

AGENCY:	City of Fort Bragg
MEETING DATE:	March 9, 2022
PREPARED BY:	Heather Gurewitz
PRESENTED BY:	Heather Gurewitz

AGENDA ITEM SUMMARY REPORT

APPLICATION NO.: ILUDC Amendment 1-22

OWNER: Various

APPLICANT: City of Fort Bragg

AGENT: N/A

PROJECT: Consider Adoption of a Resolution Recommending that City Council Adopt Inland Land Use and Development Code Amendment 1-22 to Regulate Commercial Cannabis Cultivation and Amend Existing Regulations for Cannabis Businesses in Commercial Zones.

LOCATION: All parcels located in Light and Heavy Industrial Zones and all parcels located in Inland Central Business District, General Commercial and Visitor Highway Commercial Zones

APN: N/A

TOTAL AREA AFFECTED: 170 Acres

ZONING: Inland Light & Heavy Industrial Zones, Central Business District, General Commercial and Visitor Highway Commercial Zones

ENVIRONMENTAL DETERMINATION: A Negative Declaration was prepared and is currently in circulation for public comment.

BACKGROUND

The City of Fort Bragg has been developing regulations for Commercial Cannabis Cultivation and minor modifications to existing regulations of cannabis businesses in commercial zones. For the background on this project please see **Attachment 1** - Staff Report from February 23, 2022.

On February 23, 2022, the Planning Commission held a public hearing on this matter. The public hearing was closed and the matter was continued to a date certain of March 9, 2022 to continue the consideration of an ordinance.

On February 28, 2022, the City Council considered the Urgency Ordinance and extended the moratorium one final time for 45-days. The Cannabis Business moratorium will expire on April 14, 2022. The City Clerks minutes from the meeting which includes Councils direction is included as Attachment 3.

PROJECT DESCRIPTION

The proposed amendment 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.

All commercial cannabis activity requires a discretionary Cannabis Business Permit (CBP) and is subject to review under CEQA, though some projects may be exempt.

The current version of the proposed changes to the ILUDC Chapter 2, §18.22.030 Commercial Districts include:

- The addition of Cannabis – Indoor Nursery Cultivation and Cannabis – Artisan/craft manufacturing are 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 as accessory uses with a minor use permit.
- 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 (3) 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.

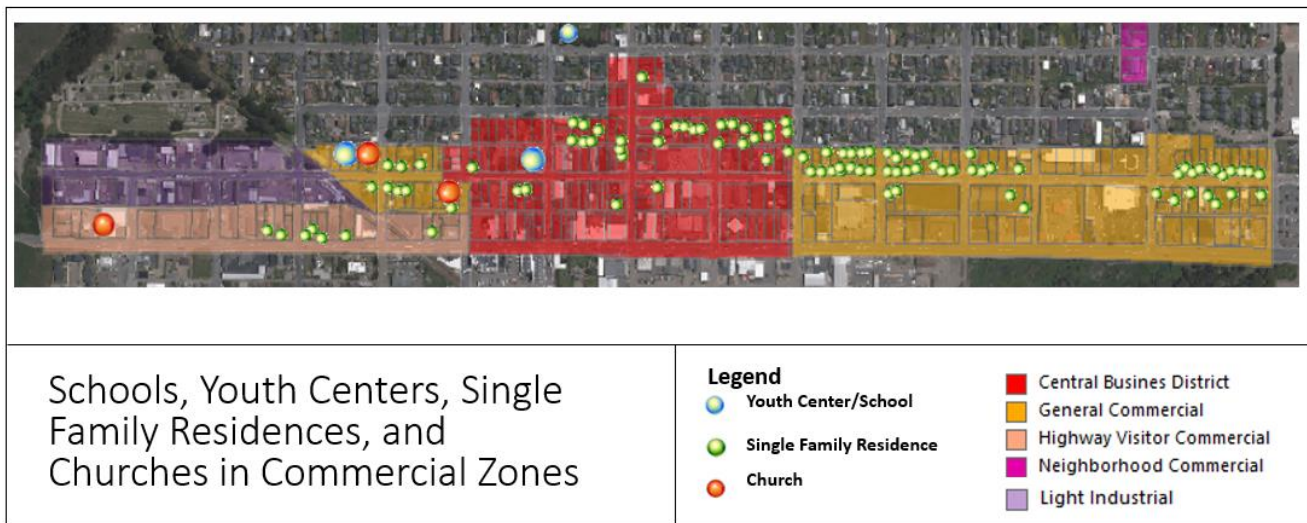
See **Attachment 2** –Proposed Ordinance which incorporates these changes.

