving for THC does not exceed 10 milligrams per serving, as provided for under section 17304(a)(1), Total THC claimed to be present on a label shall not be considered inaccurate if the difference in percentage on the COA is plus or minus 12.0%.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15725. Terpenoid Testing.

(a) If requested, the licensed laboratory shall analyze at minimum 0.5 grams of the representative sample of cannabis or cannabis products to determine the terpenoid profile of the sample.

(b) The licensed laboratory shall report the result of the terpenoid testing on the COA both as a percentage and in either milligrams per gram (mg/g) if by weight or milligrams per milliliter (mg/mL) if by volume.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15726. Certificate of Analysis (COA).

(a) The licensed laboratory shall generate a COA for each representative sample that the laboratory analyzes.

(b) The licensed laboratory shall ensure that the COA contains the results of all required analyses performed for the representative sample.

(c) The licensed laboratory shall, within 1 business day of completing all analyses of a sample, both upload the COA into the track and trace system and simultaneously provide a copy of the COA to the Department via email at testinglabs@cannabis.ca.gov.

(d) The licensed laboratory shall not release to any person any cumulative or individual test results prior to completing all analyses and providing the COA to the Department.

(e) The COA shall contain, at minimum, the following information:

(1) The term “Regulatory Compliance Testing” in font no smaller than 14-point, which shall appear in the upper-right corner of each page of the COA. No text or images shall appear above the term “Regulatory Compliance Testing” on any page of the COA.

(2) Laboratory’s name, licensed premises address, and license number;

(3) Licensed distributor’s or licensed microbusiness authorized to engage in distribution’s name, licensed premises address, and license number;

(4) Licensed cultivator’s, licensed manufacturer’s, or licensed microbusiness’ name, licensed premises address, and license number;

(5) Batch number of the batch from which the sample was obtained. For cannabis and cannabis products that are already packaged at the time of sampling, the labeled batch number on the packaged cannabis and cannabis products shall match the batch number on the COA;

(6) Sample identifying information, including matrix type and unique sample identifiers;

(7) Sample history, including the date collected, the date received by the laboratory, and the date(s) of sample analyses and corresponding testing results;

(8) A picture of the sample of cannabis and cannabis products. If the sample is pre-packaged, the picture must include an unobstructed image of the packaging;

(9) For dried flower samples, the total weight of the batch, in grams or pounds, and the total weight, of the representative sample in grams;

(10) For cannabis product or pre-rolls samples, the total unit count of both the representative sample and the total batch size;

(11) Measured density of the cannabis and cannabis products;

(12) The analytical methods, analytical instrumentation used, and corresponding Limits of Detection (LOD) and Limits of Quantitation (LOQ);

(13) An attestation on the COA from the laboratory supervisory or management employee that all LQC samples required by section 15730 of this division were performed and met the acceptance criteria; and

(14) Analytes detected during the analyses of the sample that are unknown, unidentified, or injurious to human health if consumed, if any.

(f) The licensed laboratory shall report test results for each representative sample on the COA as follows:

(1) Indicate an overall “pass” or “fail” for the entire batch;

(2) When reporting qualitative results for each analyte, the licensed laboratory shall indicate “pass” or “fail”;

(3) When reporting quantitative results for each analyte, the licensed laboratory shall use the appropriate units of measurement as required under this chapter;

(4) When reporting results for each test method, the licensed laboratory shall indicate “pass” or “fail”;

(5) When reporting results for any analytes that were detected below the analytical method LOQ, indicate “<LOQ”, notwithstanding cannabinoid results;

(6) When reporting results for any analytes that were not detected or detected below the LOD, indicate “ND”; and

(7) Indicate “NT” for any test that the licensed laboratory did not perform.

(g) The licensed laboratory supervisory or management employee shall validate the accuracy of the information contained on the COA and sign and date the COA.

(h) The laboratory supervisory or management employee may request to amend a COA to correct minor errors. Requests must be emailed to the Department at testinglabs@cannabis.ca.gov for approval prior to making any corrections. Errors in results required to be reported pursuant to subsection (f) are not minor errors.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

Article 6. Post Testing Procedures

§15727. Remediation and Retesting.

(a) A cannabis or cannabis product batch that has been additionally processed after failed testing must be retested and successfully pass all the analyses required under this chapter.

(b) The licensed distributor or licensed microbusiness authorized to engage in distribution shall arrange for remediation of a failed cannabis or cannabis product batch. If the batch cannot be remediated, the batch shall be destroyed by the licensed distributor or licensed microbusiness authorized to engage in distribution.

(c) If a failed batch is not remediated or reprocessed in any way it cannot be retested. Any subsequent COAs produced without remediation of the failed batch will not supersede the initial regulatory compliance testing COA.

(d) A cannabis or cannabis product batch may only be remediated twice. If the batch fails after the second remediation attempt and the second retesting, the entire batch shall be

destroyed.

(e) Within one business day of completing the required analyses of a representative sample obtained from a remediated cannabis or cannabis product batch, the laboratory shall upload the COA information into the track and trace system, or if the licensee does not yet have access to the track and trace system, it shall be emailed to the Department.

(f) Nothing in this section shall be interpreted to prevent a cannabis or cannabis product batch from being retested when the COA is 12 or more months old.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15728. Post Testing Sample Retention.

(a) The licensed laboratory shall retain the reserve sample, consisting of any portion of a sample that was not used in the testing process. The reserve sample shall be kept, at minimum, for 45 business days after the analyses, after which time it may be destroyed and denatured to the point the material is rendered unrecognizable and unusable.

(b) The licensed laboratory shall securely store the reserve sample in a manner that prohibits sample degradation, contamination, and tampering.

(c) The licensed laboratory shall provide the reserve sample to the Department upon request.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

Article 7. Laboratory Quality Assurance and Quality Control

§15729. Laboratory Quality Assurance (LQA) Program.

(a) The licensed laboratory shall develop and implement a LQA program to assure the reliability and validity of the analytical data produced by the laboratory. The LQA program shall, at minimum, include a written LQA manual that addresses the following:

- (1) Quality control procedures;
- (2) Laboratory organization and employee training and responsibilities, including good laboratory practice (GLP);
- (3) LQA objectives for measurement data;
- (4) Traceability of data and analytical results;
- (5) Instrument maintenance, calibration procedures, and frequency;
- (6) Performance and system audits;
- (7) Corrective action procedures;
- (8) Steps to change processes when necessary;
- (9) Record retention and document control;

(10) Test procedure standardization; and

(11) Method validation.

(b) The supervisory or management laboratory employee shall annually review, amend if necessary, and approve the LQA program and manual both when they are created and when there is a change in methods, laboratory equipment, or the supervisory or management laboratory employee.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15730. Laboratory Quality Control (LQC) Samples.

The licensed laboratory shall use LQC samples and adhere to good laboratory practice (GLP) in the performance of each analysis according to the following specifications.

(a) The licensed laboratory shall analyze LQC samples in the same manner as the laboratory analyzes cannabis and cannabis products samples.

(b) The licensed laboratory shall use at least one negative control, one positive control, and one laboratory replicate sample in each analytical batch for each target organism during microbial testing. If one of the controls produces unexpected results, the samples shall be re-prepped and reanalyzed with a new set of controls.

(c) If the result of the microbial analyses is outside the specified acceptance criteria in the following table, the licensed laboratory shall determine the cause and take steps to remedy the problem until the result is within the specified acceptance criteria.

Laboratory Quality Control Sample	Acceptance Criteria	Corrective Action
Positive control	Produces expected result, positive result	Re-prepare and reanalyze the entire analytical batch, once. If problem persists, locate and remedy the source of unexpected result, then re-prepare samples and reanalyze with a new set of controls.
Negative control	Produces expected result, negative result	Re-prepare and reanalyze the entire analytical batch, once. If problem persists, locate and remedy the source of unexpected result, then re-prepare samples and reanalyze with a new set of controls.
Laboratory replicate sample	Sample results must concur	Reanalyze sample and associated replicate sample once. If problem persists, re-prepare samples and reanalyze.

(d) The licensed laboratory shall prepare and analyze at least one of each of the following LQC samples for each analytical batch:

(1) Method Blank;

(2) Laboratory control sample (LCS); and

(3) Laboratory replicate sample or matrix spike sample.

(e) The laboratory shall analyze, at minimum, a continuing calibration verification (CCV) sample at the beginning of each analytical sequence and every 10 samples thereafter.

(f) If the result of the chemical analyses is outside the specified acceptance criteria in the following table, the laboratory shall determine the cause and take steps to remedy the problem until the result is within the specified acceptance criteria.

Laboratory Quality Control Sample	Acceptance Criteria	Corrective Action
Method Blank sample	Not to exceed LOQ	Reanalyze entire analytical batch once. If method blank is still greater than the LOQ for any analyte, locate the source of contamination then re-prepare samples and reanalyze.
LCS	Percent recovery 70% to 130%	Reanalyze the entire analytical batch, once. If problem persists, re-prepare samples and reanalyze or re-run the initial calibration curve.
Laboratory replicate sample	RPD \leq 30%	Reanalyze sample and associated replicate sample once. If problem persists, re-prepare samples and reanalyze.
Matrix spike sample	Percent recovery between 70% to 130%	Reanalyze sample and associated matrix spike sample once. If problem persists, re-prepare samples and reanalyze.
CCV	Percent recovery between 70% to 130%	Reanalyze all samples that followed the last CCV that met the acceptance criteria. If CCV still fails, re-run the initial calibration curve and all samples in the analytical sequence.

(g) If any analyte is detected above any action level, as described in this chapter, the sample shall be re-prepped and reanalyzed in replicate within another analytical batch.

(1) For quantitative analyses, the re-prepped sample and its associated replicate must meet the acceptance criteria of RPD \leq 30%.

(2) For qualitative analyses, the re-prepped sample and its associated replicate results must concur.

(h) If any LQC sample produces a result outside of the acceptance criteria, the laboratory cannot report the result and the entire batch cannot be released for retail sale. The laboratory shall determine the cause and take steps to remedy the problem until the result is within the specified acceptance criteria.

(i) If the licensed laboratory determines that the result is a false-positive or a false-negative, the Department may ask for the laboratory to re-sample or re-test.

(j) The licensed laboratory shall compile and generate one LQC sample report for each analytical batch that includes LQC acceptance criteria, measurements, analysis date, and matrix.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15731. Limits of Detection (LOD) and Limits of Quantitation (LOQ) for Quantitative Analyses.

(a) The licensed laboratory shall calculate the LOD for chemical method analyses according to any of the following methods:

(1) Signal-to-noise ratio of between 3:1 and 2:1;

(2) Standard deviation of the response and the slope of calibration curve using a minimum of 7 spiked Blank samples calculated as follows;

$LOD = (3.3 \times \text{standard deviation of the response}) / \text{slope of the calibration curve};$ or

(3) A method published by the United States Food and Drug Administration (USFDA) or the United States Environmental Protection Agency (USEPA).

(b) The licensed laboratory shall calculate the LOQ for chemical method analyses according to any of the following methods:

(1) Signal-to-noise ratio of 10:1, at minimum;

(2) Standard deviation of the response and the slope using a minimum of 7 spiked Blank samples calculated as follows:

$LOQ = (10 \times \text{standard deviation of the response}) / \text{slope of the calibration curve};$ or

(3) A method published by the USFDA or the USEPA.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15732. Data Package.

(a) The licensed laboratory shall compile and generate one data package for each representative sample that the laboratory analyzes.

(b) The licensed laboratory shall create a data package and use the Data Package Cover Page and Checklist Form, DCC-LIC-024 (Amended 9/21), which is incorporated herein by reference. The data package and form DCC-LIC-024 (Amended 9/21) shall be provided to the Department immediately upon request.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104, 26110 and 26160, Business and Professions Code.

§15733. Required Proficiency Testing.

(a) The licensed laboratory shall participate in a proficiency testing program provided by an organization that operates in conformance with the requirements of ISO/IEC 17043, at least once every six months.

(b) The licensed laboratory shall annually, successfully participate in a proficiency testing program for each of the following test methods:

- (1) Cannabinoids;
- (2) Heavy metals;
- (3) Microbial impurities;
- (4) Mycotoxins;
- (5) Residual pesticides;
- (6) Residual solvents and processing chemicals; and
- (7) If tested, terpenoids.

(c) The licensed laboratory shall report all analytes available by the proficiency testing program provider and for which the licensee is required to test as required under this chapter.

(d) The licensed laboratory shall participate in the proficiency testing program by following the laboratory's existing SOPs for testing cannabis and cannabis products.

(e) The licensed laboratory shall rotate the proficiency testing program among the laboratory employees who perform the test methods.

(f) Laboratory employees who participate in a proficiency testing program shall sign the corresponding analytical reports or attestation statements to certify that the proficiency testing program was conducted in the same manner as the laboratory tests of cannabis and cannabis products.

(g) A supervisory or management laboratory employee shall review and verify the accuracy of results reported for all proficiency testing program samples analyzed.

(h) The licensed laboratory shall request the proficiency testing program provider to send results concurrently to the Department, if available, or the laboratory shall provide the proficiency testing program results to the Department within 3 business days after the laboratory receives notification of their test results from the proficiency testing program provider. Any results shall be reported by submitting the Licensee Notification and Request Form, Notifications and Requests Regarding Testing Laboratories, DCC-LIC-029 (New 9/21), which is incorporated herein by reference.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100 and 26110, Business and Professions Code.

§15734. Satisfactory and Unsatisfactory Proficiency Test Performance.

(a) The licensed laboratory shall be deemed to have successfully participated in a proficiency testing program for an analyte tested in a specific method if the test results demonstrate a “satisfactory” or otherwise proficient performance determination by the proficiency testing program provider.

(b) The licensed laboratory may not report test results for analytes that are deemed by the proficiency testing program provider as “unacceptable,” “questionable,” “unsatisfactory”, or otherwise deficient.

(c) The licensed laboratory may resume reporting test results for analytes that were deemed “unacceptable,” “questionable,” “unsatisfactory”, or otherwise deficient, only if both of the following conditions are met:

(1) The licensed laboratory satisfactorily remedies the cause of the failure for each analyte; and

(2) The licensed laboratory submits, to the Department, a written corrective action report demonstrating how the laboratory has fixed the cause of the failure.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100 and 26110, Business and Professions Code.

§15735. Laboratory Audits.

(a) The licensed laboratory shall conduct an internal audit at least once per year or in accordance with the ISO/IEC 17025 accrediting body’s requirement, whichever is more frequent.

(b) The internal audit must include all of the components required by the ISO/IEC 17025 internal-audit standards.

(c) Within 3 business days of completing the internal audit, the licensed laboratory shall submit the results of the internal audit to the Department.

(d) Within 3 business days of receiving the accrediting body on-site audit findings, the licensed laboratory shall submit the results to the Department.

(e) The licensed laboratory shall submit any audit results to the Department, accompanied by the Licensee Notification and Request Form, Notifications and Requests Regarding Testing Laboratories, DCC-LIC-029 (New 9/21), which is incorporated herein by reference.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100 and 26104, Business and Professions Code.

Article 8. Laboratory Employee Qualifications

§15736. General Laboratory Employee Qualifications.

- (a) The licensed laboratory may only employ persons who are at least 21 years of age.
- (b) The licensed laboratory shall develop and implement an employee training program to ensure competency of laboratory employees for their assigned functions.
- (c) The licensed laboratory shall ensure and document that each laboratory employee meets the employee qualifications.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26102 and 26104, Business and Professions Code.

§15737. Supervisor or Management Responsibilities and Qualifications.

- (a) The licensed laboratory shall employ a supervisor or management employee who must be responsible for:
 - (1) Overseeing and directing the scientific methods of the licensed laboratory;
 - (2) Ensuring that the licensed laboratory achieves and maintains a laboratory quality assurance program as required by section 15729 of this division; and
 - (3) Providing ongoing and appropriate training to laboratory employees.
- (b) To be considered qualified, the supervisor or management employee must have at minimum:
 - (1) A doctoral degree in biological, chemical, agricultural, environmental, or related sciences from an accredited college or university;
 - (2) A master's degree in biological, chemical, agricultural, environmental, or related sciences from an accredited college or university, plus at least 2 years of full-time practical experience;
 - (3) A bachelor's degree in biological, chemical, agricultural, environmental, or related sciences from an accredited college or university, plus at least 4 years of full-time practical experience; or
 - (4) A bachelor's degree in any field from an accredited college or university, plus at least 8 years of full-time practical experience, 4 years of which must have been in a supervisory or management position.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26102 and 26104, Business and Professions Code.

§15738. Analyst and Sampler Qualifications.

- (a) The licensed laboratory shall employ an analyst who, at minimum, must have either:
 - (1) Earned a master's degree or a bachelor's degree in biological, chemical, agricultural, environmental, or related sciences from an accredited college or university; or

(2) Completed 2 years of college or university education that included coursework in biological, chemical, agricultural, environmental, or related sciences from an accredited college or university, plus at least 3 years of full-time practical experience.

(b) The licensed laboratory shall employ a sampler who, at minimum, must have either:

(1) Completed 2 years college or university education; or

(2) Earned a High School Diploma or passed a General Educational Development or High School Equivalency exam, plus at least 1 year of full-time practical experience.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26102 and 26104, Business and Professions Code.

Chapter 7. Cultivators

Article 1. General Cultivation Requirements

§16201. Cultivation License Types.

License types include:

(a) Specialty Cottage:

(1) “Specialty Cottage Outdoor” is an outdoor cultivation site with up to 25 mature plants or 2,500 square feet or less of total canopy.

(2) “Specialty Cottage Indoor” is an indoor cultivation site with 500 square feet or less of total canopy.

(3) “Specialty Cottage Mixed-Light Tier 1 and 2” is a mixed-light cultivation site with 2,500 square feet or less of total canopy.

(b) Specialty:

(1) “Specialty Outdoor” is an outdoor cultivation site with less than or equal to 5,000 square feet of total canopy, or up to 50 mature plants on noncontiguous plots.

(2) “Specialty Indoor” is an indoor cultivation site with between 501 and 5,000 square feet of total canopy.

(3) “Specialty Mixed-Light Tier 1 and 2” is a mixed-light cultivation site with between 2,501 and 5,000 square feet of total canopy.

(c) Small:

(1) “Small Outdoor” is an outdoor cultivation site with between 5,001 and 10,000 square feet of total canopy.

(2) “Small Indoor” is an indoor cultivation site with between 5,001 and 10,000 square feet of total canopy.

(3) “Small Mixed-Light Tier 1 and 2” is a mixed-light cultivation site with between 5,001 and 10,000 square feet of total canopy.

(d) Medium:

(1) “Medium Outdoor” is an outdoor cultivation site with between 10,001 square feet and

one acre of total canopy.

(2) “Medium Indoor” is an indoor cultivation site with between 10,001 and 22,000 square feet of total canopy.

(3) “Medium Mixed-Light Tier 1 and 2” is a mixed-light cultivation site with between 10,001 and 22,000 square feet of total canopy.

(e) “Nursery” is a cultivation site that conducts only cultivation of clones, immature plants, seeds, and other agricultural products used specifically for the propagation of cultivation of cannabis.

(f) “Processor” is a cultivation site that conducts only trimming, drying, curing, grading, packaging, and labeling of cannabis and nonmanufactured cannabis products.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26013, 26050 and 26061, Business and Professions Code.

§16202. General Cultivation Requirements.

(a) Licensees are prohibited from transferring any commercially cultivated cannabis or nonmanufactured cannabis products from their licensed premises. All transfers of cannabis and nonmanufactured cannabis product from a licensed cultivation premises must be conducted by a distributor licensed by the Department.

(b) Outdoor cultivation licensees are prohibited from using light deprivation. Artificial lighting is permissible only to maintain immature plants outside the canopy area.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26010, 26012, 26013, 26050 and 26053, Business and Professions Code.

§16209. Medium Cultivation License Limits.

A person or owner shall be limited to one (1) Medium Outdoor, or one (1) Medium Indoor, or one (1) Medium Mixed-Light A-License or M-License. This section shall remain in effect until January 1, 2023.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26013, 26050 and 26061, Business and Professions Code.

Article 2. Cultivation Site Requirements

§16300. Cultivation Requirements for Specialty Cottage, Specialty, Small, and Medium Licenses.

(a) Cannabis plants maintained outside of the designated canopy area(s) for specialty cottage, specialty, small, and medium licenses are prohibited from flowering. Should a plant outside of the canopy area(s) begin to flower, a plant tag shall be applied, the plant shall be moved to a designated canopy area and reported in the track and trace system without delay.

(b) All plants or portions of a plant used for seed production shall be tagged with a plant tag pursuant to section 15048.4.

(c) A licensee propagating immature plants for distribution or seed for distribution to another licensee shall obtain a nursery license.

(d) Licensees shall process their harvested cannabis only in area(s) designated for processing in their cultivation plan, or transfer their harvested cannabis to a licensed processor, manufacturer, or distributor via a licensed distributor.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26060 and 26120, Business and Professions Code.

§16301. Seed Production Requirements for Nursery Licensees.

Nursery licensees producing seed for distribution shall tag all mature plants with a plant tag pursuant to section 15048.4(b). All products, except seed, derived from these plants are prohibited from entering the commercial distribution chain.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26060 and 26067, Business and Professions Code.

§16302. Research and Development Requirements for Nursery Licensees.

Nursery licensees may maintain a research and development area, as identified in their cultivation plan, for the cultivation of mature plants. All mature plants shall be tagged with a plant tag pursuant to section 15048.4. All cannabis and cannabis products derived from these plants are prohibited from entering the commercial distribution chain or being transferred off the licensed premises.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26060 and 26067, Business and Professions Code.

§16303. Cultivation Requirements for Processor Licensees.

(a) Processor licensees shall comply with all of the following requirements:

(1) All aggregation of product shall adhere to track and trace requirements.

(2) Licensees may produce nonmanufactured cannabis products without a manufacturing license.

(3) Cultivation of cannabis plants is prohibited at a licensed processor premises.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26060, 26067, 26069 and 26120, Business and Professions Code.

§16304. General Environmental Protection Measures.

(a) All licensed cultivators shall comply with all of the following environmental protection measures:

- (1) Principles, guidelines, and requirements adopted pursuant to section 13149 of the Water Code and implemented by the State Water Resources Control Board, Regional Water Quality Control Boards, or California Department of Fish and Wildlife;
- (2) Any conditions of licensure included pursuant to section 26060.1(b)(1) of the Business and Professions Code;
- (3) Requirements of section 7050.5(b) of the Health and Safety Code if human remains are discovered during cultivation activities;
- (4) Requirements for generators pursuant to section 16306;
- (5) Requirements for pesticides pursuant to section 16307;
- (6) Outdoor lights used for safety or security purposes are shielded and downward facing; and
- (7) Lights used for indoor or mixed-light cultivation are shielded from sunset to sunrise to reduce nighttime glare.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26060, 26066 and 26201, Business and Professions Code.

§16305. Renewable Energy Requirements.

(a) Beginning January 1, 2023, all holders of indoor, tier 2 mixed-light license types of any size, and all holders of nursery licenses using indoor or tier 2 mixed-light techniques shall ensure that electrical power used for commercial cannabis activity meets the average electricity greenhouse gas emissions intensity required by their local utility provider pursuant to the California Renewables Portfolio Standard Program in division 1, part 1, chapter 2.3, article 16 (commencing with section 399.11) of the Public Utilities Code.

(b) If a licensed cultivator's average weighted greenhouse gas emission intensity, as calculated and reported upon license renewal pursuant to section 15020, is greater than the local utility provider's greenhouse gas emission intensity, the licensee shall obtain carbon offsets to cover the excess in carbon emissions from the previous annual licensed period. The carbon offsets shall be purchased from one or more of the following recognized voluntary carbon registries:

- (1) American Carbon Registry;
- (2) Climate Action Reserve; or
- (3) Verified Carbon Standard.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26060, 26066 and 26201, Business and Professions Code.

§16306. Generator Requirements.

(a) For the purposes of this section, "generator" means a stationary or portable compression ignition engine as defined in title 17, California Code of Regulations, section

93115.4.

(b) Licensed cultivators using generators rated at fifty (50) horsepower and greater shall demonstrate compliance with the Airborne Toxic Control Measure for stationary or portable engines, as applicable, established in title 17, California Code of Regulations, sections 93115-93116.5. Compliance shall be demonstrated by providing a copy of one of the following to the Department upon request:

(1) For portable engines, a Portable Equipment Registration Certificate provided by the California Air Resources Board; or

(2) For portable or stationary engines, a Permit to Operate or other proof of engine registration, obtained from the Local Air District with jurisdiction over the licensed premises.

(c) Licensed cultivators using generators rated below fifty (50) horsepower shall comply with the following by 2023:

(1) Either subsection (1)(A) or (1)(B):

(A) Meet the “emergency” definition for portable engines in title 17, California Code of Regulations, section 93116.2(a)(12), or the “emergency use” definition for stationary engines in title 17, California Code of Regulations, section 93115.4(a)(30); or

(B) Operate eighty (80) hours or less in a calendar year; and

(2) Either subsection (2)(A) or (2)(B):

(A) Meet Tier 3 with Level 3 diesel particulate filter requirements in title 13, California Code of Regulations, sections 2700-2711; or

(B) Meet Tier 4 requirements, or current engine requirements if more stringent, in title 40, Code of Federal Regulations, chapter I, subchapter U, part 1039, subpart B, section 1039.101.

(d) All generators used by licensed cultivators shall be equipped with non-resettable hour-meters. If a generator does not come equipped with a non-resettable hour-meter, an after-market non-resettable hour-meter shall be installed.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26060, 26066 and 26201, Business and Professions Code.

§16307. Pesticide Use Requirements.

(a) Licensed cultivators shall comply with all applicable pesticide statutes and regulations enforced by the Department of Pesticide Regulation.

(b) For all pesticides that are exempt from registration requirements, licensed cultivators shall comply with all applicable pesticide statutes and regulations enforced by the Department of Pesticide Regulation and the following pesticide application and storage protocols:

(1) Comply with all pesticide label directions;

(2) Store chemicals in a secure building or shed to prevent access by wildlife;

- (3) Contain any chemical leaks and immediately clean up any spills;
- (4) Apply the minimum amount of product necessary to control the target pest;
- (5) Prevent offsite drift;
- (6) Do not apply pesticides when pollinators are present;
- (7) Do not allow drift to flowering plants attractive to pollinators;
- (8) Do not spray directly to surface water or allow pesticide product to drift to surface water. Spray only when wind is blowing away from surface water bodies;
- (9) Do not apply pesticides when they may reach surface water or groundwater; and
- (10) Only use properly labeled pesticides. If no label is available, consult the Department of Pesticide Regulation.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26060, 26066 and 26201, Business and Professions Code.

§16308. Canopy Requirements.

- (a) Licensed cultivators shall comply with the following requirements for canopy areas:
 - (1) Each canopy shall be marked with clearly identifiable physical boundaries around all areas that will contain mature plants. Physical boundaries include, but are not limited to, interior walls, shelves, greenhouse walls, hoop house walls, garden benches, hedgerows, fencing, garden beds, garden plots, or stakes delineating the perimeter.
 - (2) Each canopy shall be of sufficient size to contain the mature plants in their entirety at any point in time. No portion of the plant is permitted to hang over an established canopy boundary.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013 and 26060, Business and Professions Code.

§16309. Cultivation Plan Requirements.

- (a) Licensed cultivators shall establish and maintain a cultivation plan that includes all of the following:
 - (1) A premises diagram drafted in accordance with section 15006.
 - (2) A cannabis waste management plan developed in accordance with section 17223.
 - (3) A pest management plan developed in accordance with section 16310.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26051.5, and 26060, Business and Professions Code.

