



City of Fort Bragg

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

Meeting Agenda 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**

Thursday, May 20, 2021

6:00 PM

Via Video Conference

Cannabis Ordinance

CALL TO ORDER

ROLL CALL

PLEASE TAKE NOTICE

DUE TO THE PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDERS N-25-20 AND N-29-20 WHICH SUSPEND CERTAIN REQUIREMENTS OF THE BROWN ACT, AND THE ORDER OF THE HEALTH OFFICER OF THE COUNTY OF MENDOCINO TO SHELTER IN PLACE TO MINIMIZE THE SPREAD OF COVID-19, CITY COUNCIL MEMBERS AND STAFF WILL BE PARTICIPATING BY VIDEO CONFERENCE IN THE SPECIAL CITY COUNCIL MEETING OF THURSDAY, MAY 20, 2021.

In compliance with the Shelter-in-Place Orders of the County and State, the Town Hall Council Chamber will be closed to the public. 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 in any of the following ways: (1) By joining the Zoom video conference and using the Raise Hand feature during Public Comment, (2) By delivering written comments through the drop-box for utility payments to the right of the front door at City Hall, 416 N. Franklin Street.

Any written or emailed comments received after 3:00 pm and before the meeting is ended will be forwarded to the Councilmembers by email. All comments on agenda matters will be included in the public record as part of the agenda packet the next business day after the meeting. We appreciate your patience and willingness to protect the health and wellness of our community and staff.

If you have any questions regarding this meeting, please contact the City Clerk at (707) 961-2823 ext. 100 or cmunoz@fortbragg.com.

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.*

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



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Text File

File Number: 21-243

Agenda Date: 5/20/2021

Version: 1

Status: Business

In Control: Special City Council

File Type: Staff Report

Agenda Number: 1A.

Receive Report and Provide Direction to Staff on Where Commercial Cannabis Cultivation, Should be Allowed as a Primary Use.



AGENCY: City of Fort Bragg
MEETING DATE: May 20, 2021
DEPARTMENT: Community Development
PRESENTED BY: H Gurewitz
EMAIL ADDRESS: hgurewitz@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:
 Receive Report and Provide Direction to Staff on Where Commercial Cannabis Cultivation, Should be Allowed as a Primary Use.

ISSUE:
 The City Council has directed staff to prepare an ordinance to allow commercial cannabis cultivation within the City Limits. At the prior meeting, council directed staff to allow indoor commercial cannabis cultivation in the industrial zones with a minor use permit.

ANALYSIS:

Cannabis Cultivations

A commercial cannabis cultivation can be less than 500 square feet to over 10,000 square feet and use a variety of different techniques which use varying amounts of electricity and water which could range from minimal to significant impacts on the zone and the community.

Council directed staff to categorize cultivation by mature canopy size to be inline with the state cultivation categories. At the last meeting, council provided direction to staff that cultivations should require a Minor Use Permit (MUP) which can be issued administratively by staff regardless of size.

Activity	Industrial - Light	Industrial - Heavy	Specific Use Regulations
Commercial Cannabis Cultivation – Indoor	MUP	MUP	18.42.0XX

18.42.0XX Commercial Cannabis Cultivation

In addition to the operating requirements set forth in Chapter 9.30, this Section provides location and operating requirements for commercial cannabis cultivation. Chapter 9.30 and Chapter 18.100.020 contains definitions of terms used herein.

- A. Conditional use. A Minor Use Permit is required to cultivate cannabis in accordance with Table 2-10 of Article 2.

- B. Commercial Cultivation. Commercial cultivation of cannabis shall be cultivated in a Fully Enclosed and Secure Structure (FESS).
- C. 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. Recordkeeping. Applicant shall participate in the California State Track and Trace Program

RECOMMENDED ACTION:

Receive report and confirm direction to staff on the size and permission of cultivation for presentation to Planning Commission.

ALTERNATIVE ACTION(S):

- Modify direction to staff.

FISCAL IMPACT:

There is no significant fiscal impact from this action.

GREENHOUSE GAS EMISSIONS IMPACT:

The GHG impact will depend on the actions taken on cultivation policy.

CONSISTENCY:

The recommended action is for Council to recommend an ordinance that is consistent with the relevant City of Fort Bragg 2012 Inland General Plan Goals, Policies, and Programs:

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.

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-4: Promote the economic vitality of the City's existing commercial areas.

Land Use Goal LU-5: Support industrial development which is consistent with the protection, enhancement, and restoration of natural and scenic resources.

Land Use 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 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.

IMPLEMENTATION/TIMEFRAMES:

Council's recommendations will be presented to Planning Commission for review and recommendations to Council. Staff will present a draft ordinance to Council with the Planning Commission recommendations for final review. The Ordinance will take effect 30 days after adoption.

ATTACHMENTS:

1. Staff Power Point Presentation

NOTIFICATION:

1. Cannabis Notify Me subscriber list.



City of Fort Bragg

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Text File

File Number: 21-248

Agenda Date: 5/20/2021

Version: 1

Status: Business

In Control: Special City Council

File Type: Staff Report

Agenda Number: 1B.