The proposed changes to the ILUDC Chapter 4 (see **Attachment 3** for red line version) include:

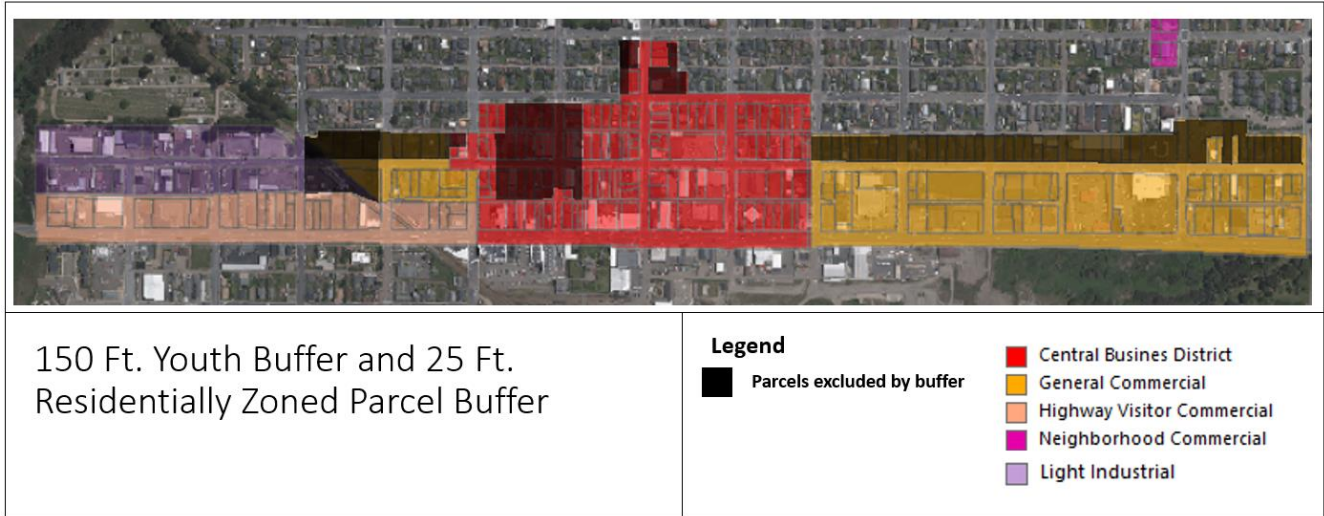
- The addition of §18.42.055 which provides specific Land Use Standards for Cannabis Cultivation

- Revisions to §18.42.057 Cannabis Retail:
 - Reversion back to the conditional use requirements in the existing code
 - Addition of Lighting and Screening reference to Code Section 18.30.050(F) and 18.30.070 for projects located adjacent to a residential property.
 - Addition of location requirements which includes a 150 ft. buffer from youth centers and schools and a 25 foot buffer from a residentially zoned parcel (measured parcel line to parcel line).
 - Accessory use section is revised to provide necessary clarification on what accessory uses are allowed and what constitutes and accessory use
 - Hours of operation are revised from 9:00 am to 9:00 pm to 9:00 am to 7:00 pm
 - Clarifying text is added that on-site consumption is not allowed

Planning Commission expressed an interest in reviewing buffers between cannabis dispensaries and churches, single family residences, and youth centers. The following map shows the location of youth centers, single family residences in the commercial zone, and churches in commercial zones:



The implementation of this code would result in restrictions to the parcels noted in the map below:



However, an alternative that Planning Commission may wish to consider is a 150 ft. buffer from youth centers and a physical designation of where cannabis businesses can be located, such as west of the centerline of Franklin St. That would provide the following locations:



The proposed changes to ILUDC §18.100.020 adds definitions for cannabis cultivation, cannabis-artisan manufacturing, and other definitions necessary to support regulations of these activities. There is also a modification to the definition of accessory use:

Current Accessory Use definition: A use customarily incidental to, related and clearly subordinate to a primary use on the same parcel, which does not alter the primary use nor serve property other than the parcel where the primary use is located.

Proposed Accessory Use definition: 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.

Additionally, it was recommended at the last meeting to include a definition of artisan manufacturing of cannabis in the definitions. The following definition has been added to Article 10:

Cannabis – Artisan/craft manufacturing. The manufacture and/or processing of cannabis products, primarily by hand for retail sale on the same site.

The proposed definitions are in **Attachment 2** - Proposed Ordinance.

GENERAL PLAN ANALYSIS

The proposed ordinance will allow an additional activity in industrial zones in the Inland zones. In the Inland General Plan (IGP), the two zones are described 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

The majority of the City’s industrial land is located in the coastal zone and is currently zoned Timber Industrial 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 ordinance is consistent with the Inland General Plan and does not conflict with any of the Goals, Policies, or Programs in the Inland General Plan. In particular, the proposed ordinance is consistent with the following:

General Plan Consistency Analysis
Land Use Goal LU-1 Promote development and conservation of land in Fort Bragg according to the pattern shown on the Land Use Designations Map.