§16310. Pest Management Plan.

- (a) The licensed cultivator shall develop a pest management plan that includes:
 - (1) The product name and active ingredient(s) of all pesticides to be applied to cannabis;

and

(2) Any integrated pest management protocols, including chemical, biological, and cultural methods, that will be used to prevent and control pests on the cultivation site.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26051.5 and 26060, Business and Professions Code.

§16311. Supplemental Water Source Information.

The following information shall be provided for each water source identified by the applicant:

(a) Retail water supply sources:

(1) If the water source is a retail water supplier, as defined in section 13575 of the Water Code, such as a municipal provider, provide the following:

(A) Name of the retail water supplier; and

(B) A copy of the most recent water service bill.

(2) If the water source is a small retail water supplier, such as a delivery service, and is subject to section 26060.1(a)(1)(B) of the Business and Professions Code and the retail water supplier contract is for delivery or pickup of water from a surface water body or an underground stream flowing in a known and definite channel, provide all of the following:

(A) The name of the retail water supplier under the contract;

(B) The water source and geographic location coordinates, in either latitude and longitude or the California Coordinate System, of any point of diversion used by the retail water supplier to divert water delivered to the commercial cannabis business under the contract;

(C) The authorized place of use of any water right used by the retail water supplier to divert water delivered to the commercial cannabis business under the contract;

(D) The maximum amount of water delivered to the commercial cannabis business for cannabis cultivation in any year; and

(E) A copy of the most recent water service bill.

(3) If the water source is a small retail water supplier, such as a delivery service, and is subject to section 26060.1(a)(1)(B) of the Business and Professions Code and the retail water supplier contract is for delivery or pickup of water from a groundwater well, provide all of the following:

(A) The name of the retail water supplier under the contract;

(B) The geographic location coordinates for any groundwater well used to supply water delivered to the commercial cannabis business, in either latitude and longitude or the California Coordinate System;

(C) The maximum amount of water delivered to the commercial cannabis business for cannabis cultivation in any year;

(D) A copy of the well completion report filed with the Department of Water Resources pursuant to section 13751 of the Water Code for each percolating groundwater well used to divert water delivered to the commercial cannabis business. If no well completion report is available, the applicant shall provide evidence from the Department of Water Resources indicating that the Department of Water Resources does not have a record of the well completion report. When no well completion report is available, the State Water Resources Control Board may request additional information about the well; and

(E) A copy of the most recent water service bill.

(b) If the water source is a groundwater well, provide the following:

(1) The groundwater well's geographic location coordinates, in either latitude and longitude or the California Coordinate System; and

(2) A copy of the well completion report filed with the Department of Water Resources pursuant to section 13751 of the Water Code. If no well completion report is available, the applicant shall provide evidence from the Department of Water Resources indicating that the Department of Water Resources does not have a record of the well completion report. If no well completion report is available, the State Water Resources Control Board may request additional information about the well.

(c) If the water source is a rainwater catchment system, provide the following:

(1) The total square footage of the catchment footprint area(s);

(2) The total storage capacity, in gallons, of the catchment system(s); and

(3) A detailed description and photographs of the rainwater catchment system infrastructure, including the location, size, and type of all surface areas that collect rainwater. Examples of rainwater collection surface areas include a rooftop and greenhouse.

(d) If the water source is a diversion from a waterbody (such as a river, stream, creek, pond, lake, etc.), provide any applicable water right statement, application, permit, license, or small irrigation use registration identification number(s), and either:

(1) A copy of any applicable statement, registration certificate, permit, license, or proof of a pending application issued under part 2 (commencing with section 1200) of division 2 of the California Water Code as evidence of approval of a water diversion by the State Water Resources Control Board; or

(2) If the commercial cannabis business has claimed an exception from the requirement to file a statement of diversion and use pursuant to section 5101 of the Water Code, provide a copy of the documentation submitted to the State Water Resources Control Board before January 1, 2019, demonstrating that the diversion is subject to subdivision (a), (c), (d), or (e) of section 5101 of the Water Code.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013 and 26060.1, Business and Professions Code.

Article 3. Release of Information to Financial Institutions

§16410. Cultivation Licensee Authorization to Release Data to Financial Institutions.

(a) A cultivation licensee may authorize the Department to provide information to a financial institution for purposes of facilitating the provision of financial services. The authorization shall be made in writing, through a form prescribed by the Department, which shall include the following information:

- (1) The name of the licensed business for which the licensee is authorizing the release of information;
- (2) The business's license number(s);
- (3) The financial institution authorized to receive information;
- (4) The name, phone number, email address, and signature of the owner submitting the authorization;
- (5) The categories of information specified in subsection (b) that are authorized for release; and
- (6) An acknowledgement that the authorization to release information includes information that is otherwise protected from disclosure, that the licensee is waiving privilege and confidentiality, and that the scope of the release is strictly limited for the purposes of disclosure to the financial institution.

(b) After receipt of the authorization from a cultivation licensee, the Department shall release the following information, when requested by an authorized financial institution pursuant to section 16411 of this division:

- (1) The license application(s), including renewal applications, excluding information required to be kept confidential pursuant to Penal Code section 11105 and confidential personal information of individual owners of the licensed business;
- (2) Information captured in the track and trace system established pursuant to Business and Professions Code section 26067, including, but not limited to, aggregated sales or transfer information, as applicable;
- (3) Documents issued to the licensee pursuant to disciplinary or enforcement proceedings;

(c) A cultivation licensee may withdraw the authorization to provide information to a financial institution at any time. The withdrawal shall be made in writing, through a form prescribed by the Department, and shall include the following information:

- (1) The name of the licensed business for which the licensee is withdrawing the authorization of the release of information;
- (2) The business's license number(s);
- (3) The financial institution from which authorization to receive information is withdrawn;

(4) The name, phone number, email address, and signature of the owner submitting the withdrawal.

Authority: Section 26013, Business and Professions Code. Reference: Section 26260, Business and Professions Code.

§16411. Financial Institution Request for Cultivation Licensee Information.

A financial institution as defined in Business and Professions Code section 26260(c)(3) may request information related to a cultivation licensee for purposes of facilitating the provision of financial services for that licensee. The request shall be made in writing, through a form prescribed by the Department, which shall include the following information:

- (a) The name of the financial institution;
- (b) The name, phone number, email, and signature of the representative of the financial institution requesting information;
- (c) The business name and license number of the licensee for which the financial institution is requesting information;
- (d) The type of financial services for which the information is requested (including, but not limited to, establishment or maintenance of bank accounts, extending loans, and providing insurance) and whether the request is for consideration of a new service or maintenance of an existing service;
- (e) The specific information requested as described in section 16410(b) if authorized by the licensee; and
- (f) An acknowledgment that use of the information is limited to that which is necessary for the provision of financial services.

Authority: Section 26013, Business and Professions Code. Reference: Section 26260, Business and Professions Code.

Chapter 8. Manufacturers

Article 1. Manufacturing Licenses

§17006. Manufacturing License Types.

The following manufacturing license types are available from the Department:

- (a) "Type 7," for extractions using volatile solvents as defined by section 15000(xxx). A Type 7 licensee may also:
 - (1) Conduct extractions using nonvolatile solvents or mechanical methods on the licensed premises, provided that the extraction process is noted on the application and the relevant information pursuant to section 15011(b) is provided to the Department;
 - (2) Conduct infusion operations on the licensed premises, provided the infusion operations and product types are noted on the application and the relevant information

pursuant to section 15011(b) is provided to the Department;

(3) Conduct packaging and labeling of cannabis products on the licensed premises; and

(4) Register and operate the licensed premises as a shared-use facility in accordance with article 2 (commencing with section 17124) of chapter 8.

(b) “Type 6,” for extractions using mechanical methods or nonvolatile solvents as defined by section 15000(uu). A Type 6 licensee may also:

(1) Conduct infusion operations on the licensed premises, provided the infusion operations and product types are noted on the application and the relevant information pursuant to section 15011(b) is provided to the Department;

(2) Conduct packaging and labeling of cannabis products on the licensed premises; and

(3) Register and operate the licensed premises as a shared-use facility in accordance with article 2 (commencing with section 17124) of chapter 8.

(c) “Type N,” for manufacturers that produce cannabis products other than extracts or concentrates that are produced through extraction. A Type N licensee may also:

(1) Conduct packaging and labeling of cannabis products on the licensed premises; and

(2) Register and operate the licensed premises as a shared-use facility in accordance with article 2 (commencing with section 17124) of chapter 8.

(d) “Type P,” for manufacturers that only package or repackage cannabis products or label or relabel cannabis product containers or wrappers.

(e) “Type S,” for manufacturers that conduct commercial cannabis manufacturing activities in accordance with article 2 (commencing with section 17124) of chapter 8 at a registered shared-use facility.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26012, 26050 and 26130, Business and Professions Code.

§17009. Additional Activities.

In addition to the activities specified in section 17006, a licensed manufacturer may also roll and package pre-rolls and package dried cannabis flower.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26012 and 26130, Business and Professions Code.

§17117. License Constraints.

(a) A manufacturer licensee shall not manufacture, prepare, package or label any products other than cannabis products at the licensed premises.

(b) No licensee shall employ or retain an individual under 21 years of age.

(c) A manufacturer licensee shall only use cannabinoid concentrates and extracts that are manufactured or processed from cannabis obtained from a licensed cannabis cultivator.

(d) A manufacturer licensee shall not manufacture, prepare, package, or label cannabis products in a location that is operating as a retail food establishment or as a processed food registrant.

(e) A manufacturer licensee shall not manufacture, prepare, package, or label cannabis products in a location that is licensed by the Department of Alcoholic Beverage Control pursuant to division 9 (commencing with section 23000) of the Business and Professions Code.

Authority: Section 26013 and 26130, Business and Professions Code. Reference: Sections 26050 and 26140, Business and Professions Code.

§17123.1. Manufacturing Licensee Authorization to Release Data to Financial Institutions.

(a) A manufacturing licensee may authorize the Department to provide information to a financial institution for purposes of facilitating the provision of financial services. The authorization shall be made in writing, through a form prescribed by the Department, which shall include the following information:

- (1) The name of the licensed business for which the licensee is authorizing the release of information;
- (2) The business's license number(s);
- (3) The financial institution authorized to receive information;
- (4) The name, phone number, email address, and signature of the owner submitting the authorization;
- (5) The categories of information specified in subsection (b) that are authorized for release; and
- (6) An acknowledgement that the authorization to release information includes information that is otherwise protected from disclosure, and waiving privilege and confidentiality is strictly for purposes of disclosure to the financial institution.

(b) After receipt of the authorization from a manufacturing licensee, the Department shall release the following information, as designated by the licensee, when requested by an authorized financial institution pursuant to section 17123.2 of this division:

- (1) The license application(s), including renewal applications, excluding information required to be kept confidential pursuant to Penal Code section 11105 and confidential personal information of individual owners of the licensed business;
- (2) Information captured in the track and trace system established pursuant to Business and Professions Code section 26067, including, but not limited to, aggregated sales or transfer information, as applicable; and
- (3) Documents issued to the licensee pursuant to disciplinary or enforcement proceedings.

(c) A licensee may withdraw the authorization to provide information to a financial institution at any time. The withdrawal shall be made in writing, through a form prescribed by the Department, and shall include the following information:

- (1) The name of the licensed business for which the licensee is withdrawing the authorization of the release of information;
- (2) The business's license number(s);
- (3) The financial institution from which authorization to receive information is withdrawn; and
- (4) The name, phone number, email address, and signature of the owner submitting the withdrawal.

Authority: Section 26013, Business and Professions Code. Reference: Section 26260, Business and Professions Code.

§17123.2. Financial Institution Request for Manufacturing Licensee Information.

A financial institution as defined in Business and Professions Code section 26260(c)(3) may request information related to a manufacturing licensee for purposes of facilitating the provision of financial services for that licensee. The request shall be made in writing, through a form prescribed by the Department, which shall include the following information:

- (a) The name of the financial institution;
- (b) The name, phone number, email, and signature of the representative of the financial institution requesting information;
- (c) The business name and license number of the licensee for which the financial institution is requesting information;
- (d) The type of financial services for which the information is requested (including, but not limited to, establishment or maintenance of bank accounts, extending loans, and providing insurance) and whether the request is for consideration of a new service or maintenance of an existing service;
- (e) The specific information requested as described in section 17123.1(b) if authorized by the licensee; and
- (f) An acknowledgment that use of the information is limited to that which is necessary for the provision of financial services.

Authority: Section 26013, Business and Professions Code. Reference: Section 26260, Business and Professions Code.

Article 2. Shared-Use Facilities

§17124. Definitions.

For purposes of this article, the following definitions shall apply:

- (a) “Common-use area” means any area of the manufacturer’s registered shared-use facility, including equipment that is available for use by more than one licensed manufacturer, provided that the use of a common-use area is limited to one licensee at a time.
- (b) “Designated area” means the area of the manufacturer’s registered shared-use facility that is designated by the primary licensee for the sole and exclusive use of a Type S licensee, including storage of the Type S licensee’s cannabis, cannabis concentrates, and cannabis products.
- (c) “Primary licensee” means the Type 7, Type 6, or Type N licensee that has registered and been approved to operate its licensed premises as a shared-use facility.
- (d) “Shared-use facility” means a manufacturing premises operated by a Type 7, Type 6, or Type N licensee in which Type S licensees are authorized to conduct manufacturing operations.
- (e) “Use agreement” means a written agreement between a primary licensee and a Type S commercial cannabis business or licensee that specifies the designated area of the Type S licensee, the days and hours in which the Type S licensee is assigned to use the common-use area, any allocation of responsibility for compliance pursuant to section 17128, and an acknowledgement that the Type S licensee has sole and exclusive use of the common-use area during the Type S licensee’s assigned time period.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26001, 26050, 26051.5 and 26130, Business and Professions Code.

§17126. Registration to Operate a Shared-Use Facility.

- (a) No licensed manufacturer shall operate as a shared-use facility without prior approval by the Department.
- (b) To register as a shared-use facility, a Type 7, Type 6, or Type N licensee shall submit the following to the Department through the online licensing system:
 - (1) A copy of the license, permit, or other authorization issued by the local jurisdiction that enables the licensee to operate as a shared-use facility. The Department shall contact the applicable local jurisdiction to confirm the validity of the authorization upon receipt of the application for registration. If the local jurisdiction does not respond within 10 calendar days, the Department shall consider the authorization valid.
 - (2) A registration form prescribed by the Department, which includes the following information:
 - (A) The proposed occupancy schedule that specifies the days and hours the common-use area will be available for use by Type S licensees and when the common-use area will be used by the primary licensee. The occupancy schedule shall allow for

maintenance and sanitizing between uses by individual licensees.

(B) A diagram indicating:

(i) Each designated area for Type S licensee(s).

(ii) The common-use area, including identification of any shared equipment.

(c) The Department shall notify the Type 7, Type 6, or Type N licensee upon approval of the registration to operate as a shared-use facility. Notification shall be made through the online licensing system.

(d) At least one business day prior to a Type S licensee commencing manufacturing operations at a registered shared-use facility, the primary licensee shall provide written notification to the Department. The notification to the Department shall include the Type S licensee's business name, contact person, contact phone number, and license number. The primary licensee shall also provide an updated occupancy schedule that includes the Type S licensee and an updated diagram that specifies the Type S licensee's designated area. Notification shall be provided by email or through the online licensing system.

(e) A primary licensee that wishes to discontinue operation as a shared-use facility may cancel its registration by providing written notice to the Department and each Type S licensee authorized to use the shared-use facility at least 30 calendar days prior to the effective date of the cancellation.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26051.5, 26055 and 26130, Business and Professions Code.

§17127. Shared-Use Facility Conditions for Operation.

(a) A primary licensee shall operate the shared-use facility in accordance with the conditions of operation specified in this section.

(b) Each Type S licensee shall be assigned a "designated area" that, at minimum:

(1) Is for exclusive use by the Type S licensee; and

(2) Provides an area for storage that is secure, fixed in place, locked with a commercial-grade lock, and accessible only to the Type S licensee for storage of that Type S licensee's cannabis, cannabis concentrates, and cannabis products.

(c) Any part of the premises used for manufacturing activities that is a common-use area shall be occupied by only one licensee at a time by restricting the time period that each licensee may use the common-use area. During the assigned time period, one licensee shall have sole and exclusive occupancy of the common-use area.

(d) The use of the shared-use facility shall be restricted to the primary licensee and the Type S licensees authorized by the Department to use the shared-use facility.

(e) Any cannabis product or other materials remaining after a Type S licensee ceases operation and discontinues use of its designated area shall be considered cannabis waste and disposed of by the primary licensee consistent with the requirements of the

Act and this division.

(f) The shared-use facility shall meet all applicable requirements of the Act and this division.

(g) The occupancy schedule shall be prominently posted near the entrance to the shared-use facility.

(h) The primary licensee may conduct manufacturing activities as permitted under its Type 7, Type 6, or Type N license and may use the common-use area during its scheduled time period.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26130, Business and Professions Code.

§17128. Shared-Use Facility Compliance Requirements.

(a) As part of the use agreement, the primary licensee and the Type S licensee(s) may allocate responsibility for providing and maintaining commonly used equipment and services, including, but not limited to, security systems, fire monitoring and protection services, and waste disposal services. However, the Department may take enforcement action against either the primary licensee or Type S licensee(s) regardless of the allocation of responsibility in the use agreement.

(b) A primary licensee or a Type S licensee is liable for any violation found at the shared-use facility during that licensee's scheduled occupancy or within that licensee's designated area. However, a violation of any provision of the Act or this division may be deemed a violation for which each Type S licensee and the primary licensee are responsible. In the event of a recall or embargo of a cannabis product produced at a shared-use facility, the Department, in its sole discretion, may include any or all cannabis products produced at the shared-use facility.

(c) The occupancy schedule and designated area for a Type S licensee shall not be altered without prior notification to the Department. Prior to making any changes to the occupancy schedule or the designated area, written notification that includes the intended changes shall be submitted by email or through the Department's online licensing system.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5, 26055 and 26130, Business and Professions Code.

Article 3. Solvent Use and Safety

§17202.1. General Requirements for Extraction and Post-Extraction Processing.

(a) A licensed manufacturer that uses a volatile solvent, a flammable liquid, or a solvent that creates an asphyxiant gas shall ensure that the solvent is used in accordance with the requirements of:

(1) Chapter 39 of the California Fire Code;

(2) Title 8, California Code of Regulations, sections 5416-5420, which includes ensuring

adequate ventilation and controlling sources of ignition;

(3) All Division of Occupational Safety and Health (Cal/OSHA) regulations related to the processing, handling, and storage of the applicable solvent; and

(4) All fire, safety, and building code requirements related to the processing, handling, and storage of the applicable solvent or gas.

(b) No volatile solvent extraction or post-extraction processing operations or other closed-loop system operations shall occur in an area zoned as residential.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5, 26105 and 26130, Business and Professions Code.

§17203. Permissible Extractions.

(a) Except as provided in subsection (b), cannabis extraction shall only be conducted using the following methods:

(1) Mechanical extraction;

(2) Chemical extraction using a nonvolatile solvent, as defined in section 15000(uu).

(3) Chemical extraction using CO₂ gas in a professional closed-loop extraction system.

(4) Chemical extraction using a volatile solvent, as defined in section 15000(xxx), in a professional closed-loop extraction system; or

(5) Any other method authorized by the Department pursuant to subsection (b).

(b) To request authorization from the Department to conduct cannabis extraction using a method other than those specified in subsections (a)(1) through (4), the applicant or licensee shall submit a detailed description of the extraction method, including any documentation that validates the method and any safety procedures to be utilized to mitigate any risk to public or worker health and safety.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26130, Business and Professions Code.

§17204. Solvent Requirements.

(a) Any solvents used for extraction or post-extraction processing shall meet the following minimum purity requirements:

(1) Hydrocarbon-based solvents shall be at least 99 percent purity.

(2) Nonhydrocarbon-based solvents shall be food-grade.

(3) CO₂ gas used for extraction shall be food-grade.

(4) Ethanol shall be food-grade in accordance with 21 CFR, part 184, subpart B, section 184.1293. Ethanol that meets the requirements of food-grade may be combined with another food-grade solvent or a hydrocarbon that meets the requirements of subsection (a)(1) of this section, provided that the use of the solvent mixture is pre-approved by the Department.

(5) Water and ice shall be potable.

(6) Dry ice shall be food-grade.

(b) The licensed manufacturer shall maintain copies of the safety data sheets for any chemical solvents used and make these records readily available to employees and to the Department upon request.

(c) The licensed manufacturer shall maintain documentation evidencing the purity of any chemical solvents used and make these records readily available to employees and to the Department upon request.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5, 26105 and 26130, Business and Professions Code.

§17205. Additional Requirements for Ethanol Operations.

A licensed manufacturer that uses ethanol in manufacturing operations for extractions or post-extraction processing shall receive approval for the facility and equipment from the local fire code official prior to commencing operations, if required by local ordinance.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26130, Business and Professions Code.

§17206. Closed-Loop Extraction System Requirements.

(a) Chemical extractions using CO₂; a volatile solvent; or chlorofluorocarbon, hydrocarbon, or other fluorinated gas shall be conducted in a professional closed-loop extraction system designed to recover the solvents. The system shall be commercially manufactured and bear a permanently affixed and visible serial number. The system shall be certified after installation by a California-licensed engineer as commercially manufactured, safe for use with the intended solvent, and built to codes of recognized and generally accepted good engineering practices, such as:

(1) The American Society of Mechanical Engineers (ASME);

(2) American National Standards Institute (ANSI);

(3) Underwriters Laboratories (UL); or

(4) The American Society for Testing and Materials (ASTM).

(b) The licensed manufacturer shall establish and implement procedures to ensure that the closed-loop extraction system is maintained in accordance with the equipment manufacturer specifications. The licensee shall maintain logs documenting the date(s) of maintenance; description of the maintenance done, including any machine parts that were replaced; and the initials of the employee conducting the maintenance.

(c) The certification document required pursuant to subsection (a) shall contain the signature and stamp of a California-licensed professional engineer and the serial number of the extraction unit being certified.

(d) The licensed manufacturer shall establish and implement procedures to ensure

routine verification that the system is operating in accordance with equipment manufacturer specifications and continues to comply with fire, safety, and building code requirements. The licensed manufacturer shall conduct any verification recommended by the equipment manufacturer. The licensed manufacturer shall maintain logs documenting the date(s) of verification, description of the verification method, and the initials of the employee conducting the verification.

(e) A licensed manufacturer shall establish and implement standard operating procedures, good manufacturing practices, and a training plan prior to using the closed-loop system. Any personnel using solvents or gases in a closed-loop system shall have direct access to applicable safety data sheets. Personnel shall be trained on how to use the system and handle and store solvents and gases safely prior to operating the system. The training shall be documented in accordance with section 17211.1.

(f) Professional closed-loop systems, other equipment used, the extraction operation, and facilities shall be approved for use by the local fire code official prior to commencing operation of the closed-loop system, if required by local ordinance.

(g) The facility shall have a gas detection system that meets the requirements of title 24, California Code of Regulations, sections 3905.1-3905.2.

(h) All procedures and logs described in this section shall be in writing and made available to the Department upon request.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5, 26105 and 26130, Business and Professions Code.

Article 4. Good Manufacturing Practices

§17207. Manufacturing Practices Definitions.

In addition to the definitions in section 26001 of the Act and section 15000 of this division, the following definitions shall govern the construction of this article:

(a) “Allergen cross-contact” means the unintentional incorporation of a food allergen into a cannabis product.

(b) “Component” means any substance or item intended for use in the manufacture of a cannabis product, including those substances or items that are not intended to appear in the finished cannabis product. “Component” includes cannabis, cannabis products used as ingredients, raw materials, other ingredients, and processing aids.

(c) “Contact surface” means any surface that contacts cannabis products and cannabis product components and those surfaces from which drainage, or other transfer, onto the cannabis product or cannabis product components, occurs during the normal course of operations. Examples of contact surfaces include containers, utensils, tables, and equipment.

(d) “Easily cleanable” means a characteristic of a surface that allows effective removal of soil, food residue, or other organic or inorganic materials by normal cleaning methods.

(e) “Environmental pathogen” means a pathogen capable of surviving and persisting within the manufacturing environment such that cannabis products may be contaminated and may result in illness if consumed or used without treatment to significantly minimize the environmental pathogen. Examples of environmental pathogens include *Listeria monocytogenes* and *Salmonella spp.* but do not include the spores of pathogenic spore-forming bacteria.

(f) “Hazard” means any biological, chemical, radiological, or physical agent that has the potential to cause illness or injury.

(g) “Holding” means storage of cannabis or cannabis products and includes activities performed incidental to storage of a cannabis product and activities performed as a practical necessity for the distribution of that cannabis product.

(h) “Microorganisms” means yeasts, molds, bacteria, viruses, protozoa, and microscopic parasites and includes species that are pathogens. The term “undesirable microorganisms” includes those microorganisms that are pathogens, that subject a cannabis product to decomposition, that indicate that a cannabis product is contaminated with filth, or that otherwise may cause a cannabis product to be adulterated.

(i) “Monitor” means to conduct a planned sequence of observations or measurements to assess whether preventive measures are operating as intended.

(j) “Pathogen” means a microorganism that can cause illness or injury.

(k) “Potable” means water that meets the requirements of Health and Safety Code section 113869.

(l) “Preventive measures” means those risk-based, reasonably appropriate procedures, practices, and processes that a person knowledgeable about the safe manufacturing, processing, packing, or holding of food would employ to significantly minimize or prevent the hazards identified pursuant to a product quality plan as specified in section 17214.

(m) “Processing aid” means any substance that is added to a cannabis product during manufacture but is removed in some manner from the cannabis product before it is packaged in its finished form. This includes substances that are converted into constituents normally present in the product, and do not significantly increase the amount of the constituent naturally found in the product. This also includes substances that are added to a product for their technical or functional effect in the processing but are present in the finished product at insignificant levels and do not have any technical or functional effect in that product.

(n) “Qualified individual” means a person who has the education, training, or experience (or a combination thereof) necessary to manufacture quality cannabis products as appropriate to the individual's assigned duties. A qualified individual may be, but is not required to be, an employee of the licensed manufacturer.

(o) “Quality control” means a planned and systematic operation or procedure for ensuring the quality of a cannabis product.

(p) “Quality control operation” means a planned and systematic procedure for taking all actions necessary to prevent cannabis product(s) from being adulterated or misbranded.

(q) “Quality control personnel” means any person, persons, or group designated by the licensed manufacturer to be responsible for quality control operations.

(r) “Raw material” means any unprocessed material in its raw or natural state that is intended to become part of the components of a cannabis product.

(s) “Sanitize” means to treat cleaned surfaces by a process that is effective in destroying vegetative cells of pathogens and substantially reducing numbers of other undesirable microorganisms, but without adversely affecting the product or its safety for the consumer.

(t) “Smooth” means any of the following:

(1) A contact surface that is free of pits, pinholes, cracks, crevices, inclusions, rough edges, and other surface imperfections detectable by visual or tactile inspection.

(2) A floor, wall, or ceiling having an even or level surface with no roughness or projections that render it difficult to clean.

(u) “Utensil” means an implement, tool, or container used in the storage, preparation, manufacture, or processing of cannabis and cannabis products. In addition to kitchenware, examples of utensils include, but are not limited to, gloves, screens, sieves, implements to create pre-rolls, buckets, and scissors.

(v) “Validate” means obtaining and evaluating scientific and technical evidence that a control measure, combination of control measures, or set of quality control procedures, when properly implemented, is capable of ensuring the quality of a cannabis product or effectively controlling an identified hazard.

(w) “Verification” means the application of methods, procedures, tests, or other evaluations, in addition to monitoring, to determine whether a control measure or combination of control measures is or has been operating as intended and to establish the validity of the quality control procedures.

(x) “Yield” means the quantity of a particular cannabis product expected to be produced at a given step of manufacture or packaging, as identified in the master manufacturing protocol. The expected yield is based upon the quantity of components or packaging to be used, in the absence of any loss or error in actual production. “Actual yield” means the quantity of a particular cannabis product that is actually produced at a given step of manufacture or packaging that is recorded in the batch production record.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26001 and 26130, Business and Professions Code.

§17208. Quality Control Program.

(a) A licensed manufacturer shall establish and implement a quality control program to ensure that cannabis products are not adulterated or misbranded. The quality control program shall describe how the licensee will comply with the following:

(1) Grounds, building, and manufacturing premises standards, as specified in section 17209;

- (2) Equipment and utensil requirements, as specified in section 17210;
 - (3) Personnel procedures, as specified in section 17211;
 - (4) Cannabis product component procedures, as specified in section 17212; and
 - (5) Manufacturing processes and procedures, as specified in section 17213.
- (b) The quality control program shall be under the supervision of one or more qualified individuals assigned responsibility for this function.
- (c) For purposes of this article, for those requirements that are contained in the Health and Safety Code, use of the term “food” shall include cannabis, cannabis products, components, and contact surfaces.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26131, Business and Professions Code.

§17209. Grounds, Building, and Manufacturing Premises.

(a) Exterior facility and grounds. A licensed manufacturer shall ensure the facility exterior and grounds under the licensed manufacturer’s control meet the following minimum standards:

- (1) Grounds shall be equipped with draining areas in order to prevent pooled or standing water;
- (2) Weeds, grass, and vegetation shall be cut within the immediate vicinity of the cannabis manufacturing premises, litter and waste shall be removed, and equipment shall be stored in order to minimize the potential for the grounds to constitute an attractant, breeding place, or harborage for pests;
- (3) Roads, yards, and parking lots shall be maintained so that these areas do not constitute a source of contamination in areas where cannabis products are handled or transported;
- (4) Openings into the building (such as windows, exhaust fans, ventilation ducts, or plumbing vent pipes) shall be screened, sealed, or otherwise protected to minimize potential for pests to enter the building;
- (5) Waste treatment and disposal systems shall be provided and maintained so as to prevent contamination in areas where cannabis products may be exposed to such a system’s waste or waste by-products.
- (6) A licensed manufacturer shall implement precautions within the premises, such as inspection or extermination, if the premises is bordered by grounds outside the licensed manufacturer’s control that are not maintained in the manner described in subsections (1) through (5), in order to eliminate any pests, dirt, and filth that pose a source of cannabis product contamination. Any use of insecticide, rodenticide, or other pesticide within the premises shall meet the requirements of Health and Safety Code section 114254.

(b) Interior facility. A licensed manufacturer shall ensure construction, design, and maintenance of the interior of the manufacturing premises as follows:

(1) Walls, ceilings, and floors. Walls, ceilings, and floors shall be constructed of material that is smooth, nonporous, easily cleanable, corrosion-resistant, and suitable to the activity that will be conducted. Fixtures, ducts, and pipes shall not pose a source of drip or condensate that may contaminate cannabis, cannabis products, components, contact surfaces, or packaging material.

(2) Lighting. Interior facility lighting shall meet the requirements of the Health and Safety Code section 114252, subdivisions (a)(1) and (3), (b)(3) and (4), and (c). Interior facility lighting shall also meet the requirements for shatter-resistant lighting in Health and Safety Code section 114252.1. The requirements of Health and Safety Code section 114252.1(a), shall also apply to all areas where glass breakage may result in the contamination of exposed cannabis, cannabis products, components, contact surfaces, or packaging material.

(3) Plumbing system and fixtures.

(A) Water supply. Running water shall be supplied as required by Health and Safety Code section 114192 in all areas where required for the manufacturing of cannabis products; in all areas used for the cleaning of equipment, utensils, and packaging materials; and for employee sanitary facilities. Water that contacts cannabis, cannabis products, components, contact surfaces, or packaging materials shall be potable.

(B) Plumbing. Plumbing systems shall meet the requirements of Health and Safety Code section 114190.

(C) Sewage disposal. The sewage system shall be maintained and kept in good repair so that it does not pose a potential source of contamination of cannabis, cannabis products, components, contact surfaces, or packaging materials.

(D) Toilet facilities. A licensed manufacturer shall provide employees with access to toilet facilities that meet the requirements of Health and Safety Code section 114250. Toilet facilities shall be kept clean and shall not pose a potential source of contamination of cannabis, components, cannabis products, contact surfaces, or packaging materials.

(E) Hand-washing facilities. A licensed manufacturer shall provide hand-washing facilities that meet the requirements of Health and Safety Code sections 113953(a)-(d) and 113953.2.

(F) Waste disposal. A licensed manufacturer shall provide for waste disposal in accordance with Health and Safety Code sections 114244(a) and (c) and 114245.1. Cannabis waste shall be disposed of in accordance with section 17223.

(4) Ventilation. Ventilation systems shall meet the requirements of Health and Safety Code sections 114149 and 114149.3.

(5) Cleaning and maintenance. The premises, including any fixtures, and other physical facilities therein, shall be maintained in a clean and sanitary condition and kept in good repair so as to prevent cannabis products from becoming adulterated, and shall meet the requirements of Health and Safety Code section 114257.1.

(A) The premises shall have a janitorial facility that meets the requirements of Health and Safety Code section 114279(a).

(B) Cleaning equipment and supplies shall be stored in a manner that meets the requirements of Health and Safety Code section 114281.

(C) Poisonous or toxic materials such as cleaning compounds, sanitizing agents, and pesticide chemicals that are necessary for premises and equipment maintenance and operation shall be handled and stored in a manner that meets the requirements of Health and Safety Code sections 114254.1, 114254.2 and 114254.3.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26131, Business and Professions Code.

§17210. Equipment and Utensils.

(a) Design and construction. Equipment and utensils shall meet the requirements of Health and Safety Code sections 114130.1, 114130.2, 114130.3, and 114130.4 and shall be used in accordance with their operating instructions to avoid the adulteration of cannabis products with lubricants, fuel, metal fragments, contaminated water, or any other contaminants.

(b) Installation. Equipment shall be installed so as to allow cleaning and maintenance of the equipment and of adjacent spaces. Equipment that is not easily moveable shall meet the requirements of Health and Safety Code section 114169.

(c) Cleaning, sanitizing, and maintenance. Equipment and utensils shall be maintained in a clean and sanitary condition and kept in good repair. The quality control program for cleaning, sanitizing, and maintenance of equipment and utensils shall include the following elements, at minimum:

- (1) A detailed, written procedure for cleaning, sanitizing, and maintaining (including calibrating) equipment and utensils;
- (2) A schedule for cleaning, sanitizing, and maintaining equipment and utensils;
- (3) A log for documentation of the date and time of maintenance, cleaning, and sanitizing of equipment and utensils; and
- (4) A procedure for storing cleaned and sanitized equipment and utensils in a manner to protect the equipment and utensils from contamination.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26131, Business and Professions Code.

§17211. Manufacturing Personnel.

(a) Licensed manufacturers shall establish and implement procedures for personnel that include, at minimum:

(1) Disease control. Any individual who by medical examination or supervisory observation is shown to have, or appears to have, an illness specified in Health and Safety Code section 113949.2(a) or an open lesion (e.g., boil, sore, cut, rash, or infected wound), unless covered in accordance with the requirements of Health and Safety Code section 113949.2(b), shall be excluded from any manufacturing operations until their

health condition is corrected. Personnel shall be instructed to report such health conditions to their supervisors.

(2) Cleanliness. All individuals working in direct contact with cannabis, cannabis products, components, contact surfaces, and packaging materials shall maintain personal cleanliness in order to protect against allergen cross-contact and contamination of cannabis products while on duty. The methods for maintaining personal cleanliness include:

(A) Wearing clean outer clothing to protect against allergen cross-contact and contamination of cannabis, cannabis products, components, contact surfaces, and packaging materials;

(B) Washing hands thoroughly in a hand-washing facility that meets the requirements of section 17209 before starting work, after each absence from a work station, at any time specified in Health and Safety Code section 113953.3, and at any time when the hands may have become soiled or contaminated;

(C) Removing all unsecured jewelry and other objects that might fall into cannabis, cannabis products, components, equipment, or containers. Hand jewelry that cannot be sanitized shall be removed during periods in which cannabis products are manipulated by hand. If such hand jewelry cannot be removed, it shall be covered by material that can be maintained in an intact, clean, and sanitary condition and that effectively protects against contamination by these objects of cannabis, cannabis products, components, contact surfaces, and packaging materials;

(D) Maintaining gloves used in cannabis product handling in an intact, clean, and sanitary condition;

(E) Wearing hair nets, caps, beard covers, or other hair restraints that are designed and worn to prevent hair contact with cannabis, cannabis products, components, contact surfaces, and packaging materials;

(F) Storing clothing and personal belongings in areas separate from those where cannabis products are exposed or where equipment or utensils are washed; and

(G) Confining the following activities to areas separate from those where cannabis products may be exposed or where equipment or utensils are washed: eating food, chewing gum, drinking beverages, and using tobacco.

(3) Nothing in this section prohibits a licensed manufacturer from establishing additional precautions to protect against allergen cross-contact and contamination of cannabis, cannabis products, components, contact surfaces, and packaging materials by microorganisms or foreign substances (e.g., perspiration, hair, cosmetics, tobacco, chemicals, and medicines applied to the skin).

(4) The procedures for manufacturing personnel shall be in writing and made available to the Department upon request.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26131, Business and Professions Code.

§17211.1. Training Program.

(a) A manufacturing licensee shall establish and implement a training program to ensure that all personnel present at the premises are provided information and training that, at minimum, covers the following topics:

(1) Within 30 days of the start of employment:

(A) Health and safety hazards;

(B) Hazards presented by all solvents or chemicals used at the licensed premises as described in the safety data sheet for each solvent or chemical;

(C) Emergency response procedures;

(D) Security procedures;

(E) Record keeping requirements; and

(F) Training requirements.

(2) Prior to independently engaging in any cannabis manufacturing process:

(A) An overview of the cannabis manufacturing process and standard operating procedure(s);

(B) Quality control procedures;

(C) Product quality plans developed in accordance with section 17214;

(D) Proper and safe usage of equipment or machinery;

(E) Safe work practices applicable to an employee's job tasks, including appropriate use of any necessary safety or sanitary equipment;

(F) Cleaning and maintenance requirements;

(G) Emergency operations, including shutdown; and

(H) Any additional information reasonably related to an employee's job duties.

(3) Additionally, a manufacturing licensee that produces edible cannabis products shall ensure that all personnel who prepare, handle, or package edible products successfully complete a California food handler certificate course from an entity accredited by the American National Standards Institute (ANSI) within 90 days of commencing employment at the premises and again every three years during employment. A manufacturing licensee shall obtain documentation evidencing the fulfillment of this requirement;

(b) A manufacturing licensee shall ensure that all personnel receive annual refresher training to cover, at minimum, the topics listed in subsection (a). This annual refresher training must be completed within 12 months of the previous training completion date.

(c) A manufacturing licensee shall maintain a record of training containing, at minimum:

(1) A list of all personnel at the premises including, at minimum, name and job duties of each individual;

(2) Documentation of training topics and dates of training completion, including refresher training, for all personnel;

- (3) The signatures of each individual and the licensee verifying receipt and understanding of each training or refresher training completed by the individual; and
- (4) Any official documentation attesting to the successful completion of required training by personnel.

(d) A manufacturing licensee may assign responsibility for the training of individual personnel to supervisory personnel. Assigned supervisory personnel must have the education, training, or experience (or a combination thereof) necessary to ensure the production of quality cannabis products by all personnel. The assigned training personnel shall sign and date a document on an annual basis attesting that they received and understands all information that will be provided to personnel in the training program. This documentation shall be maintained as part of the record requirements in subsection (c).

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5, 26130 and 26160, Business and Professions Code.

§17212. Cannabis Product Components.

(a) In order to prevent adulteration of cannabis products, licensed manufacturers shall establish and implement written policies and procedures to ensure and maintain the quality of product components.

(b) Components are subject to the following minimum requirements:

(1) Components that are food must be obtained from a source that complies with federal and state food laws.

(2) Raw materials and other components shall be inspected upon intake to ensure that they are clean and suitable for manufacturing into cannabis products, and shall be stored under conditions that protect against allergen cross-contact and contamination and minimize deterioration.

(3) Raw materials shall be washed or cleaned as necessary to remove soil and other visible contaminants. Water used for washing, rinsing, or conveying cannabis product ingredients shall be potable.

(4) Raw materials and other components shall not contain levels of microorganisms that render the cannabis product injurious to human health, or shall be pasteurized or otherwise treated during manufacturing so that they no longer contain levels of microorganisms that would cause the cannabis product to be adulterated.

(5) Raw materials and other components susceptible to contamination with aflatoxin or other natural toxins, pests, or extraneous material shall not exceed generally acceptable limits set by the U.S. Food and Drug Administration in the *Defect Levels Handbook* (Rev. February 2005), which is hereby incorporated by reference, before these raw materials or other ingredients are incorporated into cannabis products.

(6) Raw materials and other components shall be held in containers designed and constructed to protect against allergen cross-contact or contamination, and shall be held

at a temperature and relative humidity and in a manner that prevents the cannabis products from becoming adulterated.

(7) Frozen raw materials and other components shall be kept frozen. If thawing is required prior to use, it shall be done in a manner that prevents the raw materials and other ingredients from becoming adulterated.

(8) Raw materials and other components that are food allergens shall be identified and held in a manner that prevents cross-contact with other raw materials or ingredients.

(c) Holding and storage of raw materials and other components shall meet the requirements of Health and Safety Code sections 114047(a) and (b), 114049, and 114051.

(d) The policies and procedures for components shall be in writing and made available to the Department upon request.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26131, Business and Professions Code.

§17213. Manufacturing Processes and Procedures.

(a) A licensed manufacturer shall implement and maintain the following manufacturing processes and procedures that ensure cannabis product quality:

(1) A product quality plan, as described in section 17214;

(2) Master manufacturing protocols, as described in section 17215, for each unique formulation of cannabis product manufactured to ensure only intended components are included and that the cannabis product is packaged and labeled in accordance with product specifications and this division; and

(3) Batch production records, as described in section 17216, to document the production process and, if needed, to verify that the established processes and procedures, including the preventive measures and master manufacturing protocol, were implemented correctly.

(b) All manufacturing records, processes, and procedures shall be in writing and are subject to inspection by the Department, its inspectors and agents.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26131, Business and Professions Code.

§17214. Product Quality Plan.

(a) A licensed manufacturer shall establish and implement a written product quality plan for each type of product manufactured at the premises. The product quality plan shall address the hazards associated with the premises or the manufacturing process that, if not properly mitigated, may cause the product to be adulterated or misbranded, or may cause the product to fail laboratory testing or quality assurance review.

(b) To create the product quality plan, the licensed manufacturer shall conduct a comprehensive assessment of the overall manufacturing process, as follows:

- (1) Identify each step from component intake through transfer of product from the premises;
- (2) Evaluate the potential risks associated with each step;
- (3) Identify the preventive measures that shall be taken to mitigate the potential risks identified;
- (4) Identify the methods to evaluate and monitor the effectiveness of the preventive measures; and
- (5) Identify any action to take if a preventive measure was unsuccessful.

(c) The licensed manufacturer shall evaluate the following potential risks to cannabis product quality that could be introduced during manufacturing operations:

- (1) Biological hazards, including microbiological hazards;
- (2) Chemical hazards, including radiological hazards, pesticide contamination, solvent or other residue, natural toxins, decomposition, or allergens;
- (3) Physical hazards, such as stone, glass, metal fragments, hair, or insects; and
- (4) Process failures that may lead to product contamination, allergen cross-contact, packaging errors, labeling errors, or other errors affecting cannabis product quality.

(d) The licensed manufacturer shall identify and implement the preventive measure(s) necessary to mitigate each potential risk identified pursuant to subsection (c). Examples of preventive measures include, but are not limited to:

- (1) Cleaning and sanitizing of equipment and utensils to mitigate against risk of microbiological hazards;
- (2) Conducting in-house testing of raw cannabis to mitigate against the risk of pesticide contamination;
- (3) Establishing an allergen control program to ensure that allergen cross-contact does not occur between product types; and
- (4) Implementing procedures to ensure homogeneity of cannabinoids into a cannabis product to mitigate against the risk of a non-homogeneous product.

(e) The licensed manufacturer shall identify and implement methods to evaluate and monitor the effectiveness of the preventive measures in mitigating the potential risks identified in subsection (c). Methods for evaluation and monitoring of preventive measures include, but are not limited to, the following:

- (1) Review of test results conducted to determine contamination such as pesticide residue;
- (2) Maintaining and reviewing cleaning, sanitizing, or maintenance logs to verify such actions have been taken;

- (3) Conducting environmental testing to determine if equipment or utensils are contaminated with pathogens; and
- (4) Monitoring the temperature of raw materials that need to be held below 41 degrees Fahrenheit to prevent microbial contamination.
- (f) The licensed manufacturer shall identify actions to be taken if the evaluation and monitoring of the preventive measure indicates that a risk was not properly mitigated. The corrective action shall be specific to the type of product under evaluation and the specific risk to be mitigated. Examples of corrective actions include, but are not limited to:
- (1) Destruction of product components or finished manufactured cannabis product;
 - (2) Further manufacturing of cannabis extract to remove impurities; and
 - (3) Reworking the unfinished product to further homogenize the cannabinoids.
- (g) The licensed manufacturer shall maintain the product quality plans and documentation of preventive measures, monitoring results, and corrective actions and make the records available to the Department upon the Department's request, including during the Department's onsite inspection of the premises. Nothing in this chapter requires the disclosure of product quality plans other than to the Department and its inspectors and agents. The licensee may consider the product quality plan subject to trade secret protection.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26131, Business and Professions Code.

§17215. Master Manufacturing Protocol.

- (a) A licensed manufacturer shall establish and follow a written master manufacturing protocol for each unique formulation of cannabis product manufactured, and for each batch size, in order to mitigate the potential for adulteration through incorporation of incorrect amounts of cannabinoids, unintended ingredients, or hazards identified in the product quality plan; the potential for misbranding through incorporation of ingredients not identified on the label or mislabeling of the product; and to ensure uniformity in finished batches and across all batches produced.
- (b) The master manufacturing protocol shall include:
- (1) The name and intended cannabinoid concentration(s) of the cannabis product to be manufactured;
 - (2) A complete list of components to be used;
 - (3) The weight or measure of each component to be used. The master manufacturing protocol for any given product may include the ability to adjust the weight or measure of cannabinoid-containing ingredients in order to account for the variability of cannabinoid content in harvest batches;
 - (4) The identity and weight or measure of each ingredient that will be declared on the ingredients list of the cannabis product;

- (5) The expected yield of the finished manufactured cannabis product, based upon the quantity of components or packaging to be used in the absence of any loss or error in actual production, and the maximum and minimum percentages of expected yield beyond which a deviation investigation of a batch will be necessary, material review will be conducted, and a decision on the disposition of the product will be made;
 - (6) A description of packaging and a representative label, or a cross-reference to the physical location of the actual or representative label;
 - (7) The expected number of packages and labels to be used, if the cannabis product will leave the manufacturing premises in final form;
 - (8) Written instructions for each point, step, or stage in the manufacturing process; and
 - (9) Written instructions for any action to mitigate risk(s) identified in the product quality plan.
- (c) Master manufacturing protocols shall be in writing and made available to the Department upon request.
- (d) Nothing in this chapter requires disclosure of the master manufacturing protocol to any person other than the individuals conducting activities that utilize the protocol or to the Department and its inspectors and agents. The licensee may consider the master manufacturing protocol subject to trade secret protection.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26131, Business and Professions Code.

§17216. Batch Production Record.

- (a) A licensed manufacturer shall prepare a written batch production record every time a batch of a cannabis product is manufactured or a batch of cannabis or cannabis product is remediated. The batch production record shall accurately follow the appropriate master manufacturing protocol, and each step of the protocol shall be performed in the production of the batch.
- (b) The batch production record shall document complete information relating to the production and control of each batch, including all of the following details:
- (1) The UID and the batch or lot number of the finished batch of cannabis product and the UIDs of all cannabis or cannabis products used in the batch;
 - (2) The specific equipment and processing lines used in producing or remediating the batch;
 - (3) The identity and weight or measure of each component used;
 - (4) A statement of the actual yield and the percentage difference from expected yield at appropriate phases of manufacturing as identified in the master manufacturing protocol;
 - (5) The actual results obtained during any monitoring operation, if the product quality plan identifies any monitoring needed to ensure product safety;

- (6) Documentation, at the time of performance, of the manufacture of the batch, including:
- (A) The date on which each step of the master manufacturing protocol was performed; and
 - (B) The initials of the person(s) performing each step;
- (7) An actual or representative label or other identification of the label to be used for the cannabis product;
- (8) The actual quantity of the packaging and labels used, and the difference from the expected number to be used, if the cannabis product will leave the manufacturing premises as a final form cannabis good;
- (9) Documentation, at the time of performance, that quality control personnel:
- (A) Reviewed the batch production record;
 - (B) Reviewed all required monitoring operation(s);
 - (C) Reviewed the results of all tests and examinations, including tests and examinations conducted on components, finished batches of cannabis product, and packaged and labeled cannabis products; and
 - (D) Either approved and released, or rejected, the finished cannabis product, including any remediated, repackaged or relabeled cannabis product;
- (10) Documentation, at the time of performance, of any investigation identified in the product quality plan or master manufacturing protocol, including investigations into deviations from the expected yield or package and label count.
- (c) The batch production record shall:
- (1) Contain the actual values and observations obtained during monitoring and, as appropriate, during verification activities;
 - (2) Be accurate, indelible, and legible;
 - (3) Be created concurrently with performance of the activity documented;
 - (4) Be as detailed as necessary to provide a history of work performed; and
 - (5) Include the following information:
 - (A) The license number or premises address of the facility at which the manufacturing occurred;
 - (B) The date each step was performed;
 - (C) The signature or initials of the person performing the activity; and
 - (D) The identity of the product, the UID, and the batch or lot number.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26131, Business and Professions Code.

§17217. Standard Operating Procedures.

(a) A licensed manufacturer shall establish and maintain written standard operating procedures that are easily accessible to onsite personnel. The standard operating procedures shall, at minimum, include the following:

(1) Policies or procedures developed in accordance with the security plan required by section 15042.1;

(2) Emergency response procedures, including safety data sheets for any chemicals onsite;

(3) Policies and procedures developed in accordance with section 17206;

(4) Policies and procedures developed in accordance with this article;

(5) Procedures for complying with the track and trace requirements established in article 6 of chapter 1; and

(6) Cannabis waste management procedures in compliance with section 17223.

(b) Procedures shall be written in English but may be made available in other languages, as necessary for the licensee's personnel.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5, 26130 and 26160, Business and Professions Code.

§17218. Inventory Control – Cannabis and Cannabis Products.

(a) A licensed manufacturer shall establish and implement a written inventory control plan capable of tracking the location and disposition of all cannabis and cannabis products at the licensed premises.

(b) A licensed manufacturer shall reconcile the on-hand inventory of cannabis and cannabis products at the licensed premises with the records in the track and trace system at least once every thirty (30) calendar days.

(c) If a licensed manufacturer finds a discrepancy between the on-hand inventory and the track and trace system, the licensee shall conduct an audit.

(d) If the inventory reconciliation conducted pursuant to subsection (b) or the audit conducted pursuant to subsection (c) reveals a discrepancy that is more than five percent of the documented inventory, the licensed manufacturer shall notify the Department within 24 hours of the discovery.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26130, Business and Professions Code.

Article 5. Special Requirements

§17219. Juice Manufacturing.

Manufacturers of cannabis juice or cannabis-infused juice or beverages shall prepare and implement a written juice hazard analysis and critical control plan in accordance with the requirements of title 21, Code of Federal Regulations, Part 120, subpart A, section 120.8 and subpart B, section 120.24, (Rev. January 2001), which are hereby incorporated by reference.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26131, Business and Professions Code.

§17220. Dried Meat Manufacturing.

Manufacturing of cannabis-infused dried meat products shall be conducted in accordance with the United States Department of Agriculture *FSIS Compliance Guideline for Meat and Poultry Jerky Produced by Small and Very Small Establishments: 2014 Compliance Guideline* (Rev. 2014), which is hereby incorporated by reference. Meat for manufacturing into dried meat products shall be acquired from a commercially-available source.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26131, Business and Professions Code.

Chapter 9. Other Responsibilities

§17221. Weighing Devices and Weighmasters.

(a) A licensee shall use weighing devices approved, tested, and sealed in accordance with the requirements in Business and Professions Code, division 5, chapter 5 (commencing with section 12500) and its implementing regulations, and registered with the county sealer consistent with Business and Professions Code, division 5, chapter 2 (commencing with section 12240) and its implementing regulations whenever:

- (1) Cannabis or cannabis product is bought or sold by weight or count;
- (2) Cannabis or cannabis product is packaged for sale by weight or count;
- (3) Cannabis or cannabis product is weighed or counted for entry into the track and trace system; and
- (4) The weighing device is used for commercial purposes as defined in Business and Professions Code section 12500.

(b) Whenever the licensee is determining the weight, measure, or count of cannabis and cannabis products for the purposes specified in subsection (a), the weight, measure, or count shall be determined by a licensed weighmaster in compliance with the requirements of Business and Professions Code, division 5, chapter 7 (commencing with section 12700).

(c) A licensee shall obtain a weighmaster certificate that complies with the requirements

of Business and Professions Code, division 5, chapter 7 (commencing with section 12700) whenever:

- (1) Payment for the cannabis or cannabis product is dependent upon the quantity determined by the weighmaster; or
- (2) Payment for service or processing of the cannabis or cannabis product is dependent upon the quantity determined by the weighmaster.
- (d) The weighmaster certificate shall not be required when cannabis or cannabis products are weighed or counted for entry into the track and trace system.
- (e) In any county in which a county sealer refuses or is not required to approve, register, test, and seal weighing devices used by a licensee, the licensee may have a service agency registered pursuant to Business and Professions Code, division 5, chapter 5.5 perform testing of a weighing device consistent with the requirements in title 4, California Code of Regulations, section 4070. The licensee shall keep a copy of the registered service agency's written inspection report attesting to the accuracy of the device for each device operated by the licensee.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26060, Business and Professions Code.

§17223. Waste Management.