<p>CONSISTENT - The proposed code amendments do not change the pattern of planned development, only allows additional use in zones planned for industrial development and modifies existing regulations for uses in commercial zones.</p>
<p>Land Use Goal LU-1 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.</p>
<p>CONSISTENT – commercial cannabis cultivation is not more 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 will be allowed which is similar to these activities and thus a consistent use.</p>
<p>Land Use Goal LU-3 Ensure that the Central Business District remains the historic, civic, cultural, and commercial core of the community.</p>
<p>CONSISTENT – (see below)</p>
<p>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).</p>
<p>CONSISTENT – the proposed ordinance restricts the maximum number of dispensaries in the Central Business District to a total of 3 and does not add uses without a typical retail store front.</p>
<p>Land Use Goal LU-3 Policy LU-3.2 Mixed Uses: Support mixed use development (i.e., a combination of residential and commercial uses) in the Central Business District that does not conflict with the primary retail function of this area.</p>
<p>CONSISTENT – the proposed ordinance does not modify the primary function of retail for the area.</p>
<p>Land Use Goal LU-4 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.</p>
<p>CONSISTENT – All commercial buildings in commercial areas are allowed to have retail businesses. The regulations, as written require that the building maintain the character of a building that is being used for retail purposes. For example, even microbusinesses in commercial areas must maintain a primary storefront and all other uses must be contained inside the building and are required to have treatment to prevent odor from escaping.</p>
<p>Land Use Goal LU-5 Support industrial development which is consistent with the protection, enhancement, and restoration of natural and scenic resources.</p>
<p>CONSISTENT– the addition of the new use inside the industrial zones will not change the nature of the industrial areas. Outdoor cultivation is still prohibited, so all cultivation will be indoors and consistent with other allowable industrial uses. Additionally, there are requirements for proposed projects to use water conservation methods and to use renewable energy.</p>

<p>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.</p>
<p>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. However, the addition of §18.42.055 Cannabis Cultivation provides additional protections specific to odor.</p>
<p>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.</p>
<p>CONSISTENT – the proposed use, Commercial Cannabis Cultivation is subject to discretionary review and each project will be reviewed for consistency with this General Plan Policy.</p>
<p>Public Facilities Goal PF-2 Policy PF-2.2 Program PF-2.2.5 Continue to encourage water conservation techniques and water conserving fixtures in all new development projects</p>
<p>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.</p>
<p>Open Space Goal OS-7 Improve air quality</p>
<p>CONSISTENT – Unlike other industrial uses, under the existing code, cultivations are required to have odor control technology and to use energy from a 100% renewable source or an on-site renewable energy system.</p>
<p>Sustainability Goal S-2 Encourage development that minimizes the demand for non-renewable energy and reduces Green House Gas (GHG) emissions.</p>
<p>CONSISTENT – Proposed ILUDC §18.42.055(B)(3)(C) requires that electricity must be exclusively provided by a renewable energy source.</p>
<p>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</p>
<p>CONSISTENT – Proposed ILUDC §18.42.055(B)(3)(C) requires that electricity must be exclusively provided by a renewable energy source.</p>
<p>Sustainability Goal S-3: Minimize the use of potable water in new and existing development.</p>
<p>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.</p>
<p>Sustainability Goal S-3: Policy S-3.1 Reduce Water Use: Minimize the use of potable water in new and existing development.</p>

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.

It is important to note that there are many additional goals, policies, and programs that will apply to future applications that would be allowable under this ordinance amendment. Specifically, the goals, policies, and programs that regulate noise, odor, community design, and environmental impacts. And, Policy LU-4.2 which states:

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*

Additionally, all projects are discretionary and require review under CEQA and licensing through the State's Department of Cannabis Control. The proposed ordinance does not change the nature of the zones or the locations in which activities can be conducted, and thus, is consistent with the General Plan.

ILUDC ANALYSIS

The proposed ordinance adds a new use to the Industrial zone. In the ILUDC, the Industrial Zone is characterized 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

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:

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	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	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

	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.	uses or the community can typically be mitigated to acceptable levels.	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) • Furniture • Small-scale manufacturing • Metal fabrication/machine shops • Paper products 	<ul style="list-style-type: none"> • Lumber/wood product • Machinery • Motor vehicle/transport • Stone and cut stone • Structural clay and pottery 	<ul style="list-style-type: none"> • Chemical Product • Glass Product • Concrete/plaster • Petroleum • Paving/roofing • Plastics • Primary metal • Pulp (Product) • textile

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

Currently, §18.42.057(E) regulates accessory uses. The proposed amendments to the code will clarify this by creating a table of accessory uses allowed and updating the definition of accessory use to be more clear.

In the previous version, operating requirements were moved to Chapter 9.30. However, as Planning Commission has indicated they are not comfortable with Cannabis Retail as permitted use this was reverted back to a Minor Use Permit in this version. Some operating requirements have been kept in 9.30, but those that are appropriate have been added back. Additionally, Lighting and Screening requirements are added to 18.42.057(C) and location requirements have been added to Chapter 18.42.057(D). The proposed section can be found in the **Attachment 2** – Proposed Ordinance or **Attachment 3** which shows the redline version of Chapter 4.

ENVIRONMENTAL DETERMINATION

An Initial Study and Negative Declaration were prepared and the project was found to have no impacts. The document began circulation on or before February 17, 2022 currently in circulation for public review which will be completed on March 17, 2022. If the changes to the proposed ordinances are significant, the document may be recirculated for additional comments.

RECOMMENDED PLANNING COMMISSION ACTION

Review proposed ordinance and recommend that the City Council adopt the proposed ordinance with Planning Commissions recommended changes or continue the deliberations to March 23, 2022 with recommended edits.