- (a) A licensee shall dispose of all waste in accordance with the Public Resources Code and any other applicable state and local laws. It is the responsibility of the licensee to properly evaluate waste to determine if it should be designated and handled as a hazardous waste, as defined in Public Resources Code section 40141.
- (b) A licensee shall establish and implement a written cannabis waste management plan that describes the method or methods by which the licensee will dispose of cannabis waste, as applicable to the licensee's activities. A licensee shall dispose of cannabis waste using only the following methods:
 - (1) On-premises composting of cannabis waste.
 - (2) Collection and processing of cannabis waste by a local agency, a waste hauler franchised or contracted by a local agency, or a private waste hauler permitted by a local agency in conjunction with a regular organic waste collection route.
 - (3) Self-haul cannabis waste to one or more of the following:
 - (A) A manned, fully permitted solid waste landfill or transformation facility;
 - (B) A manned, fully permitted composting facility or manned composting operation;
 - (C) A manned, fully permitted in-vessel digestion facility or manned in-vessel digestion operation;
 - (D) A manned, fully permitted transfer/processing facility or manned transfer/processing operation;
 - (E) A manned, fully permitted chip and grind operation or facility; or

(F) A recycling center as defined in title 14, California Code of Regulations, section 17402.5(d) that meets the following:

(i) The cannabis waste received shall contain at least ninety (90) percent inorganic material;

(ii) The inorganic portion of the cannabis waste is recycled into new, reused, or reconstituted products that meet the quality standards necessary to be used in the marketplace; and

(iii) The organic portion of the cannabis waste shall be sent to a facility or operation identified in subsections (b)(3)(A)-(E).

(4) Reintroduction of cannabis waste back into agricultural operation through on-premises organic waste recycling methods including, but not limited to, tilling directly into agricultural land and no-till farming.

(c) The licensee shall maintain any cannabis waste in a secured waste receptacle or secured area on the licensed premises until the time of disposal. Physical access to the receptacle or area shall be restricted to the licensee, employees of the licensee, the local agency, waste hauler franchised or contracted by the local agency, or private waste hauler permitted by the local agency only. Nothing in this subsection prohibits licensees from using a shared waste receptacle or area with other licensees, provided that the shared waste receptacle or area is secured and access is limited as required by this subsection.

(d) A licensee that disposes of waste through an entity described in subsection (b)(2) shall do all of the following:

(1) Maintain and make available to the Department upon request the business name, address, contact person, and contact phone number of the entity hauling the waste; and

(2) Obtain documentation from the entity hauling the waste that evidences subscription to a waste collection service.

(e) If a licensee is self-hauling cannabis waste as allowed by the local jurisdiction, the licensee shall be subject to all of the following requirements:

(1) Self-hauled cannabis waste shall only be transported by the licensee or its employees;

(2) Self-hauled cannabis waste shall only be transported to a facility specified in subsection (b)(3); and

(3) The licensee or its employee who transports the waste shall obtain for each delivery of cannabis waste a copy of a certified weight ticket or receipt from the solid waste facility.

(f) A batch of cannabis or cannabis products that is being disposed of because the batch has failed internal quality testing, quality assurance review by a distributor, or regulatory compliance testing shall comply with the following additional requirements:

(1) All cannabis or cannabis products in the batch shall be rendered unusable prior to disposal;

- (2) Rendering of the cannabis or cannabis products shall be done under video surveillance, unless the rendering is performed by a licensee engaging in cultivation activities on a licensed premises authorized exclusively for cultivation activities or the cultivation area of a licensed microbusiness premises; and
- (3) The reason for disposal and the disposition of the batch shall be noted in the track and trace system.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26130, Business and Professions Code.

§17225. Product Complaints.

(a) A licensee shall review all product complaints made to the licensee to determine whether the complaints involve possible misbranding or adulteration of a cannabis good, and shall investigate the complaints to the extent practicable based on the information received and the records the licensee is required to maintain.

(b) For purposes of this section, “product complaint” means any written, electronic, or oral communication received by a licensee that contains any allegation expressing concern, for any reason, with the quality of a cannabis good. Examples of product complaints may include, but are not limited to: foul odor, caused illness or injury, foreign material in a cannabis product container, improper packaging, mislabeling, cannabis products that contain an incorrect concentration of cannabinoids, and cannabis products that contain an unidentified ingredient, or any form of contaminant.

(c) The licensee shall maintain written records for every product complaint received and any subsequent investigation. The records shall include:

- (1) The name and description of the cannabis good;
 - (2) The batch number or UID of the cannabis good, if available;
 - (3) The date the complaint was received and the name, address, and telephone number of the complainant, if available;
 - (4) The nature of the complaint including, if known, how the product was used;
 - (5) The reply to the complainant, if any;
 - (6) The findings of the investigation or follow-up action taken when an investigation is performed;
 - (7) The basis for any determination not to conduct an investigation, if applicable; and
 - (8) The notification to the licensee that made the cannabis good, if applicable.
- (d) The licensee shall conduct a recall, as specified in section 17226, when the investigation evidences adulteration or misbranding.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26131, Business and Professions Code.

§17226. Voluntary Recalls.

(a) Licensees shall establish and implement written procedures for recalling cannabis goods that are determined to be misbranded or adulterated. These procedures shall include:

(1) Factors that necessitate a recall;

(2) Personnel responsible for implementing the recall procedures; and

(3) Notification protocols, including:

(A) A mechanism to notify all customers that have, or could have, obtained the cannabis goods, including communication and outreach via media, as necessary and appropriate;

(B) A mechanism to notify any licensees that supplied or received the recalled cannabis goods; and

(C) Instructions to the general public and other licensees for the return or destruction of the recalled cannabis goods; and

(4) Procedures for the collection and destruction of any recalled cannabis goods. These procedures shall meet the following requirements:

(A) All recalled cannabis goods that are intended to be destroyed shall be quarantined for a minimum of 72 hours, unless a longer holding time is requested by the Department. The licensee shall affix to the recalled cannabis goods any bills of lading, shipping manifests, or other similar documents with the cannabis goods information and weight. The cannabis goods held in quarantine shall be subject to auditing by the Department.

(B) Following the quarantine period, the licensee shall render the recalled cannabis goods unusable and dispose of them in accordance with section 17223.

(b) In addition to the tracking requirements set forth in section 15049, a licensee shall use the track and trace system and onsite documentation to ensure that recalled cannabis goods intended for destruction are identified, weighed, and tracked while on the licensed premises and when disposed of in accordance with this section. For recalled cannabis goods, the licensee shall enter the following details into the track and trace system: the weight and count of the cannabis goods, reason for destruction, and date the quarantine period will begin.

(c) The licensee shall notify the Department of any recall within 24 hours of initiating the recall.

(d) A licensed manufacturer may submit a remediation plan to the Department in accordance with the section 17305. If the remediation plan is not approved by the Department, the cannabis goods shall be destroyed pursuant to the procedures required by subsection (a)(4).

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26039.1 and 26039.6, Business and Professions Code.

§17227. Mandatory Recalls.

- (a) The Department may require licensees to conduct a recall of a cannabis good that is adulterated or misbranded in accordance with Business and Professions Code section 26039.1.
- (b) The licensee shall conduct the mandatory recall in the same manner as a voluntary recall as provided in section 17226.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26039.1 and 26039.6, Business and Professions Code.

Chapter 10. Cannabis and Cannabis Products

Article 1. Standards for Manufactured Cannabis Products

§17300. Prohibited Products.

The following types of products shall not be sold as cannabis products:

- (a) Alcoholic beverages, as defined in Business and Professions Code section 23004. This prohibition does not apply to tinctures that meet the requirements of section 17303;
- (b) Any product containing any non-cannabinoid additive that would increase potency, toxicity, or addictive potential, or that would create an unsafe combination with other psychoactive substances. Prohibited additives include, but are not limited to, nicotine and caffeine. This prohibition shall not apply to products containing naturally-occurring caffeine, such as coffee, tea, or chocolate;
- (c) Any cannabis product that must be held at or below 41 degrees Fahrenheit to keep it safe for human consumption, including, but not limited to, cream- or custard-filled pies; pies or pastries consisting in whole or in part of milk or milk products, or eggs; and meat-filled pies or pastries. This prohibition shall not apply to juices or beverages that need to be held below 41 degrees Fahrenheit if the juice or beverage was processed in accordance with section 17219, or to infused butter manufactured as permitted by subsection (g);
- (d) Any thermally-processed low-acid cannabis product packed in a hermetically sealed container that, if it did not contain cannabis, would be subject to the manufacturing requirements of title 21, Code of Federal Regulations, part 113;
- (e) Any acidified cannabis product that, if it did not contain cannabis, would be subject to the manufacturing requirements of title 21, Code of Federal Regulations, part 114;
- (f) Any juice that is not shelf-stable or that is not processed in accordance with section 17219;
- (g) Dairy products of any kind, as prohibited by Business and Professions Code section 26001(u), except butter purchased from a licensed milk products plant or retail location that is subsequently infused or mixed with cannabis may be sold as a cannabis product;
- (h) Meat products other than dried meat products prepared in accordance with section 17220;

- (i) Seafood products of any kind;
- (j) Any product that is manufactured by application of cannabinoid concentrate or extract to commercially available candy or snack food items without further processing of the product. Commercially available candy or snack food items may be used as ingredients in a cannabis product, provided that they are used in a way that renders them unrecognizable as the commercially available items, and the label, including the ingredient list, does not note that the final cannabis product contains the commercially available item;
- (k) Any cannabis product that the Department determines, on a case-by-case basis, is attractive to children, as specified in section 17408;
- (l) Any cannabis product that the Department determines, on a case-by-case basis, is easily confused with commercially available foods that do not contain cannabis; or
- (m) Any cannabis product in the shape of, or imprinted with the shape, either realistic or caricature, of a human being, animal, insect, or fruit.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26130, Business and Professions Code.

§17301. Requirements for Edible Cannabis Products.

- (a) Except for cannabis, cannabis products, or terpenes, no ingredient or component shall be used in the manufacture of an edible cannabis product unless that ingredient or component is permitted by the United States Food and Drug Administration for use in food or food manufacturing, as specified in *Substances Added to Food in the United States*, available at <https://www.accessdata.fda.gov/scripts/fdcc/index.cfm?set=FoodSubstances> or is Generally Recognized as Safe (GRAS) under sections 201(s) and 409 of the Federal Food, Drug, and Cosmetic Act (codified in 21 U.S.C. 321(s) and 21 U.S.C. 348).
- (b) Edible cannabis products that consist of more than a single serving shall be either:
 - (1) Scored or delineated to indicate one serving, if the edible cannabis product is in solid form. For purposes of this section, “delineated” includes directly marking the product to indicate one serving or providing a means by which a consumer can accurately identify one serving; or
 - (2) If the edible cannabis product is not in solid form, packaged in a manner such that a single serving is readily identifiable or easily measurable.
- (c) An edible cannabis product consisting of multiple servings shall be homogenized so that each serving contains the same concentration of THC.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26130, Business and Professions Code.

§17302. Additional Requirements for Topical Cannabis Products.

(a) Except for cannabis, cannabis concentrate, or terpenes, topical cannabis products shall only contain ingredients permitted for cosmetic manufacturing in accordance with title 21, Code of Federal Regulations, part 700, subpart B (section 700.11 et seq.) (Rev. April 2020), which is hereby incorporated by reference.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Section 26011.5, Business and Professions Code.

§17303. Orally Consumed Products Containing Alcohol.

(a) Any orally consumed product that contains more than 0.5% alcohol by volume as an ingredient, and is not otherwise an alcoholic beverage as defined in Business and Professions Code section 23004, shall be packaged in a container no larger than two (2) fluid ounces and shall include a calibrated dropper or other similar device capable of accurately measuring servings.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Section 26011.5, Business and Professions Code.

Article 2. Cannabinoid Concentration Limits

§17304. THC Concentration Limits.

(a) An edible cannabis product shall not contain more than:

- (1) 10 milligrams THC per serving; and
- (2) 100 milligrams THC per package.

(b) Notwithstanding subsection (a), a package containing an edible product that is an orally dissolving product, such as sublingual lozenges or mouth strips, may contain up to 500 milligrams THC per package, if:

- (1) The cannabis product consists of discrete servings of no more than 10 milligrams THC per piece;
- (2) The cannabis product is labeled “FOR MEDICAL USE ONLY;” and
- (3) The cannabis product is only available for sale to a medicinal-use patient.

(c) A topical cannabis product or a cannabis concentrate shall not contain more than 1,000 milligrams THC per package.

(d) Notwithstanding subsection (c), a topical cannabis product or a cannabis concentrate may contain more than 1,000 milligrams THC per package, but not more than 2,000 milligrams THC per package, if the product is labeled “FOR MEDICAL USE ONLY” and is only available for sale to a medicinal-use patient.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5, 26120 and 26130, Business and Professions Code.

Article 3. Failed Product Batches

§17305. Failed Product Batches.

(a) A finished cannabis product batch that fails any regulatory compliance laboratory testing requirement established in this division shall be destroyed unless:

(1) The cannabis product batch may be remediated by relabeling pursuant to subsection (d); or

(2) A corrective action plan for remediation is approved by the Department pursuant to subsection (e).

(b) Remediation of a failed product batch or the use of a harvest batch that has failed any regulatory compliance laboratory test shall comply with the requirements and procedures established by the Department in section 15727, in addition to the requirements of this article.

(c) Except as provided in subsections (d) and (f), edible cannabis products that fail regulatory compliance laboratory testing shall not be remediated and shall be destroyed. If any edible cannabis product that has failed regulatory compliance laboratory testing is remediated or otherwise mixed with another batch of cannabis product in violation of this section, such action shall render the final cannabis product adulterated, regardless of the defect level of the final cannabis product.

(d) A cannabis product batch that fails regulatory compliance laboratory testing for cannabinoid or terpenoid content may be remediated by relabeling the product with the correct information from the laboratory certificate of analysis, provided that the THC limits in section 17304 are met. In addition, the following conditions apply:

(1) The manufacturer licensee shall notify the Department within 3 business days of notification by a distributor that the product failed cannabinoid content testing and is required to be relabeled.

(2) Notification shall be given to the Department by email and shall include a copy of the certificate of analysis for the batch and the name and license number of the licensee relabeling the product.

(e) Except as provided in subsection (d), a cannabis product batch or a harvest batch that fails regulatory compliance laboratory testing or quality assurance review shall not be remediated unless the Department has approved a corrective action plan submitted by the manufacturer licensee. The corrective action plan shall include, at minimum, a description of how the product or harvest batch will be remediated so that the product or harvest batch, or any product produced therefrom, will meet all regulatory compliance laboratory testing and quality assurance requirements. Edible cannabis products may only be remediated by relabeling or repackaging as provided in subsection (f). Corrective action plans will be reviewed by the Department on a case-by-case basis.

(f) Edible cannabis products that fail regulatory compliance laboratory testing because the per-package limit of THC has been exceeded may be remediated by repackaging under the following conditions:

(1) The Department has approved a corrective action plan for repackaging the product;

- (2) The product batch is returned to the manufacturer that packaged the product;
 - (3) The product itself is not altered in any way; and
 - (4) The product is labeled to accurately state the contents.
- (g) All remediation of harvest or product batches shall be documented in the batch production records. Remediated products, harvest batches, or products produced therefrom shall be tested and undergo quality assurance review in accordance with the requirements established by the Department in chapter 2 of this division prior to retail sale.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Section 26131, Business and Professions Code.

Chapter 11. Labeling and Packaging Requirements

Article 1. Bulk Cannabis or Cannabis Products, Immature Plants, and Seeds

§17398. Bulk Cannabis or Cannabis Products.

- (a) For purposes of this section, “bulk cannabis or cannabis products” means cannabis or cannabis products transferred between licensees for the purpose of further processing and/or packaging.
- (b) The packaging used to transport bulk cannabis or cannabis products shall protect the cannabis or cannabis products from contamination and shall not expose the cannabis or cannabis products to any toxic or harmful substance.
- (c) Packages of bulk cannabis or cannabis products shall be labeled with the following:
- (1) The type or common name of the cannabis or cannabis products contained therein;
 - (2) The UID assigned to the cannabis or cannabis products;
 - (3) The ingredients of the cannabis products, including a list of any allergens present as described in section 17406(a)(6); and
 - (4) The net weight or count of the cannabis or cannabis products.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Section 26120, Business and Professions Code.

§17399. Immature Plants.

- (a) Immature plants to be sold at retail are not required to be placed in child-resistant or tamper-evident packaging prior to sale.
- (b) Immature plants shall be labeled with the following:
- (1) The legal business name, or any name listed on the license certificate, of the licensed nursery that cultivated the immature plant, and its contact number or website address;
 - (2) The strain name; and

(3) The statement: “This plant has not been tested in accordance with the Medicinal and Adult-Use Cannabis Regulation and Safety Act.”

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070, 26100 and 26120, Business and Professions Code.

§17400. Seeds.

(a) Packages of seeds are not required to be placed in child-resistant packaging prior to sale.

(b) Packages of seeds to be sold at retail shall be labeled with the following:

(1) The legal business name, or any name listed on the license certificate, of the licensed nursery that cultivated the seeds, and its contact number or website address;

(2) The strain name(s);

(3) Either the weight or count of seeds in the package;

(4) The universal symbol described in section 17410; and

(5) The statement: “These seeds have not been tested in accordance with the Medicinal and Adult-Use Cannabis Regulation and Safety Act.”

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Section 26130, Business and Professions Code.

Article 2. Cannabis Products Released from Manufacturing

§17401. Release to Distributor as Finished Product.

(a) Prior to release of a manufactured cannabis product to a distributor for purposes of compliance testing and retail sale, a licensed manufacturer shall ensure that the product is labeled and packaged in its final form for retail sale.

(b) Notwithstanding subsection (a), a product label may exclude labeling of cannabinoid content if the cannabinoid content is to be added to the label at the distribution premises after issuance of a Certificate of Analysis in accordance with section 17407.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26130, Business and Professions Code.

Article 3. Labeling Requirements

§17402. General Provisions.

(a) Any information required to be listed on a label shall be written in English.

(b) A label shall be unobstructed and conspicuous so that it can be read by the consumer.

(c) All required label information shall be located on the outside container or wrapper of the finished product to be sold at a retailer, or be easily legible through the outermost

container or wrapper. If the immediate container holding the cannabis goods is separable from the outermost packaging, such as a container placed inside of a box, the immediate container shall be labeled with the universal symbol as described in section 17410.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Section 26120, Business and Professions Code.

§17403. Primary Panel Labeling Requirements: Nonmanufactured Cannabis Goods.

(a) The label for a package of nonmanufactured cannabis goods shall include a primary panel that includes the following information in a type size no smaller than 6 point and proportional to the size of the primary panel and container:

- (1) The identity of the product;
- (2) The net weight of cannabis in the package, listed in both metric and U.S. customary units; and
- (3) The universal symbol described in section 17410.

(b) The label for a package of pre-rolls or packaged flower shall include an informational label that includes the following information in a type size no smaller than 6 point and proportional to the size of the informational panel and container:

- (1) The UID;
- (2) The name of the licensed cultivator or licensee packaging the product (either the legal business name or the registered name under which the business will operate listed on the license certificate) and that licensee's contact number or website address;
- (3) The date of packaging for retail sale; and
- (4) The following statement in bold print: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS CANNABIS, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. CANNABIS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF CANNABIS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION."

(c) Nothing in this section prohibits the inclusion of additional information on the primary panel, provided that the label does not violate the requirements of section 17408.

(d) The cannabinoid content for a package of pre-rolls or packaged flower shall be labeled as specified in section 17407.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Section 26120, Business and Professions Code.

§17404. Primary Panel Labeling Requirements: Manufactured Cannabis Products.

(a) The label for a manufactured cannabis product shall include a primary panel that includes the following information in a type size no smaller than 6 point and proportional to the size of the primary panel and container:

- (1) The identity of the product in a text size reasonably proportional to the most prominent printed matter on the panel;
- (2) The universal symbol as described in section 17410; and
- (3) The net weight or volume of the contents of the package, listed in both metric and U.S. customary units.

(b) Nothing in this section prohibits the inclusion of additional information on the primary panel, provided that the label does not violate the requirements of section 17408.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Section 26120, Business and Professions Code.

§17405. Additional Primary Panel Labeling Requirements: Edible Products.

(a) In addition to the requirements of section 17404, the primary panel of an edible cannabis product shall include the words “cannabis-infused” or “cannabis infused” immediately above the identity of the product in bold type and a text size larger than the text size used for the identity of the product.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Section 26120, Business and Professions Code.

§17406. Informational Panel Labeling Requirements.

(a) The label for a manufactured cannabis product shall include an informational panel that includes the following:

- (1) The name of the licensed manufacturer (either the legal business name or the registered name under which the business will operate listed on the license certificate) that manufactured the cannabis product and the manufacturer’s contact number or website address;
- (2) The date the cannabis product was packaged for retail sale;
- (3) The following statement in bold print: “GOVERNMENT WARNING: THIS PRODUCT CONTAINS CANNABIS, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. CANNABIS PRODUCTS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. THE INTOXICATING EFFECTS OF CANNABIS PRODUCTS MAY BE DELAYED UP TO TWO HOURS. CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF CANNABIS PRODUCTS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION;”

(4) The statement: “FOR MEDICAL USE ONLY” if the package contains an amount of THC that exceeds the level allowed for adult-use cannabis goods, as specified in section 17304;

(5) A list of all product ingredients in descending order of predominance by weight or volume. If any product ingredient contains subingredients, the list shall either:

(A) Include the common name of the ingredient followed by a parenthetical listing of all ingredients in descending order by weight or volume; or

(B) List all subingredients as individual ingredients in descending order of predominance; however,

(C) This subsection shall not apply to flavoring, which shall instead comply with title 21, Code of Federal Regulations, Part 101.22 (Rev. April 2020), hereby incorporated by reference;

(6) For cannabis products containing an ingredient, flavoring, coloring, or an incidental additive that bears or contains a major food allergen, the word “contains,” followed by a list of the applicable major food allergens. The list shall conform with the requirements for food allergen labeling set forth in 21 U.S.C. §343(w), paragraph (1)(A) or (1)(B);

(7) The names of any artificial colorings contained in the product;

(8) For edible cannabis products, the amount, in grams or milligrams, of sodium, sugar, carbohydrates, and total fat per serving;

(9) Instructions for use, such as the method of consumption or application, and any preparation necessary prior to use;

(10) The UID;

(11) The batch or lot number; and

(12) The statement: “KEEP REFRIGERATED” or “REFRIGERATE AFTER OPENING,” as applicable, if the cannabis product is perishable or perishable after opening.

(b) The informational panel text shall be in a type size no smaller than 6 point and proportional to the size of the primary panel and container.

(c) Except for the information required by subsections (a)(10) and (a)(11), the requirements of subsection (a) may be fulfilled through the use of supplemental labeling, which may include, but is not limited to, a package insert, fold-out or booklet label, or a hanging tag. After December 31, 2021, supplemental labeling may not be used to fulfill the labeling requirement in subsection (a)(1).

(d) Cannabinoid content may be included on the informational panel. Cannabinoid content for manufactured cannabis products shall be labeled as specified in section 17407.

(e) Nothing in this section prohibits the inclusion of additional information on the informational panel provided that the label does not violate the requirements of section 17408.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Section 26120, Business and Professions Code.

§17407. Cannabinoid Content Labeling.

(a) Each package for retail sale of cannabis goods shall be labeled with the cannabinoid content on either the primary panel or an informational panel. For manufactured products, cannabinoid content may be included on the label prior to release to a distributor or it may be added to the label at the distribution premises after issuance of a regulatory compliance testing Certificate of Analysis for the batch as described in subsection (d).

(b) Cannabinoid content labeling shall include the following:

(1) For an edible product or a cannabis concentrate for which the manufacturer has established serving designations, THC and CBD content expressed in milligrams per serving and milligrams per package.

(2) For a topical cannabis product or a cannabis concentrate without serving designations, THC and CBD content expressed in milligrams per package.

(3) For nonmanufactured cannabis goods, Total THC content expressed as a percentage.

(4) Packages of infused pre-rolls shall be labeled with either:

(A) The cannabinoid content in milligrams; or

(B) The cannabinoid content of the dried flower expressed as a percentage and the added cannabinoid content in milligrams.

(c) Cannabis goods labeled prior to testing must include the items specified in subsection (b), as appropriate to the product. For THC or CBD concentration that is less than two (2) milligrams per serving or per package, the THC or CBD concentration may be stated as “<2 mg per serving” or “<2 mg per package.”

(d) Cannabis goods labeled at the distribution premises after issuance of the Certificate of Analysis shall comply with the following:

(1) Each package of cannabis goods shall be labeled with the cannabinoid content as specified in subsection (b) that is indicated on the Certificate of Analysis, as well as any other cannabinoid that is five (5) percent or greater of the total cannabinoid content;

(2) Labeled cannabinoid content shall reflect the amount indicated on the Certificate of Analysis. The amount may be rounded to the nearest whole number, except that packages shall not be labeled with an amount greater than the allowable THC limits. If the THC or CBD content of a manufactured cannabis product is indicated on the Certificate of Analysis as “Not Detected” or “<LOQ,” the cannabinoid content shall be labeled as “0 mg” or “<2 mg;”

(3) The cannabinoid content label shall be affixed to the outermost packaging of the cannabis goods and shall not obscure any other label information.

(e) Nothing in this section precludes the labeling of terpenes or additional cannabinoid content on the cannabis goods, provided that the information is verified by the Certificate of Analysis.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Section 26120, Business and Professions Code.

§17408. Labeling Restrictions.

(a) Cannabis goods labeling shall not contain any of the following:

(1) The name of a California city, county, or city and county, including any similar name that is likely to mislead consumers as to the origin of the product, unless one hundred percent of the cannabis contained in the product was grown in that city, county, or city and county. For purposes of this subsection, a cannabis plant is considered to have been grown within a city, county, or city and county of origin if the plant was cultivated within that boundary starting from the time the plant was no taller or wider than 18 inches.

(2) Content that is, or is designed to be, attractive to individuals under the age of 21, as specified in section 15040(a)(2) and (3).

(3) Any health-related statement that is untrue or misleading. Any health-related statement must be supported by the totality of publicly available scientific evidence (including evidence from well-designed studies conducted in a manner which is consistent with generally recognized scientific procedures and principles), and for which there is significant scientific agreement among experts qualified by scientific training and experience to evaluate such claims.

(4) If the product is an edible cannabis product, a picture of the product contained therein.

(5) Any information that is false or misleading. For purposes of this section, false and misleading information includes, but is not limited to:

(A) Any statement or indication that the cannabis or cannabis product is organic, unless the National Organic Program (section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. section 6501 et seq.)) authorizes organic designation and certification for cannabis and the cannabis or cannabis product meets the requirements for that designation and certification. This includes use of the word “organic” or variants in spelling such as “organix” on the labeling, except for use of the term “organic” in the ingredient statement on the informational panel of a cannabis product in compliance with the requirements of the programs established pursuant to Business and Professions Code section 26062.

(B) Any statement or indication that the cannabis or cannabis product is “OCal,” “OCal certified,” or made with “OCal cannabis,” if the cannabis or cannabis product has not been cultivated, handled, processed, or manufactured in compliance with the requirements of the programs established pursuant to Business and Professions Code

section 26062.

(6) Any statement or indication of an appellation of origin if the cannabis or cannabis product does not meet the requirements of the program established pursuant to Business and Professions Code section 26063.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26062.5, 26063, 26120, 26121 and 26154, Business and Professions Code.

§17409. Statement of Characteristic Anticipated Effects.

(a) A cannabis good may include information on the characteristic anticipated effects of the cannabis good if the licensee has substantiation that the information is truthful and not misleading. Such information may be located on the informational panel of the label or the supplemental labeling with the package. For purposes of this section, “characteristic anticipated effect” includes any physiological effect (a temporary effect on the body related to the consumption of cannabis goods) that is common to or expected from the particular cannabis strain, but excludes any claim of health benefits (i.e. claims of therapeutic action as a result of the consumption of cannabis goods).

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26120 and 26130, Business and Professions Code.

§17410. Universal Symbol.

(a) The symbol established pursuant to Business and Professions Code section 26130 shall replicate the following in form:



(b) The symbol shall be black in color. For packaging that is dark in color, the symbol shall be made conspicuous by printing the symbol on, or outlining the symbol with, a contrasting color.

(c) The symbol shall be no smaller in height than one-half (0.5) inch except as allowed under subsection (d).

(d) For a cannabis vape cartridge or integrated cannabis vaporizer, the symbol shall be engraved, printed, or affixed with a sticker in a size no smaller than one-quarter (0.25) inch wide by one-quarter (0.25) inch high.

(e) The symbol shall not be altered or cropped in any way other than to adjust the sizing for placement on the primary panel.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26120, 26121 and 26130, Business and Professions Code.

Article 4. Packaging

§17411. Packaging.

(a) A package used to contain a cannabis good shall comply with the following requirements:

(1) The package shall protect the cannabis good from contamination and shall not expose the good to any toxic or harmful substance.

(2) The package shall be tamper-evident, which means that the packaging is sealed so that the contents cannot be accessed without obvious destruction of the seal upon initial opening.

(3) If the cannabis good has more than one serving, the package shall be resealable.

(4) The package shall not imitate any package used for products typically marketed to children.

(5) If the cannabis good is an edible product, the package shall be opaque. Colored bottles that obscure the color of the liquid inside shall be considered opaque for purposes of this section.

(6) Notwithstanding subsection (e), opaque bottles used to contain a cannabis beverage product may utilize a single, vertical, clear strip no wider than one-quarter (0.25) inch for the purpose of determining serving amounts.

(7) The package shall be child-resistant, as described in section 17412.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26120 and 26121, Business and Professions Code.

§17412. Child-Resistant Packaging Requirements.

(a) A package containing cannabis or cannabis products transferred to a distributor for retail sale shall be child-resistant, as follows:

(1) The package for an edible product, an orally consumed concentrate, or a suppository shall be child-resistant for the life of the product. A package that contains more than a single serving is not required to be child-resistant if each individual serving is packaged in child-resistant packaging.

(2) Cannabis or a cannabis product intended to be inhaled or a cannabis product that is applied topically may utilize packaging that is child-resistant only until first opened, if the package is labeled with the statement: "This package is not child-resistant after opening."

(b) The following packages are considered child-resistant for purposes of this article:

(1) Any package that has been certified as child-resistant under the requirements of the Poison Prevention Packaging Act of 1970 Regulations (16 C.F.R. §1700.15(b)(1)) (Rev. July 1995), which is hereby incorporated by reference.

(2) A bottle sealed with a pry-off, metal crown, cork-style bottle cap, provided that the bottle contains only a single serving.

(3) Plastic packaging that is at least four (4) mils thick and heat-sealed without an easy-open tab, dimple, corner, or flap, provided that the package contains a cannabis product described in subsection (a)(2) or a cannabis product that is only a single serving.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5, 26120 and 26121, Business and Professions Code.

Chapter 12. Enforcement

Article 1. Authority

§17800. Right of Access.

(a) The Department and its authorized representatives, for purposes of inspection, investigation, review, or audit, shall have full and immediate access to:

(1) Enter any premises licensed by the Department.

(2) Inspect and test any vehicle or equipment possessed by, in control of, or used by a licensee or their agents and employees for the purpose of conducting commercial cannabis activity.

(3) Test any cannabis goods or cannabis-related materials or products possessed by, in control of, or used by a licensee or their agents and employees for the purpose of conducting commercial cannabis activity.

(4) Copy any materials, books, or records of any licensee or their agents and employees.

(b) Failure to cooperate with and participate in any Department investigation pending against the licensee may result in a licensing violation subject to discipline. This subsection shall not be construed to deprive a licensee of any privilege guaranteed by the Fifth Amendment to the Constitution of the United States, or any other constitutional or statutory privileges. This subsection shall not be construed to require a licensee to cooperate with a request that would require the licensee to waive any constitutional or statutory privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the licensee's business. Any constitutional or statutory privilege exercised by the licensee shall not be used against the licensee in a regulatory or disciplinary proceeding against the licensee.

(c) Prior notice of an inspection, investigation, review, or audit is not required.

(d) Any inspection, investigation, review, or audit of a licensed premises shall be conducted anytime the licensee is exercising privileges under the license, or as otherwise agreed to by the Department and the licensee or its agents, employees, or representatives.

(e) If the licensed premises is not accessible because access is only available by going through another licensed premises and the licensee occupying the other licensed premises denies the Department access, the licensees shall both be held responsible and subject to discipline.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26015 and 26160, Business and Professions Code; and Section 11181, Government Code.

Article 2. Compliance and Enforcement Actions

§17801. Notice to Comply.

(a) The Department may issue a Notice to Comply to a licensee for violation(s) of the Act or this division discovered during an investigation or observed during an inspection.

(b) The Notice to Comply shall be in writing and describe the nature and facts of each violation, including a reference to the statute or regulation violated, and may indicate the manner in which the licensee must correct the violation(s) to achieve compliance.

(c) The Department may serve the Notice to Comply personally or by mail to the licensee, employee, agent, or person delegated by the licensee to accept notice.

(d) The licensee shall sign and return the Notice to Comply and, if required, a written plan to address the violations or describe how compliance was achieved within 30 calendar days after the date of personal service or mailing of the notice, or a different date specified by the Department. The Department may also require the licensee to provide a plan for review and approval by the Department on a case-by-case basis.

(e) Failure to correct the violation(s) in the Notice to Comply may result in disciplinary action.

Authority: Section 26013, Business and Professions Code; Reference: Sections 26012 and 26018, Business and Professions Code.

§17801.1 Notice of Violation.

(a) Until October 1, 2021, the Department may issue a Notice of Violation to a licensee for violation(s) of the Act of this division that shall inform the licensee of:

- (1) The violation(s) alleged;
- (2) The proposed fine amount; and
- (3) The licensee's right to request a hearing pursuant to subsection (b).

(b) Within 30 calendar days after issuance by the Department, a licensee may appeal a Notice of Violation by submitting a written request for an informal hearing by mail to the Department of Cannabis Control, Legal Affairs Division, 2920 Kilgore Road, Rancho Cordova, CA 95670, or by email to appeals@cannabis.ca.gov. The request shall include the following:

- (1) The licensee's name, mailing address, and daytime phone number;

(2) The license number issued by the Department;

(3) A copy of the Notice of Violation; and

(4) A clear and concise statement of the basis of the appeal.

(c) If the licensee fails to submit a timely request for hearing pursuant to subsection (b), the Notice of Violation is not appealable and the Department may proceed upon the noticed violation(s) without a hearing.

(d) A hearing requested to appeal a Notice of Violation will be scheduled and conducted in accordance with chapter 5 (commencing with section 11500) of part 1 of division 3 of the Government Code.

(e) For all written requests for a hearing submitted by licensees and received by the Department prior to October 1, 2021, with hearings scheduled to take place on or after October 1, 2021, the following will occur:

(1) Informal hearing proceedings noticed prior to October 1, 2021, shall be converted to adjudicative proceedings under chapter 5 (commencing with section 11500) of part 1 of division 3 of the Government Code.

(2) Any scheduled informal hearings will be vacated, and a new hearing date, location and time will be noticed by the Department.

Authority cited: Section 26013, Business and Professions Code. Reference: Sections 26012, 26031 and 26031.5, Business and Professions Code.

§17801.5. Embargo of Cannabis or Cannabis Products.

(a) The Department may embargo cannabis or cannabis products to prevent their sale, disposal, or removal from the location when the Department has probable cause to believe the cannabis or cannabis products are adulterated or misbranded or the sale would otherwise be in violation of the Act or this division.

(b) To embargo cannabis or cannabis products, the Department shall:

(1) Provide initial notice to the licensee or product owner that the cannabis or cannabis products are subject to embargo and the reason for the embargo. Initial notice may be oral or written and may be provided in person or by telephone, mail, facsimile transmission, email, or other electronic means;

(2) Affix a tag or marking to the cannabis or cannabis products, or component thereof, subject to embargo; and

(3) Provide an inventory of the embargoed items to the licensee or product owner.

(c) The Department shall further provide written notice to the licensee or product owner of the embargoed items that includes the following:

(1) The factual and legal bases for the embargo;

(2) A description of the cannabis or cannabis products under embargo;

(3) A request for a written plan to address the issues(s) that resulted in the embargo;

(4) A summary of the proceedings for condemnation in accordance with chapter 5 (commencing with section 11500) of part 1 of division 3 of title 2 of the Government Code;

(5) Notification that the embargoed items cannot be removed, sold, or disposed of without authorization of the Department or a court; and

(6) The penalty for violation of the embargo.

(d) The licensee or product owner may submit a written plan to the Department that describes how the licensee or product owner will address the issue(s) that resulted in the embargo.

(1) If the Department determines that the plan will resolve the issue(s) that resulted in the embargo, and that all of the provisions of the Act and this division can be complied with, the Department will approve the plan and supervise the completion of the plan.

(2) If the Department cannot approve the plan, or the Department does not receive a response from the licensee within seven (7) calendar days after providing the notice described in subsection (c), the Department may initiate condemnation proceedings in accordance with Business and Professions Code section 26039.3(f).

(e) A licensee or product owner or their authorized representative may provide written consent for the voluntary condemnation and destruction of the cannabis and cannabis products under embargo. Destruction and disposal of embargoed items shall be at the licensee or product owner's expense and shall be conducted under the supervision of the Department.

(f) A licensee or product owner shall not remove the tag or marking from cannabis or cannabis products subject to embargo.

(g) A licensee or product owner shall not remove, sell, or dispose of any cannabis or cannabis products under embargo without written permission of the Department or a court. Each item removed, sold, or disposed of without written permission of the Department or a court constitutes a separate violation of the Act.

(h) A licensed cultivator or a microbusiness authorized to engage in cultivation may request permission to continue cultivation or harvesting of cannabis under embargo. The request shall be made to the Department in writing at compliance@cannabis.ca.gov and shall specify the cultivation or harvesting activities in which the licensee requests to engage. The Department may, in its sole discretion, authorize and impose conditions on the continued cultivation or harvesting of the cannabis under embargo.

Authority: Section 26013, Business and Professions Code. Reference: Section 26039.3, Business and Professions Code.

§17802. Citations; Orders of Abatement; Administrative Fines.

(a) The Department may issue citations containing orders of abatement and fines against a licensee, or an unlicensed person, for any acts or omissions that are in violation of any provision of the Act or this division, or any another California laws applicable to cannabis licensees including, but not limited to, state labor law.

(b) The Department may issue a citation under this section to a licensee for a violation of a term or condition contained in a decision placing that licensee on probation.

(c) Each citation may contain either order(s) of abatement, monetary fine(s), or both, and shall:

(1) Be in writing and describe with particularity the nature of the violation, including a reference to the statute or regulation determined to have been violated;

(2) Fix a reasonable time for abatement of the violation if the citation contains an order of abatement;

(3) Assess an administrative fine of up to \$5,000 per violation, per day, by a licensee and up to \$30,000 per violation, per day, by an unlicensed person if the citation contains a fine;

(4) Be served personally or by certified mail; and

(5) Inform the licensee or person that they may request an informal conference, or contest the citation, or both, pursuant to section 17803 of this division.

(d) Fines issued with a citation must be paid within 30 calendar days after service of the citation, unless the fine is contested. If a citation is not appealed and the fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.

(e) The amount of any fine assessed by the Department under this section shall take into consideration the factors listed in Business and Professions Code section 26031.5(a)(1)-(3).

(f) Nothing in this section shall be deemed to prevent the Department from filing an accusation to suspend or revoke a license where grounds for such suspension or revocation exist.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26030 and 26031.5, Business and Professions Code.

§17803. Contesting Citations.

(a) A cited licensee or person may, within 30 calendar days after service of the citation, contest the citation by submitting to the Department a written request for a hearing, conducted in accordance with chapter 5 (commencing with section 11500) of part 1 of division 3 of the Government Code. If a hearing is not requested, it is waived and payment of a fine will not constitute an admission of the violation charged.

(b) In addition to requesting a hearing provided for in subsection (a), the cited licensee or person may, within 15 calendar days after service of the citation, submit a written request for an informal conference with the Department regarding the acts or omissions charged in the citation.

(c) The Department shall, within 15 calendar days after receipt of the written request, hold an informal conference with the cited licensee or person and/or their legal counsel or authorized representative.

(d) At the conclusion of the informal conference, the Department may affirm, modify, or dismiss the citation, including any fines levied or orders of abatement issued. A written decision stating the reasons for the decision shall be mailed to the cited licensee or person and their legal counsel, if any, within 15 calendar days after the date of the informal conference. This decision shall be deemed to be a final order with regard to the citation issued, including the levied fine and the order of abatement, if any.

(e) If the citation is dismissed, any request for a hearing shall be deemed withdrawn. If the citation is affirmed or modified, the cited licensee or person may either withdraw the request for a hearing or proceed with the administrative hearing process.

(f) If the citation, including any fines levied or orders of abatement issued, is modified, the citation originally issued shall be considered withdrawn and new citation issued. If a hearing is requested for the subsequent citation, it shall be requested within 30 calendar days after issuance of the citation.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26016 and 26031.5, Business and Professions Code.

§17804. Citation Compliance.

(a) If a citation with an order of abatement is issued, the time to abate or correct a violation as provided for in the order of abatement may be extended for good cause. If a cited licensee or person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond their control after the exercise of reasonable diligence, the cited licensee or person may request an extension of time from the Department in which to complete the correction. The request must be in writing and made within the time set forth for abatement.

(b) When a citation is not contested, or if it is contested and the cited licensee or person does not prevail, failure to abate the violation within the time allowed or pay a fine that was imposed shall constitute a separate violation.

(c) Failure to timely comply with an order of abatement or pay a fine that was imposed may result in further action being taken by the Department, including, but not limited to, suspension or revocation of a license, or further administrative or civil proceedings.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26031.5, Business and Professions Code.

§17805. Minor Decoys.

(a) Peace officers may use a person under 21 years of age to attempt to purchase cannabis goods, for the purposes of enforcing the Act and to apprehend licensees, employees, or agents of licensees who sell cannabis goods to minors. For purposes of this section, a “minor” is a person under 21 years of age.

(b) The following minimum standards shall apply to the use of a minor decoy:

- (1) At the time of the operation, the decoy shall be less than 20 years of age.
- (2) A decoy shall either carry identification showing the decoy's correct date of birth or carry no identification. A decoy who carries identification shall present it upon request to any seller of cannabis goods.
- (3) A decoy shall truthfully answer any questions about their age.
- (4) Following any completed sale, but not later than the time a citation, if any, is issued, the peace officer directing the decoy shall make a reasonable attempt to enter the licensed premises or respond to the location where the licensee is located and have the minor decoy who purchased cannabis goods identify the alleged seller of the cannabis goods.

Authority: Sections 26013 and 26140, Business and Professions Code. Reference: Section 26140, Business and Professions Code.

§17806. Attire and Conduct.

- (a) No licensee shall allow the following:
 - (b) Employment or use of any person in the sale or service of cannabis goods in or upon the licensed premises while such person is unclothed or in such attire, costume, or clothing as to expose to view any portion of the breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals.
 - (c) Employment or use of the services of any host or other person to mingle with the patrons while such host or other person is unclothed or in such attire, costume, or clothing as described in subsection (a).
 - (d) Encouraging or permitting any person on the licensed premises to touch, caress, or fondle the breasts, buttocks, anus, or genitals of any other person.
 - (e) Permitting any employee or person to wear or use any device or covering, exposed to view, which simulates the breast, genitals, anus, pubic hair, or any portion thereof.

Authority: Section 26013, Business and Professions Code. Reference: Section 26011.5, Business and Professions Code.

§17807. Entertainers and Conduct.

- (a) Live entertainment is permitted on a licensed premises, except that no licensee shall permit any person to perform acts of or acts that simulate:
 - (1) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts that are prohibited by law.
 - (2) Touching, caressing, or fondling of the breast, buttocks, anus, or genitals.
 - (3) Displaying of the buttocks, breasts, pubic hair, anus, vulva, or genitals.
- (b) No licensee shall permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described in this section.

(c) No licensee shall permit any person to remain in or upon the licensed premises who exposes to public view any portion of their breast, buttocks, genitals, or anus.

Authority: Section 26013, Business and Professions Code. Reference: Section 26011.5, Business and Professions Code.

Article 3. Disciplinary Actions

§17808. Additional Grounds for Discipline.

The following include, but are not limited to, additional grounds that constitute a basis for disciplinary action:

(a) Failure to pay a fine imposed by the Department or agreed to by the licensee.

(b) Failure to take reasonable steps to correct objectionable conditions on the licensed premises, including the immediately adjacent area that is owned, leased, or rented by the licensee, that constitute a nuisance, within a reasonable time after receipt of notice to make those corrections, under Penal Code section 373a.

(c) Failure to take reasonable steps to correct objectionable conditions that occur during operating hours on any public sidewalk abutting a licensed premises and constitute a nuisance, within a reasonable time after receipt of notice to correct those conditions from the Department. This subsection shall apply to a licensee only upon written notice to the licensee from the Department. The Department shall issue this written notice upon its own determination, or upon a request from the local law enforcement agency in whose jurisdiction the licensed premises is located, that is supported by substantial evidence that persistent objectionable conditions are occurring on the public sidewalk abutting the licensed premises. For purposes of this subsection:

(1) “Any public sidewalk abutting a licensed premises” means the publicly owned, pedestrian-traveled way, not more than 20 feet from the licensed premises, that is located between a licensed premises, including any immediately adjacent area that is owned, leased, or rented by the licensee, and a public street.

(2) “Objectionable conditions that constitute a nuisance” means disturbance of the peace, public intoxication, drinking alcoholic beverages in public, smoking or ingesting cannabis or cannabis products in public, harassment of passersby, gambling, prostitution, loitering, public urination, lewd conduct, drug trafficking, or excessive loud noise.

(3) “Reasonable steps” means all of the following:

(A) Calling the local law enforcement agency. Timely calls to the local law enforcement agency that are placed by the licensee or their agents or employees shall not be construed by the Department as evidence of objectionable conditions that constitute a nuisance.

(B) Requesting that those persons engaging in activities causing objectionable conditions to cease those activities, unless the licensee or their agents or employees feel that their personal safety would be threatened in making that request.

(C) Making good faith efforts to remove items that facilitate loitering, such as furniture,

except those structures approved or permitted by the local jurisdiction. The licensee shall not be liable for the removal of those items that facilitate loitering.

(4) When determining what constitutes “reasonable steps,” the Department shall consider site configuration constraints related to the unique circumstances of the nature of the business.

(5) Even after correcting the objectionable conditions that constitute a nuisance, the licensee has a continuing obligation to meet the requirements of subsections (b) and (c), and failure to do so shall constitute grounds for disciplinary action.

(d) Knowingly permitting the illegal sale, or negotiations for the illegal sale, of controlled substances or dangerous drugs upon the licensed premises. Successive sales, or negotiations for sales, over any continuous period of time shall be deemed evidence of permission. As used in this section, “controlled substances” has the same meaning as in Health and Safety Code section 11007, and “dangerous drugs” has the same meaning as in Business and Professions Code section 4022.

(e) If the licensee has employed or permitted any person to solicit or encourage others, directly or indirectly, to buy that person’s cannabis goods in the licensed premises under any commission, percentage, salary, or other profit-sharing plan, scheme, or conspiracy.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26011.5, 26012, 26030 and 26031, Business and Professions Code.

§17809. Disciplinary Actions.

(a) When an accusation recommending disciplinary action against a licensee has been filed pursuant to Business and Professions Code section 26031, the accusation shall be served on the licensee in accordance with Government Code section 11505.

(b) A hearing shall be conducted in accordance with the provisions of chapter 5 (commencing with section 11500) of part 1 of division 3 of title 2 of the Government Code to determine if cause exists to take action against the licensee. At the hearing, the Department shall have all of the powers granted by the statutes cited above and by the Business and Professions Code.

(c) If a hearing on an accusation against a licensee results in a finding that the licensee has committed any of the acts or omissions constituting grounds for disciplinary action, the Department may order the license revoked, suspended outright for a specified period of time, or suspended on probationary restriction for a specified period of time, including terms and conditions of probation the Department considers appropriate on the basis of its findings, impose a fine, or any combination thereof. The Department may also issue other lawful orders it considers appropriate on the basis of its findings.

(d) An accusation may be terminated by written stipulation at any time prior to the conclusion of the hearing on the accusation. If a licensee submits a proposed stipulation to the Department for its consideration and the Department subsequently declines to accept the proposed stipulation, the Department shall not thereafter be disqualified from hearing evidence on the accusation and taking action thereon as authorized in this section.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26031 and 26034, Business and Professions Code.

§17810. Interim Suspension.

(a) Pursuant to Business and Professions Code section 494, the Department may petition for an interim order to suspend any license or impose licensing restrictions upon any licensee if:

(1) The licensee has engaged in acts or omissions constituting a violation of the Business and Professions Code or this division, or been convicted of a crime substantially related to the licensed activity, and

(2) Permitting the licensee to continue to engage in the licensed activity would endanger the public health, safety, or welfare.

(b) An interim order for suspension or restrictions may be issued with notice, as follows:

(1) The Department shall provide the licensee with at least 15 days' notice of the hearing on the petition for an interim order.

(2) The notice shall include all documents submitted in support of the petition.

(c) An interim order for suspension or restrictions may be issued without notice to the licensee if it appears from the Department's petition and supporting documents that serious injury would result to the public before the matter could be heard on notice.

(2) The licensee shall be entitled to a hearing on the petition within 20 days after issuance of the initial interim order.

(3) Notice of the hearing shall be provided to the licensee by the Department within two days after issuance of the initial interim order.

(4) The licensee shall receive all documents in support of the petition.

(d) The Department shall file an accusation, pursuant to chapter 5 (commencing with section 11500) of part 1 of division 3 of title 2 of the Government Code, within 15 calendar days after issuance of the interim order.

Authority: Section 26013, Business and Professions Code; Reference: Sections 494, 26011.5, 26012 and 26031, Business and Professions Code.

§17813. Enforcement Costs.

(a) In any order in resolution of a disciplinary proceeding for suspension or revocation of a license, the Department may request the administrative law judge to direct a licensee

found to have committed a violation or violations of the Act or this division to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(b) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the Department's designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(c) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subsection (a). The Department may reduce or eliminate the cost award, or remand to the administrative law judge where the proposed decision fails to make a finding on costs requested pursuant to subsection (a).

(d) Where an order for recovery of costs is made and timely payment is not made as directed in the decision, the Department may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the Department may have to recover costs.

(e) In any action for recovery of costs, proof of the decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(f) Except as provided in subsection (g), the Department shall not renew or reinstate any license of a licensee who has failed to pay all of the costs ordered under this division.

(g) Notwithstanding subsection (f), the Department may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and enters into a formal agreement with the Department for reimbursement within that one-year period for the unpaid costs.

(h) Nothing in this section shall preclude the Department from including recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

Authority: Section 26013, Business and Professions Code; Reference: Sections 125.3, 26012 and 26031, Business and Professions Code.

§17814. Disciplinary Guidelines.

In reaching a decision on a disciplinary action under the Act and the Administrative Procedure Act (Govt. Code section 11400 et seq.), the Department shall consider the disciplinary guidelines entitled "Department of Cannabis Control Disciplinary Guidelines for All Commercial Cannabis Licenses Amended September 2021," which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Department in its sole discretion determines that the facts of the particular case warrant such a deviation (e.g., the presence of mitigating factors, the age of the case, or evidentiary problems).

Authority: Section 26013, Business and Professions Code; Reference: Sections 26012 and 26031, Business and Professions Code.

Article 4. Emergency Decision and Orders

§17815. Emergency Decision and Order.

(a) The Department may issue an emergency decision and order for temporary, interim relief to prevent or avoid immediate danger to the public health, safety, or welfare. Such circumstances include, but are not limited to, the following:

(1) The Department has information that cannabis goods at a licensee's premises have a reasonable probability of causing serious adverse health consequences or death.

(2) To prevent the sale, transfer, or transport of contaminated or illegal cannabis goods in possession of a licensee.

(3) The Department observes or has information that conditions at a licensee's premises exist that present an immediate risk to worker or public health and safety.

(4) To prevent illegal diversion of cannabis goods, or other criminal activity at a licensee's premises.

(5) To prevent the destruction of evidence related to illegal activity or violations of the Act.

(6) To prevent misrepresentation to the public, such as selling untested cannabis goods, providing inaccurate information about the cannabis goods or cannabis goods that have been obtained from an unlicensed person.

(b) Temporary, interim relief may include a suspension or administrative hold by one or more of the following:

(1) An order temporarily suspending a license.

(2) An order to segregate or isolate specific cannabis goods.

(3) An order prohibiting the movement of cannabis goods to or from the premises.

(4) An order prohibiting the sale of specific cannabis goods.

(5) An order prohibiting the destruction of specific cannabis goods.

(c) The emergency decision and order issued by the Department shall include a brief explanation of the factual and legal bases of the emergency decision that justify the Department's determination that emergency action is necessary, and the specific actions ordered. The emergency decision and order shall be effective when issued or as otherwise provided by the decision and order.

(d) To issue an administrative hold that prohibits activity related to specified cannabis goods, the Department shall comply with the following:

(1) Provide notice of the administrative hold that includes a description of the cannabis goods subject to the administrative hold.

(2) Following notice, the Department shall identify the cannabis goods subject to the administrative hold in the track and trace system.

(e) A licensee subject to an administrative hold shall comply with the following:

(1) Within 24 hours after receipt of notice of the administrative hold, physically segregate

all designated cannabis goods in a limited-access area of the licensed premises. The licensee shall ensure that all cannabis goods subject to the administrative hold are safeguarded and preserved in a manner that prevents tampering, degradation, or contamination.

(2) While the administrative hold is in effect, the licensee shall not sell, donate, transfer, transport, gift, or destroy the cannabis goods subject to the hold.

(3) A microbusiness licensee subject to an administrative hold may continue to cultivate any cannabis subject to an administrative hold. If the cannabis subject to the hold must be harvested, the licensee shall place the harvested cannabis into separate batches.

(4) A licensee may voluntarily surrender cannabis goods that are subject to an administrative hold. The licensee shall identify the cannabis goods being voluntarily surrendered in the track and trace system. Voluntary surrender shall not be construed to waive the right to a hearing or any associated rights.

(f) To issue a temporary suspension, the Department shall specify in the order that the licensee shall immediately cease conducting all commercial cannabis activities under its license, unless otherwise specified in the order.

(g) A microbusiness licensee subject to a temporary suspension may continue to cultivate cannabis at the licensed premises only as prescribed by the Department in the order. If the order permits the cannabis to be harvested, the licensee shall place the harvested cannabis into separate batches.

(h) The emergency decision and order for temporary, interim relief shall be issued in accordance with the following procedures:

(1) The Department shall give notice of the emergency decision and order and an opportunity to be heard to the licensee prior to the issuance, or effective date, of the emergency decision and order, if practicable.

(2) Notice and hearing under this section may be oral or written and may be provided by telephone, personal service, mail, facsimile transmission, electronic mail, or other electronic means, as the circumstances permit.

(3) Notice may be given to the licensee, any person meeting the definition of owner for the license, or to a manager or other personnel at the licensed premises.

(4) Upon receipt of the notice, the licensee may request a hearing within three (3) business days by submitting a written request for hearing to the Department through electronic mail, facsimile transmission, or other means. The hearing shall commence within five (5) business days after receipt of the written request for hearing, unless a later time is agreed upon by the Department and the licensee.

(5) The hearing may be conducted in the same manner as an informal conference under section 17803; however, the timeframes provided in section 17803 shall not apply to a hearing under this section. Pre-hearing discovery or cross-examination of witnesses is not required under this section.

(6) The emergency decision and order shall be affirmed, modified, or set aside as determined appropriate by the Department within five (5) business days after the hearing.

(i) Within ten (10) calendar days after the issuance or effective date of the emergency decision and order for temporary, interim relief, the Department shall commence adjudicative proceedings in accordance with chapter 5 (commencing with section 11500) of part 1 of division 3 of title 2 of the Government Code to resolve the underlying issues giving rise to the temporary, interim relief.

(j) After formal proceedings are held pursuant to subsection (i), a licensee aggrieved by a final decision of the Department may appeal the decision to the Cannabis Control Appeals Panel pursuant to section 26043 of the Act.

(k) Notwithstanding administrative proceedings commenced pursuant to subsection (i), the licensee may obtain judicial review of the emergency decision and order pursuant to section 1094.5 of the Code of Civil Procedure in the manner provided in section 11460.80 of the Government Code without exhaustion of administrative remedies.

(l) The Department's authority provided by this section may be used in addition to any civil, criminal, or other administrative remedies available to the Department.

Authority: Section 26013, Business and Professions Code. Reference: Section 26012, Business and Professions Code; and Sections 11460.10, 11460.20, 11460.30, 11460.40, 11460.50, 11460.60, 11460.70 and 11460.80, Government Code.

Article 5. Posting Notices of Suspension and Revocation

§17816. Posting of Notice of Suspension.

(a) A licensee whose license has been suspended shall conspicuously and continuously display a notice on the exterior of the licensee's premises for the duration of the suspension.

(b) The notice shall be 11 inches in length and 8.5 inches in width. The notice shall read:

NOTICE OF SUSPENSION

The Department of Cannabis Control License(s) Issued For This Premises Has Been
Suspended For Violation of State Law

(c) Advertising or posting signs to the effect that the licensed premises has been closed or that business has been suspended for any reason other than the reason provided in the decision suspending the license, shall be deemed a violation of this section.

(d) Failure to display the notice as required in this section or removal of the notice prior to the expiration of the suspension shall be a violation of this section and may result in additional disciplinary action.

(e) A licensee shall notify the Department by submitting the Licensee Notification and Request Form, Notifications and Requests Regarding Regulatory Compliance, DCC-LIC-028 (New 9/21), incorporated herein by reference, within 24 hours of discovering that the notice under subsection (b) of this section has been removed or damaged to an extent that makes the notice illegible.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26011.5 and 26012, Business and Professions Code.

§17817. Posting of Notice of Revocation.

(a) A person whose license has been revoked shall conspicuously display a notice on the exterior of the premises indicating that the license has been revoked. The notice shall remain continuously on the premises for at least 15 calendar days.

(b) The notice shall be 11 inches in length and 8.5 inches in width. The notice shall read:

NOTICE OF REVOCATION

The Department of Cannabis Control License(s) Issued For This Premises Has Been Revoked For Violation of State Law

(c) Advertising or posting signs to the effect that the premises has been closed, or that business has been suspended for any reason other than the reason provided in the decision revoking the license, shall be deemed a violation of this section.

(d) If the Department revokes a license at a licensed premises that has one or more licenses at the location that will remain active after the revocation, the revocation notice shall remain posted for a period of at least 15 calendar days.

(e) Failure to display the notice for the time required in this section shall be a violation of this section and may result in additional disciplinary action.

(f) A person whose license has been revoked shall notify the Department by submitting the Licensee Notification and Request Form, Notifications and Requests Regarding Regulatory Compliance, DCC-LIC-028 (New 9/21), incorporated herein by reference, within 24 hours of discovering that the notice under subsection (b) has been removed or damaged to an extent that makes the notice illegible.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26011.5 and 26012, Business and Professions Code.

Chapter 13. Other Provisions

Article 1. Research Funding

§17900. Eligibility.

(a) Only public universities in California shall be eligible to be selected to receive funds disbursed pursuant to Revenue and Taxation Code section 34019(b).

(b) Subject to available funding, the amounts to be disbursed to the university or universities will not exceed the sum of ten million dollars (\$10,000,000) for each fiscal year, ending with the 2028-2029 fiscal year.

Authority: Section 26013, Business and Professions Code. Reference: Section 34019, Revenue and Taxation Code.

§17901. Request for Proposals.

(a) A Request for Proposal (RFP) is the document issued by the Department to notify all eligible fund recipients of the following, at a minimum:

- (1) The funding available for research related to the Act or this division;
- (2) Disbursement of funds to eligible applicants through a review and selection process, including the criteria that will be used for review and selection;
- (3) The specified timeframes for the proposal review and selection process, including the deadline for submission of proposals;
- (4) Proposal requirements, including necessary documentation;
- (5) Any priorities or restrictions imposed upon the use of the funds;
- (6) The governing statutes and regulations; and
- (7) The name, address, and telephone number of a contact person within the Department who can provide further information regarding the process for submission of proposals.

Authority: Section 26013, Business and Professions Code. Reference: Section 34019, Revenue and Taxation Code.

§17902. Selection Process and Criteria.

- (a) The selection process shall involve eligible proposals timely received by the Department, in response to an applicable RFP, or similar notice.
- (b) The Department will consider only one proposal per applicant for a given research project. Applicants may submit more than one proposal if the proposals are for separate and distinct research projects or activities.
- (c) The Department will make a selection for funding based on criteria including, but not limited to:
 - (1) The extent to which the proposed project is designed to achieve objectives specified in Revenue and Taxation Code section 34019(b).
 - (2) The extent to which the proposed project is designed to achieve measurable outcomes, and the clarity of the measures for success, including, for research-based objectives, the scientific and technical merit of the proposed project as evaluated by relevant experts.
 - (3) The extent to which the proposed project is feasible, demonstrated by:
 - (A) A timeline for project completion, including readiness; and
 - (B) Budget detail.
 - (4) Qualifications of the staff who will be assigned to or working on the proposed project.
 - (5) Any other criteria to determine the proposed project's efficacy in evaluating the implementation and effect of the Act.
- (d) Applicants selected for funding will be notified of the selection and amount of funding in writing.

(e) The Department's selection decision is final and not subject to appeal.

Authority: Section 26013, Business and Professions Code. Reference: Section 34019, Revenue and Taxation Code.

§17903. Release of Funds.

(a) The Department shall not cause funds to be disbursed until the recipient has executed a Grant Agreement and any other required documents.

(b) Selected recipients shall receive a single disbursement of funds for the duration of the research project.

(c) Funds released to the recipient that will be used for the purchase of any equipment related to the research project shall, at a minimum, meet the following conditions:

(1) Prior to the purchase of any equipment, the recipient shall obtain written approval from the Department.

(2) Receipts or other documentation for the purchase of any equipment shall be provided to the Department immediately upon purchase and request and retained pursuant to section 17904.

(d) Any funds that are not used prior to the completion of the research project shall be forfeited.

Authority: Section 26013, Business and Professions Code. Reference: Section 34019, Revenue and Taxation Code.

§17904. Reports to the Department.

(a) The recipient of funds shall provide regular performance reports to the Department in the following manner, unless otherwise specified in the Grant Agreement:

(1) At monthly intervals for research projects with an estimated completion time not exceeding one year.

(2) At quarterly intervals for research projects with an estimated completion time exceeding one year.

(b) Performance reports shall include, at a minimum:

(1) A detailed, estimated time schedule of completion for the research project;

(2) A description of any measurable outcomes, results achieved, or other completed objectives of the research project;

(3) A description of remaining work to be completed;

(4) A summary of expenditures of the funds and statement of whether the research project is meeting the proposed budget. If not, the reasons for any discrepancies and a list of actions that will be taken to ensure completion of the research project; and

(5) Any changes to the information provided in the proposal, including, but not limited to, change in staff.

Authority: Section 26013, Business and Professions Code. Reference: Section 34019, Revenue and Taxation Code.

§17905. Research Records.

Recipients shall retain all research and financial data necessary to substantiate the purposes for which the funds were spent for the duration of the funding, and for a period of seven years after completion of the research project. Recipients shall provide this documentation to the Department upon request.

Authority: Section 26013, Business and Professions Code. Reference: Section 26160, Business and Professions Code; and Section 34019, Revenue and Taxation Code.

Agency Comments on Negative Declaration



March 08, 2022

Heather Gurewitz
City of Fort Bragg
416 N. Franklin St.
Fort Bragg, CA 95437
email: hgurewitz@fortbragg.com

Re: Review of Initial Study/Negative Declaration (SCH#2022020245) Amendments to the City of Fort Bragg Municipal Code Chapter 9.30 Cannabis Businesses and Title 18 Inland Land Use Development Code to Regulate Cannabis Businesses

Dear Ms. Gurewitz:

Thank you for providing the California Department of Cannabis Control (DCC) an opportunity to comment on the Initial Study/Negative Declaration (IS/ND) (SCH#2022020245) prepared by the City of Fort Bragg for the proposed Amendments to the City of Fort Bragg Municipal Code Chapter 9.30 Cannabis Businesses and Title 18 Inland Land Use Development Code to Regulate Cannabis Businesses (Proposed Project).

DCC has jurisdiction over the issuance of cannabis cultivation, manufacturing, distribution, testing, retail, and microbusiness licenses in California. DCC issues licenses to commercial cannabis facilities, where the local jurisdiction authorizes these activities. (Bus. & Prof. Code, § 26012(a).) All commercial cannabis businesses within California require a license from DCC. For more information pertaining to commercial cannabis business license requirements, including DCC regulations, please visit: <https://cannabis.ca.gov/resources/rulemaking/>.

CEQA Requirements for Annual State Cannabis Business License Applicants

Pursuant to state regulations, DCC requires an annual license applicant to provide evidence of exemption from, or compliance with, CEQA (Cal. Code of Regs., tit.4 § 15010(b)). The regulations require applicants to provide:

- (1) A signed copy of a project-specific Notice of Determination or Notice of Exemption and a copy of the associated CEQA document, or reference to where it may be located electronically, a project description, and/or any accompanying permitting documentation from the local jurisdiction used for review in determining site specific environmental compliance. Documentation may include a copy of the administrative record previously certified or adopted by the local jurisdiction that has already reviewed the commercial cannabis business' proposed commercial cannabis activities. [...]

When the project has been evaluated in a site-specific environmental document previously certified or adopted by the local Lead Agency, DCC will evaluate the project as a Responsible Agency, as provided in Section 15096 of the CEQA Guidelines. When the local jurisdiction prepares a Notice of Exemption (NOE) for a categorical exemption, DCC will act as the CEQA Lead Agency and conduct an independent verification, as provided in Section 15300 et seq. of the CEQA Guidelines, as to whether the exemption is appropriate for the department's purposes.

DCC's Comments on the IS/ND

DCC offers the following comments concerning the IS/ND.

1. CEQA Streamlining

DCC encourages local jurisdictions to use CEQA streamlining options, when appropriate, including the use of a programmatic CEQA document to cover CEQA review for later activities. If the City of Fort Bragg (City) intends to rely on the IS/ND for site-specific CEQA compliance for later activities, DCC recommends that the City prepare Notices of Determination (NODs) and file them with the State Clearinghouse for activities approved in this manner.

Section 15168(c)(4) of the CEQA Guidelines recommends that:

Where the later activities involve site specific operations, the agency should use a written checklist or similar device to document the evaluation of the site and the activity to determine whether the environmental effects of the operation were within the scope of the program EIR.

If the City intends to rely on the IS/ND for site-specific CEQA compliance for individual cultivation projects, DCC requests that the City prepare a checklist for each subsequent activity, pursuant to Section 15168(c)(4), and provide copies to applicants, for inclusion with their applications to DCC for state cultivation licenses. This would provide the documentation needed by DCC of the City's reasoning in concluding that the proposed activity fits within the analysis covered by the City's IS/ND and that subsequent environmental review is not required.

2. Categorical Exemptions

When site-specific cultivation projects are determined by the City to be categorically exempt from CEQA, DCC recommends that the City use one of the following options available for cultivation projects to document the City's determination:

- Complete an NOE for any projects where it can be demonstrated that the project would not have the potential for a significant effect on the environment (General Rule Exemption, CEQA Guidelines § 15061(b)(3)); or
- Complete an NOE for any projects qualifying for one or more classes of categorical exemption (CEQA Guidelines § 15300 et. seq.).

DCC recommends that, in addition to notice-filing requirements under Public Resources Code section 21152 and CEQA Guidelines section 15062, local Lead Agencies file a copy of an NOE

with the State Clearinghouse. DCC further recommends that local Lead Agencies provide a copy of the signed and dated NOE, and evidence of posting if completed, to cultivation applicants so that applicants may provide this evidence to DCC as part of their license application packages.

Conclusion

DCC appreciates the opportunity to provide comments on the IS/ND for the Proposed Project. If you have any questions about our comments or wish to discuss them, please contact Kevin Ponce, Senior Environmental Scientist Supervisor, at (916) 247-1659 or via e-mail at Kevin.Ponce@cannabis.ca.gov.

Sincerely,

Lindsay Rains
Licensing Program Manager

PUBLIC COMMENTS

Peters, Sarah

From: Jacob Patterson <jacob.patterson.esq@gmail.com>
Sent: Thursday, February 24, 2022 9:13 AM
To: cdd
Cc: Peters, Sarah; Gurewitz, Heather; O'Neal, Chantell
Subject: Comment for Admin Record of Cannabis Ordinance Update and Sunshine-Holistic's pending application
Attachments: Sacramento Police Investigate Burglaries Targeting Cannabis Distributors.pdf
Follow Up Flag: Follow up
Flag Status: Flagged

Sarah,

Please send this to the Planning Commission for their consideration as they work on the cannabis ordinances but also add it to the administrative record for Sunshine-Holistic's pending third permit application for the former Floor Store location. I know that third application is on hold while the cannabis retail moratorium remains in effect but you can still accept comments for when it moves forward through the review process. This article is also relevant to the Planning Commission's discussion of the cannabis ordinance update project as they determine where and how to permit these kinds of businesses. I think it is relevant to understand that retail and delivery-only dispensaries, which is the kind of business discussed in the attached article, do have significant safety concerns that could impact the surrounding neighborhood. That issue was dismissed by some during the prior hearings but here is further evidence that it is a legitimate concern. Please note the extent of the activities of what some might try to classify as merely accessory to the dispensary operations.

Thanks,

--Jacob

<https://gooddaysacramento.cbslocal.com/2021/12/20/sacramento-cannabis-distributors-burglaries/>

Sacramento Police Investigate Burglaries Targeting Cannabis Distributors December 20, 2021 at 10:31 pm

SACRAMENTO (CBS13) — Sacramento police are investigating a series of burglaries targeting local cannabis distributors.

The thieves are breaking into warehouses in the early morning hours and taking off with up to \$100,000 worth of marijuana.

A bent and busted iron fence was just some of the damage left behind by a crew of cannabis crooks.

“They cut gates, they drove vehicles through walls, they pulled out all the stops to get in,” said Brandy Moulton, CEO of Sovereign.

Sacramento police say there’s been more than 50 marijuana business break-ins since August, including at least six in just the last week.

“We unfortunately have seen an enormous increase in cannabis related burglaries,” said Sacramento Police Sgt. Matt Young.

Surveillance video from the most recent crime shows a crew of at least seven people, in two cars, breaking into a warehouse run by Sovereign, a delivery-only dispensary.

“They made it out before the cops did show up and they hit somebody else seven minutes down the road,” Moulton said.

Moulton’s warehouse has now been targeted twice in the last two weeks.

“For smaller, locally owned mom-and-pop-style businesses like myself, a financial hit like this can literally put you out of business,” she said.

Most warehouses are not open to the public and have large cannabis growing operations inside. But owners say the thieves often leave the plants – and only take cash and marijuana that’s already been harvested for distribution.

The city requires all cannabis production facilities to have cameras, alarms, and other security in place, but police are urging owners to take even more measures to protect their pot.

“The way that these series go away is if the criminals make entry and they don’t get anything,” Sgt. Young said. “That will send a message to them that this geographic area isn’t good for them to attempt these crime in.”

Moulton’s employees are now taking shifts to monitor security video feeds in real time.

“I don’t know if I can take one more hit and I do unfortunately suspect they will be back,” Moulton said.

Business owners say they also have problems getting insurance for these type of crimes because the growing and sale of marijuana is still illegal on the federal level.

From: [Jay Koski](#)
To: Bhorvel2@fortbragg.com; [Peters, Lindy](#); Jmorselhave@fortbragg.com; [Albin-Smith, Tess](#); [Rafanan, Marcia](#); [Lemos, June](#); [Gurewitz, Heather](#); [Peters, Sarah](#); [Naulty, John](#); [O'Neal, Chantell](#)
Subject: Pot dispensaries and crime
Date: Sunday, February 27, 2022 3:06:06 AM

How are you not putting a number on dispensaries in our industrial business district? How are you allowing these business right up against our residential neighborhood? How many police do we have on duty from 10:00pm to 6:00 am? What gives you the right to put our police force and the people of this town in harms way? These types of business are a huge target for criminal activity, why do you not see and understand that? If criminals are brave enough to rob these businesses in the big city where they have huge police forces what makes you think it can't happen here? What makes you believe we are immune to this type of criminal activity? You are rolling the dice with lives of the police force and people of this town for tax dollars. I imagine our police department is already spread very thin during the night time while people should be home and sleeping comfortably in their beds. All you you are going to be doing buy having no limit and allowing these business wherever they want to be in this town is inviting unwanted criminal activity, our town should not have to put itself in harms way for a few tax dollars. You, our city council is wearing blinders to a business types that is going to invite unwanted criminal activity. I don't understand how you can't see this, it is on the news daily. It's not a matter of will this type of crime happen if we allow as many of these business as we want in town with no limits, it's when will it happen, what will happen, will lives be lost? What are you going to do, do you think the tax dollars generated from these business will be enough to put a bunch of extra policeman on duty 24 hours a day to protect those tax dollars? I don't think the extra tax money will be there, you will just be chasing your own tails. Please I ask you to reconsider the new pot zoning regulations you are trying to impose on the people of this town. Just because you're an elected official it does not give you the right to put our police force and the people of this town in harm's way for tax dollars. I think you all may need to backtrack your thinking on this and put more emphasis on safety of the people and not tax dollars. If something terrible happens in this town because of this type of business allowed based on your zoning regulations by your administration you will be the ones responsible wether you think so or not because it was you who allowed them. We our a small town with a small police force please consider this when making your final decisions on these matters.

From: [Jay Koski](#)
To: [Norvell, Bernie](#); [Albin-Smith, Tess](#); [Peters, Lindy](#); Jmorselhave@fortbragg.com; [Rafanan, Marcia](#); [Gurewitz, Heather](#); [Lemos, June](#); [Peters, Sarah](#); [sarah mccormick](#); [Naulty, John](#)
Subject: Cannabis dispensaries
Date: Friday, February 25, 2022 7:48:40 AM

So you the council really believe that these businesses are safe for the people of Fort Bragg?I think you need to give this another thought before putting these business within feet of the people of our town. You have all been defending how safe they are compared to other businesses since the beginning of all of this.I don't think so.

Jay Koski

From: [Jacob Patterson](#)
To: [cdd](#); [Gurewitz, Heather](#)
Cc: [O'Neal, Chantell](#); [Smith, John](#); [Spaur, David](#); [sarah.mccormick](#); [marie@mariejonesconsulting.com](#)
Subject: Comments on the Draft Initial Study & Negative declaration for the proposed ordinances revising commercial cannabis regulations
Date: Friday, March 18, 2022 12:19:30 PM

City of Fort Bragg Team,

Please accept these comments and objections to the draft Initial Study & Negative Declaration (IS/ND) prepared by the City and apparently then prematurely circulated for public review. I object to the process by which the City is attempting to manage the environmental review process for the City-initiated changes to its commercial cannabis regulations. The City issued a Notice of Availability (NOA) and circulated a draft IS/ND for public and responsible agency review purporting to analyze the project, which is the City's intended adoption of related ordinances updating the City's commercial cannabis regulations in Title 9 and Title 18 of the City's Municipal Code. (note that the NOA incorrectly refers to the CEQA document as both an IS/ND and an IS/MND.) However, this project has not been fully defined yet because there still aren't any proposed ordinances for anyone to review. There was a draft ordinance that was included in the agenda packet for the continued public hearing before the Planning Commission on March 9, 2022 purporting to be the draft ordinance for the portion of the project associated with updates to Title 18 but that was not actually the case, which was stated by the City's project consultant during that hearing. The actual proposed ordinance for the updates to Title 18 is yet to be made available for the public to review, although I believe the City indicated it would likely be included in the agenda materials for the special meeting of the Planning Commission scheduled for March 23, 2022.

Please note that the staff materials for the March 9, 2022 Planning Commission meeting included numerous issues and displayed serious problems concerning the CEQA review, which further undermines the credibility of the environmental analysis in the current draft IS/ND. Chief among these issues was staff's reference to a now expired statutory exemption from CEQA review that would have applied to this project had the ordinances been adopted prior to July 1, 2021. That statutory exemption has expired by its explicit terms and a condition of relying on that exemption was that any local land use regulations needed to require future discretionary reviews and site-specific CEQA analysis for each project application. The future discretionary reviews condition of the now-expired statutory exemption is not an aspect that still applies to the CEQA review for the current project but which appears to be improperly incorporated into the proposed analysis in the draft IS/ND now being circulated for review and comment. That should be addressed and likely requires substantial and significant revisions to the CEQA document for this pending project.

The actual draft of the proposed ordinance is not yet available for public or responsible agency review. As such, it is impossible for any member of the public or any responsible agency to evaluate the adequacy of the draft IS/ND because the necessary information, the actual ordinance or ordinances, have not been prepared even though the official review period for the draft IS/ND is scheduled to come to a close today based on the NOA. What we have now, and what is purportedly analyzed in the draft IS/ND, are merely staff assumptions and interpretations about what the ordinances might contain but that is inadequate and substantively and procedurally defective. CEQA requires something more and I respectfully request that the City prepare a new IS/ND (or other appropriate CEQA document, which is likely to be a Mitigated Negative declaration or even an Environmental Impact Report) based

on the actual proposed ordinances and make the ordinances and the CEQA document available at the same time for public and responsible agency review.

That said, even if the ordinances had been made available, if they reflected the prior majority direction of the City Council, the existing IS/ND currently circulating for public review is inadequate and defective as written, at least in my opinion. I would (and do) object to the draft IS/ND on that basis as well, which I have partially addressed in prior written and oral public comments for the Planning Commission public hearing meetings that have already occurred. For example, the IS/ND provides a false and misleading description of the baseline conditions and of the scope of the changes in the (non-existent) proposed ordinances. These errors and omissions include but are not limited to a lack of maximum buildout analysis due to the new cultivation uses being added to the use tables in Title 18. Staff incorrectly asserts that because future discretionary reviews will include CEQA analysis for individual projects, that we do not need to analyze the impacts of the ordinances themselves. That is inconsistent with CEQA requirements and appears to be based on a misunderstanding between what is improper speculation about unknown future events and what level of current review is necessary for a change to the land use regulations. Further, staff asserts that the required cannabis business licenses are "discretionary" and would trigger CEQA review for those uses that are or may be proposed to be permitted by right under the new regulations. The cannabis business licenses do not appear to meet the criteria to be considered discretionary rather than ministerial based on the City's existing code or even based on the summary of proposed amendments that were presented in a working draft at the first meeting of the public hearing before the Planning Commission. There are no discretionary findings (or any findings at all) that are required in order to issue the cannabis business licenses. Just because the City can deny some cannabis business license applications if the applicant doesn't meet some pre-determined objective criteria does not make those licenses discretionary. On the contrary, they appear to be ministerial permits based on a review checklist. The City officials' determinations about whether or not the permit criteria are met are similar in nature to the issuance criteria involved in other ministerial permits like building permits, which are only issued if the application materials satisfy the applicable building code requirements.

The main (but not only) substantive issues that are lacking in the existing draft IS/ND appear to include the following: a lack of water supply analysis due to the new cannabis cultivation uses and transportation and greenhouse gas emissions analysis due to the new distribution activities that would be permitted by right. In my opinion, it is not improper speculation to evaluate the projected water use of newly-permitted commercial cannabis cultivation uses based on the addition of those uses to the existing use tables where they were not permitted before. The same sort of buildout analysis that applies to projects to rezone particular property apply to adding new uses to existing use tables. In my opinion, what is required and what is lacking in the current draft is taking the known area of each relevant zoning district where such uses are proposed to be permitted or conditionally permitted and calculating the projected impacts from now allowing those uses using a maximum buildout analysis of the projected water of these cultivation activities. Similarly, the new distribution uses that will be permitted for the cannabis retail uses including a delivery component need to be analyzed based on the existing areas zoned for each district where it is now proposed to be permitted by right rather than what is currently a discretionary review requiring a minor use permit. of course, without any actual proposed ordinances and with shifting majority direction concerning where such uses are going to be permitted and which level of future review will apply in a particular zoning district factoring in potential exclusion and/or buffer zones, we cannot effectively analyze anything. In that respect, I submit these comments and objections for the City team to

consider not just the adequacy of the existing draft IS/ND but as they further develop the actual proposed ordinances and revise or re-write the appropriate CEQA documents and circulate it for public review and comment again once the proposed ordinances are actually ready and available to the public and responsible agencies.

Thank you for your consideration of these important issues,

Jacob Patterson

From: [Jacob Patterson](#)
To: [Peters, Sarah](#); [Lemos, June](#); [cdd](#)
Subject: Fwd: Planning Commission Hearing on Cannabis 3/23/2022
Date: Monday, March 21, 2022 9:29:49 AM

City of Fort Bragg Staff & Planning Commission,

Please treat this as a public comment and objection for this agenda item. As I recall, no one made a motion to formally continue the public hearing at the previous meeting and I believe the PC merely decided to continue the discussion or continue the deliberations with no mention of the hearing itself being continued. Since this week wasn't noticed in the paper as a public hearing and no motion to continue the prior public hearing beyond the March 9th meeting occurred so far as I can recall, and this is the first meeting when the public actually has the proposed draft ordinance to consider, albeit with some drafting issues like an incorrect title and inapplicable CEQA exemption mentioned in the recitals, I object to this meeting being described as a public hearing or allegedly satisfying the procedural requirements of Government Code section 65854.

In fact, I think it can only be considered an Planning Commission discussion item about the draft ordinances with no possible action since the action would need to happen at a properly-noticed public hearing. "Properly-noticed" public hearings can happen by formally continuing the initial public hearing at a meeting (or series of meetings) where the first one had full notice but that doesn't appear to have been the process this time.

Please schedule the public hearing for a future Planning Commission meeting and be sure to provide the full notice for that meeting as was (prematurely) done for the February 23, 2022 Planning Commission meeting where there was proper notice but the hearing didn't actually include a draft ordinance that they were purportedly reviewing and making a recommendation about.

Regards,

--Jacob

----- Forwarded message -----

From: City of Fort Bragg, CA <CityofFortBragg@public.govdelivery.com>
Date: Mon, Mar 21, 2022, 8:50 AM
Subject: Planning Commission Hearing on Cannabis 3/23/2022
To: <jacob.patterson.esq@gmail.com>

Planning Commission Hearing on Cannabis 3/23/2022

Post Date: 03/21/2022 8:30 AM

Planning Commission Discusses Cannabis on March 23

The Planning Commission's public hearing on cannabis regulations will continue on Wednesday night, March 23, 2022 at 6PM at Town Hall. To read the staff report and agenda materials, please click the following link and scroll to Item 6B: [Planning Commission Agenda 3/23/2022](#).



[Click here for more information](#)

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This email was sent to jacob.patterson.esq@gmail.com using govDelivery Communications Cloud on behalf of: City of Fort Bragg, CA · 416 North Franklin Street Fort Bragg, CA 95437



From: [Jacob Patterson](#)
To: [cdd; Peters, Sarah](#)
Cc: marie@mariejonesconsulting.com
Subject: Fwd: New draft ordinance for cannabis updates
Date: Monday, March 21, 2022 10:06:06 AM

Sarah,

In case I don't have time to write a more formal public comment, please include this email chain as a public comment for the Planning Commission's consideration of Item 6B on their March 23rd agenda. My suggested revised changes to the draft ordinance are to:

1. Correct the title of the ordinance.
2. Revise the final recital concerning CEQA and include an accurate description of the CEQA process, which is not trying to rely on a now expired statutory exemption that is conditioned on site-specific environmental review due to future discretionary permits.
3. Correct the type in the exclusion zone replacing "Redwood Avenue" with "Franklin Street".
4. Consider limiting the exclusion zone to south of Bush Street to allow potential dispensaries on both sides of Franklin Street in the industrial zone.
5. Consider adding a rebuttable presumption that all cannabis retail proposed west of the centerline of Franklin Street is compatible with the existing and future land uses in the vicinity of the proposed project, even sensitive uses.
6. Consider separating the three commercial zones listed under accessory cannabis uses rather than combining the CBD with GC zoning district. I am not sure why there are more potentially-permitted accessory uses in HVC along Main Street than there would be for GC zoning along Franklin Street.
7. Consider a minor revision to the definitions, although this is the least important of my recommendations since it is just me believing that substantive provisions about which uses are permitted don't belong in a definition of a term and should only be in the substantive operative provisions of the ILUDC. The detailed description of which accessory uses are potentially permitted in which zoning districts is a great substantive tool but I don't think it belongs within the definition for this term in the Title 18, Article 10. The definition should just be the definition and the description of the particular accessory uses for different zoning districts belongs in section 18.42.057. I think the actual definition in section 18.100.020 should just read "Cannabis Accessory Use. A use that is customarily incidental related and clearly subordinate to the primary use on the same parcel and which does not alter the primary use, nor serve property other than the parcel where the primary use is located" although that is redundant from the general definition of accessory use without the additional detail about which accessory uses apply to which zoning district.

I think the first three changes are necessary and the rest are optional but recommended to strengthen the overall regulatory scheme and balance the competing policy interests that have been discussed during public meetings up to this point.

Regards,

--Jacob

----- Forwarded message -----

From: **Jacob Patterson** <jacob.patterson.esq@gmail.com>
Date: Sun, Mar 20, 2022 at 11:55 AM
Subject: New draft ordinance for cannabis updates
To: <marie@mariejonesconsulting.com>
Cc: Gurewitz, Heather <hgurewitz@fortbragg.com>, O'Neal, Chantell <con Neal@fortbragg.com>, McCormick, Sarah <SMcCormick@fortbragg.com>

City Staff & Marie,

I am looking through the agenda materials for Wednesday's meeting and there are still some drafting concerns in the draft ordinance that is included in the packet for the meeting. I will send in formal written and additional oral comments for the meeting so don't treat this as such, rather it is intended as me sharing a couple of big items that stuck out at me for your pre-meeting review. (I will only offer oral public comments if Jeremy offers a public comment opportunity, which he should, although I think there is a potential noticing issue based on the language of their motion last time and now this new ordinance only coming forward after the public comment period).

My three big concerns are:

- 1) The ordinance title is incorrect and talks about Chapter 9.20 not Title 18.
- 2) The final recital (aka "whereas") cites an inapplicable statutory exemption from further environmental review under CEQA because it expired last summer. That recital should be deleted or replaced with accurate CEQA language that is in-line with what the City is doing or will be doing for this project.
- 3) The new language for the exclusion zone incorrectly references Redwood Avenue instead of Franklin Street. I think it should be revised to read "Located east of the centerline of **Franklin Street**, except if proposed for industrially-zoned property north of Bush Street."

I added the north of Bush Street exclusion from the exclusion zone in case a cannabis business wants to operate a one-stop shop in the industrial property on the east side of N. Franklin, perhaps even using a micro business state license type and business model. I doubt anyone thinks that the occupants of the cemetery are a sensitive use next to which a cannabis retail operation shouldn't be located. The only residential zoning or uses that are next to commercially zoned property where a dispensary might be located are exclusively south of Bush Street. However, that might not be necessary since it looks like the proposed use table mechanisms to deal with vertically-integrated cannabis businesses in the industrial zones is to treat potential retail in the industrial zones as accessory to the primary industrial uses (e.g., the primary use is the cultivation, processing, manufacturing, or distribution use and retail would be potentially permitted only as an accessory use rather than the use table entry, which is about cannabis retail being a primary use). That approach is arguably more consistent with the Inland General Plan, which has a policy that discourages storefront retail in the industrial zones (at least that's how I interpret it). My concern is that Section 18.42.057 probably applies to any sort of cannabis retail use, whether primary or accessory, and I don't think anyone is calling for an exclusion or buffer zone within the industrial zoning districts north of Bush Street so limiting that exclusion area east of the centerline of Franklin Street to only south of Bush Street makes sense.

I also want to suggest an additional provision for Section 18.42.057, subdivision 3. I suspect part of why some councilmembers wanted to switch cannabis retail from an MUP to permitted

by right in their earlier discussions is because they are worried that any time a residential use is near a proposed dispensary that the neighbors might come in and convince the Planning Commission that the uses are incompatible and that particular use permit finding won't be made again (e.g., what happened for the former Floor Store location). I recommend pairing the thoughtful and much-appreciated compromise solution of the exclusion zone with an explicit rebuttable presumption that a cannabis retail use proposed west of the centerline of Franklin Street is presumed to be compatible with the nearby uses (but I would use the precise language of the required finding in the provision creating the presumption.) That strengthens this compromise solution because it creates a clear, bright-line rule excluding all dispensaries east of the Franklin Street but it also creates a rebuttable presumption that staff and the Planning Commission would use to help evaluate particular applications. If an applicant wants to be successful, they can have some assurance that, unless their project involves some really weird circumstances or proposed uses, there is a strong presumption that the cannabis retail is considered compatible with nearby uses when proposed west of Franklin Street, even sensitive uses like single-family residential homes, and that required finding that tripped up a particular controversial application would be easy to make. I think pairing a presumption of compatibility for areas west of Franklin with the explicit exclusion zone east of Franklin allows the City Council to keep the public notice, public hearings, and, most importantly, the ability to impose special conditions as part of the approval process, that result from the current MUP process and removes the concerns that led to some councilmembers to preliminarily direct that cannabis retail should be converted to a by-right use.

Finally, I want to suggest adding "potentially" immediately before "permissible" in Section 18.42.057, subdivision 4.a. to read "**Accessory Uses**. The following uses are **potentially** permissible as accessory uses to Cannabis Retail. More than one accessory use is permissible however the combined accessory uses shall not exceed the total square footage of the primary use." I like this provision but I think it is important to remember that desired accessory uses are not automatically permitted and that they are only conditionally permitted/permissible depending on the particular facts and circumstances of an application. The subtle distinction between conditionally permitted and permitted-by-right and varying interpretations of what that means is precisely what caused the conflicts for the prior MUP application reviews. By adding the word "potentially" to this provision, we highlight that difference and it should help avoid situations where staff, some of whom might be relatively inexperienced with planning, treat these accessory uses as being permitted rather than only potentially permitted or conditionally permitted only when the required subjective findings have been made by the proper review authority.

I also think combining CBD and GC into the same category doesn't make any sense and isn't part of the prior direction from either the City Council or Planning Commission. GC direction was more in line with what we want to permit in HVC not the CBD so if any zoning districts are combined, it should be HVC and GC not CBD and GC. I would have each be their own category for three different subdivisions in this provision of the ordinance. On a related note, I would also flesh out "On-Site Distribution" to explicitly reference that that is not really a distribution land use but merely refers to internal distribution between the otherwise permitted uses on the site. (I know Heather said the City Attorney asked that this be included but I think she is either misinterpreting that advice or he is wrong and is apparently confused about the differences between state cannabis license types and local land uses.) That is already done via the Title 18, Article 10 definition but users (including applicants) don't always read cross-referenced definitions and it might help to list that aspect of the definition in the operative provisions, not just the definitions located elsewhere.

Thanks,

--Jacob

From: [Jay Koski](#)
To: [Norvell, Bernie](#); [Albin-Smith, Tess](#); [Peters, Lindy](#); Jmorselhave@fortbragg.com; [Rafanan, Marcia](#); [Gurewitz, Heather](#); [Lemos, June](#); [Peters, Sarah](#); [sarah mccormick](#); [Naulty, John](#)
Subject: Cannabis dispensaries
Date: Friday, February 25, 2022 7:48:42 AM
Attachments: [28084.jpeg](#)
[28082.jpeg](#)

So you the council really believe that these businesses are safe for the people of Fort Bragg?I think you need to give this another thought before putting these business within feet of the people of our town. You have all been defending how safe they are compared to other businesses since the beginning of all of this.I don't think so.

Jay Koski

From: [Jacob Patterson](#)
To: [cdd](#); [Gurewitz, Heather](#)
Cc: [O'Neal, Chantell](#); [Smith, John](#); [Spaur, David](#); [sarah.mccormick](#); [marie@mariejonesconsulting.com](#)
Subject: Comments on the Draft Initial Study & Negative declaration for the proposed ordinances revising commercial cannabis regulations
Date: Friday, March 18, 2022 12:19:30 PM

City of Fort Bragg Team,

Please accept these comments and objections to the draft Initial Study & Negative Declaration (IS/ND) prepared by the City and apparently then prematurely circulated for public review. I object to the process by which the City is attempting to manage the environmental review process for the City-initiated changes to its commercial cannabis regulations. The City issued a Notice of Availability (NOA) and circulated a draft IS/ND for public and responsible agency review purporting to analyze the project, which is the City's intended adoption of related ordinances updating the City's commercial cannabis regulations in Title 9 and Title 18 of the City's Municipal Code. (note that the NOA incorrectly refers to the CEQA document as both an IS/ND and an IS/MND.) However, this project has not been fully defined yet because there still aren't any proposed ordinances for anyone to review. There was a draft ordinance that was included in the agenda packet for the continued public hearing before the Planning Commission on March 9, 2022 purporting to be the draft ordinance for the portion of the project associated with updates to Title 18 but that was not actually the case, which was stated by the City's project consultant during that hearing. The actual proposed ordinance for the updates to Title 18 is yet to be made available for the public to review, although I believe the City indicated it would likely be included in the agenda materials for the special meeting of the Planning Commission scheduled for March 23, 2022.

Please note that the staff materials for the March 9, 2022 Planning Commission meeting included numerous issues and displayed serious problems concerning the CEQA review, which further undermines the credibility of the environmental analysis in the current draft IS/ND. Chief among these issues was staff's reference to a now expired statutory exemption from CEQA review that would have applied to this project had the ordinances been adopted prior to July 1, 2021. That statutory exemption has expired by its explicit terms and a condition of relying on that exemption was that any local land use regulations needed to require future discretionary reviews and site-specific CEQA analysis for each project application. The future discretionary reviews condition of the now-expired statutory exemption is not an aspect that still applies to the CEQA review for the current project but which appears to be improperly incorporated into the proposed analysis in the draft IS/ND now being circulated for review and comment. That should be addressed and likely requires substantial and significant revisions to the CEQA document for this pending project.

The actual draft of the proposed ordinance is not yet available for public or responsible agency review. As such, it is impossible for any member of the public or any responsible agency to evaluate the adequacy of the draft IS/ND because the necessary information, the actual ordinance or ordinances, have not been prepared even though the official review period for the draft IS/ND is scheduled to come to a close today based on the NOA. What we have now, and what is purportedly analyzed in the draft IS/ND, are merely staff assumptions and interpretations about what the ordinances might contain but that is inadequate and substantively and procedurally defective. CEQA requires something more and I respectfully request that the City prepare a new IS/ND (or other appropriate CEQA document, which is likely to be a Mitigated Negative declaration or even an Environmental Impact Report) based

on the actual proposed ordinances and make the ordinances and the CEQA document available at the same time for public and responsible agency review.

That said, even if the ordinances had been made available, if they reflected the prior majority direction of the City Council, the existing IS/ND currently circulating for public review is inadequate and defective as written, at least in my opinion. I would (and do) object to the draft IS/ND on that basis as well, which I have partially addressed in prior written and oral public comments for the Planning Commission public hearing meetings that have already occurred. For example, the IS/ND provides a false and misleading description of the baseline conditions and of the scope of the changes in the (non-existent) proposed ordinances. These errors and omissions include but are not limited to a lack of maximum buildout analysis due to the new cultivation uses being added to the use tables in Title 18. Staff incorrectly asserts that because future discretionary reviews will include CEQA analysis for individual projects, that we do not need to analyze the impacts of the ordinances themselves. That is inconsistent with CEQA requirements and appears to be based on a misunderstanding between what is improper speculation about unknown future events and what level of current review is necessary for a change to the land use regulations. Further, staff asserts that the required cannabis business licenses are "discretionary" and would trigger CEQA review for those uses that are or may be proposed to be permitted by right under the new regulations. The cannabis business licenses do not appear to meet the criteria to be considered discretionary rather than ministerial based on the City's existing code or even based on the summary of proposed amendments that were presented in a working draft at the first meeting of the public hearing before the Planning Commission. There are no discretionary findings (or any findings at all) that are required in order to issue the cannabis business licenses. Just because the City can deny some cannabis business license applications if the applicant doesn't meet some pre-determined objective criteria does not make those licenses discretionary. On the contrary, they appear to be ministerial permits based on a review checklist. The City officials' determinations about whether or not the permit criteria are met are similar in nature to the issuance criteria involved in other ministerial permits like building permits, which are only issued if the application materials satisfy the applicable building code requirements.

The main (but not only) substantive issues that are lacking in the existing draft IS/ND appear to include the following: a lack of water supply analysis due to the new cannabis cultivation uses and transportation and greenhouse gas emissions analysis due to the new distribution activities that would be permitted by right. In my opinion, it is not improper speculation to evaluate the projected water use of newly-permitted commercial cannabis cultivation uses based on the addition of those uses to the existing use tables where they were not permitted before. The same sort of buildout analysis that applies to projects to rezone particular property apply to adding new uses to existing use tables. In my opinion, what is required and what is lacking in the current draft is taking the known area of each relevant zoning district where such uses are proposed to be permitted or conditionally permitted and calculating the projected impacts from now allowing those uses using a maximum buildout analysis of the projected water of these cultivation activities. Similarly, the new distribution uses that will be permitted for the cannabis retail uses including a delivery component need to be analyzed based on the existing areas zoned for each district where it is now proposed to be permitted by right rather than what is currently a discretionary review requiring a minor use permit. of course, without any actual proposed ordinances and with shifting majority direction concerning where such uses are going to be permitted and which level of future review will apply in a particular zoning district factoring in potential exclusion and/or buffer zones, we cannot effectively analyze anything. In that respect, I submit these comments and objections for the City team to

consider not just the adequacy of the existing draft IS/ND but as they further develop the actual proposed ordinances and revise or re-write the appropriate CEQA documents and circulate it for public review and comment again once the proposed ordinances are actually ready and available to the public and responsible agencies.

Thank you for your consideration of these important issues,

Jacob Patterson

Proposed Changes to the ILUDC

Black text = original ordinance text

Red Text = changes already agreed to by the Planning Commission

Purple Text = Implemented Planning Commission Direction & Consultant Recommended Changes

Chapter 18.22 Commercial Zoning Districts

Sections:

18.22.030 Commercial District Land Uses and Permit Requirements

TABLE 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	Permitted use, Zoning Clearance					
	P Permitted use, Zoning Clearance required Minor Use Permit required (see MUP § 18.71.060) UP Use Permit required (see § 18.71.060) S Permit requirement set by Specific Use Regulations — Use not allowed					
LAND USE (1)	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
	CN	CO	CBD	CG	CH	

RETAIL TRADE

Artisan shop	UP	UP	P	P	P	
Auto and vehicle sales and rental	—	—	—	P	P	
Auto parts sales with no installation services	—	—	—	P	P	
Bar/tavern	—	—	UP	MUP	MUP	
Big box retail	—	—	—	UP	UP	
Building and landscape materials sales - Indoor	—	—	—	P	UP	
Building and landscape materials sales - Outdoor	—	—	—	UP	UP	18.42.130
Cannabis retail & accessory cannabis uses	—	—	MUP(3,4)	MUP(4)	MUP(4)	18.42.057 Chapter 9.30
Cannabis retail - delivery only	—	—	—	MUP(4)	MUP(4)	18.42.057 Chapter 9.30
Construction and heavy equipment sales and rental	—	—	—	UP	UP	18.42.130
Convenience store	P	—	P	P	P	

Key to Zoning District Symbols

CN	Neighborhood Commercial	CG	General Commercial
CO	Office Commercial	CH	Highway and Visitor Commercial
CBD	Central Business District		

Notes:

- (1) See Article [10](#) for land use definitions.
- (2) Use permit required except for the exceptions set forth in § [18.46.050](#).
- (3) **The number of permissible Cannabis Retail Businesses in the Central Business District shall be set by resolution of the City Council in an amount not to exceed 3 businesses.**
- (4) Retail Cannabis businesses shall be permissible only on parcels located west of the centerline of Franklin Street in the CBD, CG and CH districts.

18.24.030 - Industrial District Land Uses and Permit Requirements

TABLE 2-10 Allowed Land Uses and Permit Requirements for Industrial Zoning Districts	PERMIT REQUIRED BY DISTRICT			Specific Use Regulations
	P	MUP	UP	
	Permitted use, Zoning Clearance required	Minor Use Permit required (see § 18.71.060)	Use Permit required (see § 18.71.060)	
	S	Permit requirement set by Specific Use Regulations		
	–	Use not allowed		
LAND USE (1)	IL	IH		

AGRICULTURAL, RESOURCE AND OPEN SPACE USES

Crop production, horticulture, orchard, vineyard	P	P	
Cannabis – Indoor Cultivation (Nurser and/or, Mature Plants)	MUP	MUP	Chapter 9.30 and 18.42.055

TABLE 2-10 Allowed Land Uses and Permit Requirements for Industrial Zoning Districts	P	Permitted use, Zoning Clearance required	
	MUP	Minor Use Permit required (see § 18.71.060)	
	UP	Use Permit required (see § 18.71.060)	
	S	Permit requirement set by Specific Use Regulations	
	—	Use not allowed	
LAND USE (1)	PERMIT REQUIRED BY DISTRICT		Specific Use Regulations
	IL	IH	

RETAIL TRADE

Accessory retail or services	MUP	MUP	18.42.020
Building and landscape materials sales - Indoor	P	P	
Building and landscape materials sales - Outdoor	UP	P	18.42.130
Cannabis retail— Delivery only Accessory Cannabis –Retail, Retail-Delivery	MUP (2)	MUP (2)	18.42.057 Chapter 9.30
Construction and heavy equipment sales and rental	UP	P	18.42.130
Farm supply and feed store	P	P	
Fuel dealer (propane for home and farm use, etc.)	P	—	
Mobile home, boat or RV sales	UP	UP	
Service station	UP	UP	18.42.180

SERVICES - BUSINESS, FINANCIAL, PROFESSIONAL

Business support service	P	UP	
Office - Accessory	P	P	
Office - Processing	P	P	

Notes:

- (1) See Article [10](#) for land use definitions.
- (2) Use shall only be allowable as an accessory use to a cannabis business engaged in cultivation, manufacturing and/or distribution.

18.42.055 Commercial Cannabis Cultivation

A. **Applicability.** Where allowed by Article 2 (Zoning Districts and Allowable Land Uses) Commercial Cannabis Cultivation shall comply with the standards of this Section. These standards apply in addition to the other provisions of this Development Code and requirements imposed by Chapter 9.30 of the Municipal Code and any required State licenses prior to operation.

B. **Definitions.** Definitions of the Commercial Cannabis Cultivation facilities regulated by this Section are in Article 10 (Definitions) under “Cannabis.”

C. **Standards for Commercial Cannabis Cultivation.** A Minor Use Permit for Commercial Cannabis Cultivation shall be approved, if it complies with the following standards:

- 1. **Additional Permits and Licenses Required.** A cannabis cultivation business shall obtain a cannabis business permit subject to Chapter 9.30 of the Municipal Code and any required state licenses prior to operation.
- 2. **Operational requirements.** Operational requirements may include project specific conditions of approval, the requirements set forth in Chapter 9.30, and the following operational requirements:
 - a. **Employees.** The cannabis operator shall maintain a current register of the names of all employees and shall disclose such register for inspection by any City officer or official for purposes of determining compliance with the requirements of this Section and/or any project specific conditions of approval prescribed in the Minor Use Permit.
 - b. **Visitors.** Only employees, managers, owners, and government agency representatives are allowed in non-retail areas of the business. ~~Any other visitors to non-public areas must be documented in a log.~~
 - c. **Utilities.** Commercial cannabis cultivation shall use the best available technologies for water systems and water recycling and are encouraged to use an alternate source of water from the City’s potable water system. Commercial cannabis cultivators shall use energy efficient lighting and equipment. A cannabis cultivator shall provide proof of the utility provider’s ability to provide reliable power to the cultivation site. Electricity must be exclusively provided by a renewable energy source(s), including but not limited to: 1) documented grid power supplied from a 100% renewable source, or 2) on-site renewable energy system.
 - d. **Environmentally Friendly Practices.** Cultivation projects shall use environmentally friendly practices, including integrative pest management and waste reduction.
 - e. **Odor.** Cannabis cultivations shall use the best available technology to ensure odors are not detected on adjacent or nearby property or areas open to the public.
- 3. **Cannabis Accessory uses to commercial cultivation.** Retail Delivery and Cannabis Retail and permissible as accessory uses with Minor Use Permit approval. Other accessory uses may be approved as noted in Table 2.10 of Article 2.

18.42.057 Cannabis Retail

A. **Applicability.** Where allowed by Article 2 (Zoning Districts and Allowable Land Uses) Cannabis Retail shall comply with the standards of this Section. These standards apply in addition to the other provisions of this Development Code and requirements imposed by Chapter 9.30 of the Municipal Code and any required State licenses prior to operation.

B. **Definitions.** Definitions of the Cannabis Retail facilities regulated by this Section are in Article 10 (Definitions) under “Cannabis.”

C. **Standards for Cannabis Retail.** A Minor Use Permit for Cannabis Retail shall be approved if it complies with the following standards:

1. **Additional Permits and Licenses Required.** A cannabis storefront retail business shall obtain a cannabis business permit subject to Chapter 9.30 of the Municipal Code and any required state licenses prior to operation.
2. **Operation Requirements.**
 - a. **Odor.** Cannabis cultivations shall use the best available technology to ensure odors are not detected on adjacent or nearby property or areas open to the public.
 - b. **Hours of Operation.** Cannabis retail may operate between the hours of 9:00 a.m. to 9:00 p.m. up to 7 days per week unless the review authority imposes more restrictive hours due to the particular circumstances of the application. The basis for any restriction on hours shall be specified in the permit. Cannabis retail uses shall only be permitted to engage in delivery services during hours that the storefront is open to the public, unless the review authority permits delivery outside these hours.
 - c. **Lighting and Screening.** Projects that are on properties adjacent to residential properties shall comply with §18.30.050(F) and §18.30.070.
 - d. **On-Site Consumption.** The consumption of cannabis at a cannabis retail use or within the parking lot or public right-of-way are prohibited.
 - e. **Drive-through services.** Drive-through or walk-up window services in conjunction with cannabis retail are prohibited.
3. **Location Requirements.** In order to avoid the concentration of Cannabis Retail land uses and maintain the downtown commercial character, and compatibility with adjacent residential uses, A cannabis retail business shall not be:
 - a. Located within 150 feet of a school providing instruction in kindergarten or any grades 1 through 12, a child day care center or facility, a youth center as defined in the State of California Health and Safety Code Section 11353.1(e)(2), a church or a park. The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the school/youth center/day care facility/church to the closest property line of the lot on which the cannabis business is proposed.
 - b. Located east of the centerline of Franklin Street.
4. **Accessory Uses.** The primary use of a cannabis retail use shall be to sell products directly to on-site customers.
 - a. **Accessory Uses.** The following uses are permissible as accessory uses to Cannabis Retail. More than one accessory use is permissible however the combined accessory uses shall not exceed the total square footage of the primary use.
 - i. Central Business District & General Commercial zones: Office, Nursery (non-flowering) cultivation area of not more than 100 SF for on-site sales only; Retail Delivery; On-Site Distribution.

- ii. Highway Visitor Commercial: Office, Nursery (non-flowering) cultivation **area of not more than 100 SF**, Craft Cannabis Manufacturing – no volatile solvents permitted, Distribution, Wholesale, Retail Delivery, On-Site Distribution
- b. **Minor Use Permit Amendments.** If a permitted cannabis retail use chooses to provide an accessory use or services at a later date, an amendment to the Minor Use Permit shall be required.
- c. **Accessory Delivery.** Sales may also be conducted by delivery, subject to the requirements of Section 18.42.059:

18.42.059 - Cannabis Retail - Delivery Only

- A. **Applicability.** Where allowed by Article 2 (Zoning Districts and Allowable Land Uses) Cannabis Retail-Delivery shall comply with the standards of this Section. These standards apply in addition to the other provisions of this Development Code and requirements imposed by Chapter 9.30 of the Municipal Code and any required State licenses prior to operation.
- B. **Definitions.** Definitions of the Cannabis Retail-Delivery facilities regulated by this Section are in Article 10 (Definitions) under “Cannabis.”
- C. **Standards for Cannabis Retail-Delivery.** A Minor Use Permit for Cannabis Retail shall be approved if it complies with the following standards:
- D. **Operational requirements.** In addition to project specific conditions of approval and the requirements set forth in Chapter 9.30, cannabis retail - delivery only uses shall comply with the following operational requirements:
 - 1. Cannabis retail - delivery only uses shall comply with the same operational requirements applicable to cannabis retail uses (section 18.42.057).
 - 2. The application shall describe the operational plan and specific extent of such service, security protocols, and how the delivery services will comply with the requirements set forth in Chapter 9.30, this Section, and State law.

18.100.020 - Definitions of Specialized Terms and Phrases

As used in this Inland Land Use and Development Code, the following terms and phrases shall have the meaning ascribed to them in this Section, unless the context in which they are used clearly requires otherwise:

A. Definitions, “A.”

Accessory Use. A use that is customarily incidental, related and clearly subordinate to a primary use on the same parcel and which does not alter the primary use, nor serve property other than the parcel where the primary use is located.

Accessory Use - Cannabis. See Cannabis Accessory Use.

Agricultural Accessory Structure. A structure for sheltering animals, or agricultural equipment, hay, feed, etc. Examples of these structures include barns, noncommercial greenhouses, coops, corrals, and pens. May also include the storage of petroleum products for an on-site agricultural use allowed by the applicable zoning district. Does not include pasture fencing, which requires no City approval when in compliance with § 18.30.050 (Fences, Walls, and Screening). **Does not include structures for commercial cannabis cultivation (see Cannabis).**

Agricultural Product Processing. The processing of harvested crops to prepare them for on-site marketing or processing and packaging elsewhere. Examples of this land use include the following:

- custom milling of flour, feed and grain
- pre-cooling and packaging of fresh or farm-dried fruits and vegetables
- dairies (but not feedlots, see instead “Livestock Operations, Sales Yards, Feedlots, Stockyards”)
- sorting, grading and packing of fruits and vegetables
- drying of corn, rice, hay, fruits and vegetables
- tree nut hulling and shelling
- grain cleaning and custom grinding
- wineries
- hay baling and cubing
- **cannabis processing**

C. Definitions, “C.”

Cannabis. The following terms and phrases are defined for the purposes of Chapters 18.2 and Chapter 18.4

1. **Cannabis.** As defined in Municipal Code 9.30.
2. **Cannabis Cultivation.** The planting, growing, harvesting, and/or drying of cannabis.
 - a. **Indoor Cultivation.** The cultivation of cannabis within a fully enclosed and secure permanent structure using exclusively artificial light or within any type of structure using artificial light at a rate above twenty-five watts per square foot.
 - b. **Nursery.** All activities associated with producing clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis. Nursery size is based on actual square footage, not on canopy size. A nursery shall not have mature plants. A nursery selling plants directly to consumers shall have a cultivation and retail license from the state.
 - c. **Outdoor Cultivation.** The cultivation of cannabis that is not within a fully enclosed and secure structure. Outdoor cultivation is unlawful in the city of Fort Bragg per Municipal Code 9.32.
3. **Cannabis Retail.** A cannabis business where cannabis or cannabis products are offered, either individually or in any combination, for retail sale directly to customers. The primary use of a cannabis retail business is to sell products directly to on-site customers. Sales may also be conducted by delivery. Also known as a cannabis “dispensary.” **See also Cannabis Accessory uses and Chapter 9.30.**
4. **Cannabis Retail - Delivery Only.** A cannabis business that is closed to the public and conducts sales exclusively by delivery.
5. **Craft Cannabis Manufacturing** – small scale, small batch manufacturing by hand, with or without the aid of tools. Craft Cannabis Manufacturing does not involve volatile chemicals.
6. **Cultivation Site.** A location where commercial cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where any combination of those activities occurs.
7. **Fully enclosed and secure structure.** A building or a space within a building that complies with the California Building Code, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, a foundation, slab or equivalent base to which the floor is secured, is secure against unauthorized entry, and is accessible only through one or more lockable doors. Walls and roofs must be constructed of solid materials that cannot be easily broken through.

If indoor grow lights or air filtration systems are used, they must comply with all applicable Building, Electrical, and Fire Codes.

8. **Greenhouse.** A completely enclosed structure whose structure members are made of pre-formed, rigid construction materials. The walls, roof, and ends are typically covered using a transparent material, often glass, that is fixed in place and which allows solar radiation to penetrate the surface and affect the growing environment of the plants inside.
9. **Hoop House.** A structure made of flexible construction materials, typically pvc pipe or similar material. The ends may be covered or left open and the material covering the structural is readily removable and is typically removed and re-affixed frequently. Hoop houses are considered outdoor cultivation.
10. **Immature plant or immature.** A cannabis plant that has a first true leaf measuring greater than one half inch long from base to tip (if started from seed) or a mass of roots measuring greater than one half inch wide at its widest point (if vegetatively propagated), but which is not flowering.
11. **Mature Plant or Mature.** A cannabis plant that is flowering.
12. **On-Site Distribution.** The movement of cannabis products from either nursery cultivation, processing, or manufacturing conducted on-site to a licensed retail-cannabis operation at the same site. Cannabis sold wholesale or distributed to offsite retail is classified under wholesale and distribution
13. **Process or processing.** All post-harvest activities associated with the drying, curing, grading, rolling, storing, packaging, and labeling of cannabis or non-manufactured cannabis products.
14. **Volatile solvent.** Any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. Examples of volatile solvents include, but are not limited to, butane, hexane, and propane.

Cannabis Accessory Use. A use that is customarily incidental related and clearly subordinate to the primary use on the same parcel and which does not alter the primary use, nor serve property other than the parcel where the primary use is located. The following cannabis accessory uses are permissible, with a Minor Use Permit, as accessory uses to primary cannabis uses in the following districts:

1. **Central Business District & General Commercial zones:** Nursery (non-flowering) cultivation area of not more than 100 SF, for on-site sales only; Retail Delivery; On-Site Distribution.
2. **Highway Visitor Commercial:** Nursery (non-flowering) cultivation area of not more than 100 SF, Craft Cannabis Manufacturing – no volatile solvents permitted, Distribution and Wholesale, Retail Delivery, On-Site Distribution
3. **Light and Heavy Industrial:** Retail Delivery and Cannabis Retail.

Crop Production, Horticulture, Orchard, Vineyard. Commercial agricultural production field and orchard uses, including the production of the following, primarily in the soil on the site and not in containers, other than for initial propagation prior to planting in the soil on the site:

- field crops
- ornamental crops
- flowers and seeds
- tree nuts
- fruits
- trees and sod
- grains
- vegetables
- melons
- wine and table grapes

Also includes associated crop preparation services and harvesting activities, such as mechanical soil preparation, irrigation system construction, spraying, crop processing and retail sales in the field, not including sales sheds, which are instead defined under “Produce Stand.” Does not include greenhouses which are instead defined under “Plant Nursery,” and “Residential Accessory Use or Structure,” or containerized crop production, which is instead defined under “Plant Nursery.” Does not include noncommercial home gardening, which is allowed as an accessory use in all zoning districts without City approval. **Does not include cannabis cultivation or processing which is covered under the definition for Cannabis and regulated under Municipal Code 9.30, and for which specific land use regulations are provided in Chapter 18.42.055.**

D. Definitions, “D.” – No change

E. Definitions, “E.” – No change.

F. Definitions, “F.” – No change.

G. Definitions, “G.” – No change.

General Retail. Stores and shops selling many lines of merchandise. Examples of these stores and lines of merchandise include:

- antique stores
- art galleries
- art supplies
- bicycles
- books, magazines, and newspapers
- clothing, shoes, and accessories
- collectibles (cards, coins, comics, stamps, etc.)
- consignment stores
- department stores
- dry goods
- fabrics and sewing supplies
- florists and houseplant stores (indoor sales only; outdoor sales are “Building and Landscape Materials Sales”)
- hardware (not including building or landscape materials)
- health care supplies
- hobby materials
- jewelry
- luggage and leather goods
- musical instruments, parts and accessories
- religious goods
- small wares
- specialty shops
- sporting goods and equipment
- stationery
- toys and games
- variety stores

Does not include adult-oriented businesses, second hand stores, **or cannabis retail** which are separately defined.

L. Definitions, “L.”

Laboratory - Analytical, Testing. A facility for testing and analysis, and/or research. Examples of this use include soils and materials testing labs, medical service labs and forensic labs, and **cannabis testing labs**. See also “Research and Development (R&D).”

M. Definitions, “M.”

Manufacturing - Cannabis. A process where cannabis is transformed into a product (such as food, medicine, oil, clothing, textile, etc.), and the production, preparation, propagation, or compounding of cannabis or cannabis products, directly or indirectly.

Manufacturing/Processing - Heavy. A facility accommodating manufacturing processes that involve and/or produce basic metals, building materials, chemicals, fabricated metals, paper products, machinery, textiles, and/or transportation equipment, where the intensity and/or scale of operations may cause significant

impacts on surrounding land uses or the community. Also includes cannabis manufacturing and processing facilities with similar operational characteristics to the examples below. Examples of heavy manufacturing uses include the following:

1. **Chemical Product Manufacturing.** An establishment that produces or uses basic chemicals, and other establishments creating products predominantly by chemical processes. Examples of these products include: basic chemicals, including acids, alkalis, salts, and organic chemicals; chemical products to be used in further manufacture, including synthetic fibers, plastic materials, dry colors, and pigments; and finished chemical products to be used for ultimate consumption, including drugs/pharmaceuticals, cosmetics, and soaps; or to be used as materials or supplies in other industries including paints, fertilizers, and explosives. Also includes sales and transportation establishments handling the chemicals described above, except as part of retail trade.
2. **Concrete, Gypsum, and Plaster Product Manufacturing.** An establishment that produces bulk concrete, concrete building block, brick, and/or other types of precast and prefabricated concrete products. Also includes ready-mix concrete batch plants, lime manufacturing, and the manufacture of gypsum products, including plasterboard. A retail ready-mix concrete operation as an incidental use in conjunction with a building materials outlet is defined under “Building and Landscape Materials Sales.”
3. **Glass Product Manufacturing.** An establishment that manufactures glass and/or glass products by melting silica sand or cullet, including the production of flat glass and other glass products that are pressed, blown, or shaped from glass produced in the same establishment. Artisan and craftsman type operations of a larger scale than home occupations are instead included under “Manufacturing/Processing - Light - Small-Scale Manufacturing.”
4. **Paving and Roofing Materials Manufacturing.** The manufacture of various common paving and petroleum-based roofing materials, including bulk asphalt, paving blocks made of asphalt, creosote wood, and various compositions of asphalt and tar. Does not include the manufacture of wood roofing materials (shingles, shakes, etc.; see “Manufacturing/Processing - Medium Intensity - Lumber and Wood Product Manufacturing”).
5. **Petroleum Refining and Related Industries.** Industrial plants for purifying petroleum, and the compounding of lubricating oils and greases from purchased materials. Also includes oil or gas processing facilities, liquefied natural gas (LNG) facilities, the manufacture of petroleum coke and fuel briquettes, tank farms, and terminal facilities for pipelines. Does not include petroleum pipeline surge tanks and pump stations (“Public Facility”), or petroleum product distributors (“Petroleum Product Storage and Distribution”).
6. **Plastics, Other Synthetics, and Rubber Product Manufacturing.** The manufacture of rubber products including: tires, rubber footwear, mechanical rubber goods, heels and soles, flooring, and other rubber products from natural, synthetic, or reclaimed rubber. Also includes establishments engaged primarily in manufacturing tires; products from recycled or reclaimed plastics or Styrofoam; molding primary plastics for other manufacturers, manufacturing miscellaneous finished plastics products, fiberglass manufacturing, and fiberglass application services. Does not include establishments engaged primarily in recapping and retreading automobile tires (“Vehicle Services - Major Repair/Body Work”).
7. **Primary Metal Industries.** An establishment engaged in: the smelting and refining of ferrous and nonferrous metals from ore, pig, or scrap; the rolling, drawing, and alloying of metals; the manufacture of castings, forgings, stampings, extrusions, and other basic metal products; and the manufacturing of nails, spikes, and insulated wire and cable. Also includes merchant blast furnaces and by-product or beehive coke ovens.
8. **Pulp and Pulp Product Manufacturing.** An establishment that manufactures pulp, paper, or paperboard. Includes pulp, paper, and paperboard mills. Does not include establishments primarily engaged in converting paper or paperboard without manufacturing the paper or paperboard, including envelope

manufacturing, converted paper products, paper coating and glazing, paper bags, assembly of paperboard boxes, wallpaper (“Manufacturing/Processing - Light - Paper Product Manufacturing”).

9. Textile and Leather Product Manufacturing. An establishment that converts basic fibers (natural or synthetic) into a product, including yarn or fabric, that can be further manufactured into usable items (“Manufacturing/Processing - Light - Clothing and Fabric Product Manufacturing”), and industries that transform hides into leather by tanning or curing. Includes:

- coating, waterproofing, or otherwise treating fabric
- manufacturing of woven fabric, carpets, and rugs from yarn
- dressed and dyed furs
- preparation of fiber and subsequent manufacturing of yarn, threads, braids, twine cordage
- dyeing and finishing fiber, yarn, fabric, and knit apparel
- leather - tanned, curried, and finished
- scouring and combing plants
- manufacture of knit apparel and other finished products from yarn
- upholstery manufacturing
- manufacture of felt goods, lace goods, nonwoven fabrics and miscellaneous textiles
- yarn and thread mills

Manufacturing/Processing - Light. A facility accommodating manufacturing processes involving and/or producing: apparel; food and beverage products; electronic, optical, and instrumentation products; ice; jewelry; and musical instruments. Light manufacturing also includes other establishments engaged in the assembly, fabrication, and conversion of already processed raw materials into products, where the operational characteristics of the manufacturing processes and the materials used are unlikely to cause significant impacts on surrounding land uses or the community. **Also includes non-volatile cannabis manufacturing and processing and processing facilities with similar operational characteristics to the examples below.** Examples of light manufacturing uses include the following:

1. Clothing and Fabric Product Manufacturing. An establishment that assembles clothing, draperies, and/or other products by cutting and sewing purchased textile fabrics, and related materials including leather, rubberized fabrics, plastics and furs. Does not include custom tailors and dressmakers not operating as a factory and not located on the site of a clothing store (see “Personal Services”). See also “Manufacturing/Processing - Heavy - Textile and Leather Product Manufacturing.”

2. Electronics, Equipment, and Appliance Manufacturing. An establishment that manufactures equipment, apparatus, and/or supplies for the generation, storage, transmission, transformation and use of electrical energy, including:

- appliances including stoves/ovens, refrigerators, freezers, laundry equipment, fans, vacuum cleaners, sewing machines
- motors and generators
- optical instruments and lenses
- photographic equipment and supplies
- aviation instruments
- radio and television receiving equipment
- computers, computer components, peripherals
- surgical, medical and dental instruments, equipment, and supplies
- electrical transmission and distribution equipment
- storage media, blank and pre-recorded, including magnetic, magneto-optical, and optical products such as compact disks (CDs), computer diskettes and hard drives, digital versatile disks (DVDs), magnetic tape products, phonograph records, etc.

- electronic components and accessories
- semiconductors, integrated circuits, related devices
- electrical welding apparatus
- lighting and wiring equipment such as lamps and fixtures, wiring devices, vehicle lighting
- surveying and drafting instruments
- telephone and telegraph apparatus
- transformers, switch gear and switchboards
- industrial controls
- instruments for measurement, testing, analysis and control, associated sensors and accessories
- watches and clocks
- miscellaneous electrical machinery, equipment and supplies such as batteries, X-ray apparatus and tubes, electromedical and electrotherapeutic apparatus, electrical equipment for internal combustion engines

Does not include testing laboratories (soils, materials testing, etc.) (see “Business Support Service”), or research and development facilities separate from manufacturing (see “Research and Development”).

3. Food and Beverage Product Manufacturing. Manufacturing establishments producing or processing foods and beverages for human consumption, and certain related products. Examples of these uses include:

- bottling plants
- fruit and vegetable canning, preserving, related processing
- breweries
- grain mill products and by-products
- candy, sugar, confectionery products manufacturing
- meat, poultry, and seafood canning, curing, byproduct processing
- catering services separate from stores or restaurants
- soft drink production
- miscellaneous food item preparation from raw products
- coffee roasting
- dairy products manufacturing
- fat and oil product manufacturing
- edible cannabis products

Does not include: bakeries, which are separately defined.

4. Furniture and Fixtures Manufacturing. Manufacturers producing: wood and metal household furniture and appliances; bedsprings and mattresses; all types of office furniture and public building furniture and partitions, shelving, lockers and store furniture; and miscellaneous drapery hardware, window blinds and shades. Does not include wood workers and custom cabinet shops, which are separately regulated under “Artisan/Craft Product Manufacturing.” Does not include sawmills or planing mills, which are instead included under “Manufacturing/Processing - Heavy.”

5. Small-Scale Manufacturing. Includes manufacturing establishments producing small products not classified in another major manufacturing group, including: brooms and brushes; buttons, costume novelties; pens, pencils, and other office and artists’ materials; sporting and athletic goods; toys; etc.

6. Metal Products Fabrication, Machine and Welding Shops. An establishment engaged in the production and/or assembly of metal parts, including the production of metal cabinets and enclosures, cans and shipping containers, doors and gates, duct work, forgings and stampings, hardware and tools, plumbing fixtures and products, tanks, towers, and similar products. Examples of these uses include:

- blacksmith and welding shops
- sheet metal shops
- plating, stripping, and coating shops
- machine shops and boiler shops

7. Paper Product Manufacturing. An establishment that converts pre-manufactured paper or paperboard into boxes, envelopes, paper bags, wallpaper, etc., and/or that coats or glazes pre-manufactured paper. Does not include the manufacturing of pulp, paper, or paperboard (see “Manufacturing/Processing - Heavy - Pulp and Pulp Product Manufacturing”).

Manufacturing/Processing - Medium Intensity. A facility accommodating manufacturing processes that involve and/or produce building materials, fabricated metal products, machinery, and/or transportation equipment, where the intensity and/or scale of operations is greater than those classified under “Manufacturing/Processing - Light,” but where impacts on surrounding land uses or the community can typically be mitigated to acceptable levels. **Also includes cannabis manufacturing and processing facilities with similar operational characteristics to the examples below.** Examples of intensive manufacturing uses include the following:

1. Lumber and Wood Product Manufacturing. Manufacturing, processing, and sales involving the milling of forest products to produce rough and finished lumber and other wood materials for use in other manufacturing, craft, or construction processes. Includes the following processes and products:
 - containers, pallets and skids
 - manufactured and modular homes
 - milling operations
 - trusses and structural beams
 - wholesaling of basic wood products
 - wood product assembly
2. Machinery Manufacturing. An establishment that makes or processes raw materials into finished machines or parts for machines. Does not include the manufacture of electronics, equipment, or appliances (“Electronics, Equipment, and Appliance Manufacturing”).
3. Motor Vehicles and Transportation Equipment. Manufacturers of equipment for transporting passengers and cargo by land, air and water, including motor vehicles, aircraft, spacecraft, ships, boats, railroad and other vehicles such as motorcycles, bicycles and snowmobiles. Includes manufacture of motor vehicle parts and accessories; trailers and campers for attachment to other vehicles; self-contained motor homes; and van conversions. Does not include mobile home and modular home assembly (listed under “Lumber and Wood Product Manufacturing”).
4. Stone and Cut Stone Product Manufacturing. An establishment that cuts, shapes, and/or finishes marble, granite, slate, and/or other stone for construction and miscellaneous uses. Does not include establishments engaged primarily in buying or selling partly finished monuments and tombstones (“Artisan/Craft Product Manufacturing”).
5. Structural Clay and Pottery Product Manufacturing. An establishment that produces brick and structural clay products, including pipe, china plumbing fixtures, vitreous china articles, and/or fine earthenware and porcelain products. Does not include artist/craftsman uses (see “Artisan/Craft Product Manufacturing,” “Home Occupation”).

P. Definitions, “P.”

Plant Nursery. A commercial agricultural establishment engaged in the production of ornamental plants and other nursery products, grown under cover either in containers or in the soil on the site, or outdoors in containers. The outdoor production of ornamental plants in the soil on the site is instead included under “Crop Production, Horticulture, Orchard, Vineyard.” Also includes establishments engaged in the sale of

these products (e.g., wholesale and retail nurseries) and commercial-scale greenhouses (home greenhouses are included under “Residential Accessory Use or Structure”). The sale of house plants or other nursery products entirely within a building is also included under “General Retail.” **Does not include cannabis nurseries which are defined separately under cannabis cultivation - nursery.**

Primary Use. The main purpose for which a site is developed and occupied, including the activities that are conducted on the site a majority of the hours during which activities occur.

W. Definitions, “W.”

Wholesaling and Distribution. An establishment engaged in selling merchandise to retailers; to contractors, industrial, commercial, institutional, farm, or professional business users; to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise, including **cannabis products**, to such persons or companies. Examples of these establishments include:

- agents, merchandise or commodity brokers, and commission merchants
- assemblers, buyers and associations engaged in the cooperative marketing of farm products
- merchant wholesalers
- stores primarily selling electrical, plumbing, heating and air conditioning supplies and equipment

Also includes storage, processing, packaging, and shipping facilities for mail order and electronic-commerce retail establishments.

From: [Jacob Patterson](#)
To: [Lemos, June](#)
Cc: [Peters, Sarah](#); [O'Neal, Chantell](#); [Gurewitz, Heather](#); marie@mariejonesconsulting.com
Subject: 3/28/22 CC Mtg, Item 8E concerning public comments listed in the IS/ND for the cannabis ordinances project
Date: Saturday, March 26, 2022 11:22:28 AM

City Clerk & City Council,

This email is primarily informational since no final action is actually contemplated for this agenda item but I still think it is important to consider as this project progresses through the City's review process. I am not providing any opinion or my personal recommendation concerning the cannabis regulations policy decisions, which I will likely reserve for oral or future public comments but I want to point out what appears to be a fairly significant error if it is carried through to the actual adoption process for the relevant ordinances within this overall project updating the City's cannabis regulations.

The IS/ND that is included in the agenda materials for Monday's meeting purports to be published with the public comments on the draft IS/ND received by the City during the formal review and comment period but the comments that are included in that attachment appear to be incorrect and should be revised. First, there are duplicates of several public comments. Second, there are comments about the ordinances themselves or the policy decisions and not about the IS/ND (some are combined on both topics so those are appropriately included). Third, there are several very significant comments about the alleged inadequacy of the IS/ND that were submitted about the IS/ND during the formal public and responsible agency review and comment period as part of the public hearing process before the Planning Commission that are omitted in their entirety (see, e.g., February 23, 2022 Planning Commission meeting, Item No. 6A).

These omitted comments include comments submitted from me about the City's water model questioning the water supply analysis as it applies to this project. There are also comments incorporating the City's meeting materials and meeting video for the January 25, 2021 City Council meeting to demonstrate that the baseline conditions and even the scope/details of the project description in the draft IS/ND is inaccurate and therefore the resulting analysis in the draft IS/ND is flawed. I understand this is just a preliminary discussion and not the required noticed public hearing where you will potentially take action on this proposed ordinance that is recommended for approval by the Planning Commission but these apparent errors concerning the public comments on the draft IS/ND are very significant and should be corrected prior and a revised (accurate) draft IS/ND incorporating the actual public comments received on the draft IS/ND should be included as this item moves forward.

In general, it is a standard and best practice to actually log submitted comments in the order they are received during the formal review and comment period for a draft CEQA document. Based on the inaccuracies and disorganization of the comments in the attachment for Monday's meeting, this probably wasn't followed for this particular project. I think you should consider following those best practices in the future.

Regards,

--Jacob

Dear City Council,

When the discussion of cannabis coming into town first started, it was interesting to hear the different perspectives. Now that a couple of retail cannabis stores have opened, they are a part of our local business. The council voted on it, passed it and set ordinances in place for the retail cannabis to enter the city and be a part of the CBD.

Recently there has been discussion of the planning commission to propose that the retail cannabis only be allowed on the west side of Franklin St. I was shocked to hear that there was even a suggestion as the city already had ordinances in place for the retail cannabis. Our Central Business District is called that because that is where business in downtown happens. It is not Central Business district, excluding certain businesses that were welcomed into the city.

My parents own the property located at 144 N Franklin St and have a contract with MS Moulton for Sunshine Holistic. This was researched and well thought out asking the city if there were any reasons why they should not have them as tenants. The city assured them that their space was acceptable and so they moved forward.

I worked full time in the alley located between McPherson St and Franklin St for more than 20 years. When I worked there, on the South end was Mendo Litho, receiving deliveries, The Credit Union, with customers using the alley, they even added a parking lot that exited into the alley, LaBamba grocery and restaurant receiving deliveries in the alley, The Men's Room and also the Fratis house that had parking in the back by the alley. The Floor Store which received deliveries for various flooring products. The point is that this has always been a commercially used alley and is no surprise to the people on McPherson St that they live one block up from a commercial street in the central business district, or to new property owners that they would be buying one block up from Franklin St, a busy part of town.

It would be unfair to discriminate against property owners that own on the East side of the street, when their property is zoned commercial and they are in the CBD. It could cause problems in the CBD as the east side has the bulk of the empty buildings. This is unfair to the property owners on the east side!

After going to the planning commission meeting last week, my Mom asked the commission to exclude her property from this ridiculous idea of drawing a line down the center of Franklin Street and dividing the businesses. Jeremy said he was fine with the proposal of the line down the middle of Franklin, MS Roberts said she was fine with it and Nancy had no comment. Jay Andreis was open for discussing it in a sensible way to make it work, but it was disregarded and they moved on with this outrageous suggestion to exclude the east side of Franklin St. How disappointing that they didn't even talk about the request of excluding her building as she explained the natural buffer around the entire building.

I mentioned to them that I could walk across Franklin St in 5 seconds. How is this a better location a few seconds away? I didn't hear any facts that support allowing a retail cannabis across the street would be beneficial in any way. We're not talking about across a four lane highway, we are talking about a downtown street that people walk from side to side as they shop. They even have a special crosswalk by the Tip Top for pedestrian crossing.

I am asking that you do not draw a line down the middle of Franklin St.

Thank you, Anson Pyeatt

Dear Mayor Norvell and City Council Members,

My husband and I have owned the property at 144 N Franklin St for 22 years.

I have not phoned in or spoke at the meetings until last week at the planning commission. After hearing the idea to divide Franklin St. down the middle, I felt compelled to show up and address the unfairness of this proposal. This could cause problems with neighboring property owners on Franklin St, causing rent issues, devaluing one property and increasing rents on others as well as not being able to rent the space due to a line drawn down Franklin St.

The planning commission has allowed Jacob Patterson to speak on behalf of the appellants, while his mother MS Roberts would be voting on issues pertaining to the subject he was against. How is everyone OK with this? He praises them when they please him and he sternly disciplines them with his rhetoric when they are in opposition. This can influence votes! It is not disclosed to the public when they put in an application for a permit, as I had no idea for quite some time that they were Mother and Son. When I heard this, I was in disbelief.

Jay Koski on the other hand tries to strong arm the commission with his good ole boy attitude, gathering a few neighbors and attempting to convince people that having a retail cannabis business is an unsafe and egregious. If this is true, then we should have the facts supporting it. Has the Bakery on Main Street or the retail cannabis store in Mendocino been a problem? If so, then we should hear about it so that we can address the issues. I am interested in hearing the facts, if it is indeed not safe then we should be addressing the issues. I phoned Willits, they have 3 retail cannabis stores, Ukiah has 3, and Mendocino has 1. If there are problems I want to know about them. We all want safety!

We have a tenant for our building, Brandi Moulton and she has been waiting for over a year and a half for her permit for a retail cannabis business. For those of you that have any experience with owning and operating a small business, you will understand the impact this would have.

I am located on McPherson St as well as some of the appellants and I am not impacted by the businesses that are located on Franklin Street. Everyone knows that Franklin St is just one block away from McPherson St.

I have a buffer around my building at 144 N Franklin St on all four sides, Alder St to the North, Franklin St to the West, a 50 X150 parking lot to the South and a commercially used alley to the East. This location is not touching any of the appellant's property and has been a fully operating business for more than 20 years with no complaints from neighbors.

I asked the planning commission to exclude my property for this proposal and it was ignored in the following discussion. Jay Andreis was the only one on that was willing to discuss having a reasonable way to approach this proposal other than dividing Franklin Street and it was quickly rejected.

This proposal will affect me directly and I am hopeful that you will not go along with this preposterous idea of dividing Franklin St. down the middle to appease a few that resist change.

Thank you for your time,

Lyndia Pyeatt



City of Fort Bragg

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Text File

File Number: 22-145

Agenda Date: 3/28/2022

Version: 1

Status: Closed Session

In Control: City Council

File Type: Report

Agenda Number: 9A.

PUBLIC EMPLOYEE APPOINTMENT, Pursuant to Government Code Section 54957(b): Title:
City Manager



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 22-147

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In Control: City Council

File Type: Report

Agenda Number: 9B.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION, Pursuant to Paragraph (1) of Subdivision (d) of Government Code Section 54956.9; Name of Case: City of Fort Bragg vs. Mendocino Railway and Does 1-10, Case No.: 21CV00850, Superior Court of the State of California, County of Mendocino