Receive Report and Provide Direction to Staff on Whether to Create a Cannabis Microbusiness Category or Enhance the Accessory Use Definition in Inland Land Use and Development Code Section 18.42.057



AGENCY: City of Fort Bragg
MEETING DATE: May 20, 2021
DEPARTMENT: Community Development
PRESENTED BY: H Gurewitz
EMAIL ADDRESS: hgurewitz@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

Receive Report and Provide Direction to Staff on Whether to Create a Cannabis Microbusiness Category or Enhance the Accessory Use Definition in Inland Land Use and Development Code Section 18.42.057

ISSUE:

City Council adopted an ordinance to allow accessory uses as part of a cannabis microbusiness in November of 2019. The City received an application for a cannabis microbusiness and attempted to implement the code as it was understood to be intended by Council. Through this process, it was determined that there is a need for more specific language to clarify Council's intentions.

ANALYSIS:

The Inland Land Use and Development Code (ILUDC) addresses accessory uses for a cannabis retail dispensary in section 18.42.057 (E). It states:

"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."

Additionally, Municipal Code Chapter 9.30 Cannabis Businesses includes the following definition in Section 9.30.020:

"COMMERCIAL CANNABIS CULTIVATION. The planting, growing or harvesting of cannabis plants that are intended to be transported, processed, distributed, dispensed, delivered or sold. Commercial cannabis cultivation is permitted as an accessory use to a permitted cannabis business."

The major difference between a microbusiness and a retail dispensary with accessory uses is the percentage of space dedicated to each activity, and whether the accessory use(s) "serve the parcel."

Currently a cannabis retail dispensary is allowed with a Minor Use Permit in the Central Business District, General Commercial, and Highway Commercial zones. Cannabis Retail Delivery is allowable with a Minor Use Permit in the General Commercial and Highway Commercial zones.

Adding a microbusiness as an allowable use would be appropriate if the Council wishes to allow cultivation and/or manufacturing as part of a retail operation in a commercial zone and does not want to limit the floor space dedicated to those uses. A Cannabis Microbusiness would require a new definition to be developed specific to Fort Bragg, as it has already been determined that the State's definition is not appropriate for the City. The reason to create the microbusiness as a use and add a definition, would be to allow a business that would not meet the requirements of a primary use/accessory use by square footage.

Because the current accessory use definition in Article 10 says that the accessory use, "does not alter the primary use nor serve property other than the parcel where the primary use is located," the Council will need to specify if this prohibits a business from wholesale and distribution if they are in a commercial zone. Staff researched accessory use definitions and the above text is specific to the City's code. The Council may wish to update the definition if they feel it is too restrictive.

If the Council decides to continue with accessory use, it is necessary to have a reliable empirical metric to determine if uses are accessory. The most reasonable and consistent metric is square footage. This is not only quantifiable but it can be measured and confirmed if a permit is issued.

An example of how the Council can clarify the allowable accessory uses might be to include the following in the definition in Section 18.42.057:

In the Central Business District and Highway Visitor Commercial Zones:

1. A cultivation of immature plants no larger than XXX square feet for retail sale on site
2. Processing of cannabis for retail sale on site
3. Non-volatile manufacturing of cannabis for retail sale on site
4. Retail delivery
5. Accessory office

In the General Commercial Zone:

1. A cultivation of immature plants no larger than XXXX square feet
2. Processing of cannabis for (retail and wholesale?) sale on site
3. Non-volatile manufacturing of cannabis for (retail and wholesale?) sale on site
4. Retail delivery
5. Office space

The following are NOT allowed as accessory uses to cannabis retail in the commercial zone:

1. Cultivation of mature or flowering plants
2. Cannabis manufacturing using volatile substances
3. Wholesale, warehousing, and distribution of cannabis

RECOMMENDED ACTION:

Provide direction to staff on whether to create a Cannabis Microbusiness Use or to modify the definition of accessory uses to clarify what activities are allowable in which zones.

ALTERNATIVE ACTION(S):

- Recommend a different alternative.
- Direct staff to take no further action on the matter.

FISCAL IMPACT:

There is no significant fiscal impact that will result from this activity.

GREENHOUSE GAS EMISSIONS IMPACT:

There is no significant GHG impact from this project.

CONSISTENCY:

Staff is seeking a recommendation from Council for an ordinance that is consistent with the relevant City of Fort Bragg 2012 Inland General Plan Goals, Policies, and Programs:

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.

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-4: Promote the economic vitality of the City's existing commercial areas.

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Land Use 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 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.

IMPLEMENTATION/TIMEFRAMES:

Council's recommendations will be presented to Planning Commission on June 9, 2021 for review and recommendations to Council. A final ordinance will be presented to Council on Monday, June 28, 2021.

ATTACHMENTS:

1. Staff PowerPoint Presentation

NOTIFICATION:

1. Cannabis Notify Me subscriber list



Cannabis Microbusiness Policies

Heather Gurewitz, MCRP
Associate Planner
Community Development Department
City of Fort Bragg

Cannabis Retail Code 18.42.057

- 18.42.057 Cannabis Retail

E. 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.

History of Code Implementation

- One manufacturing business approved under prior cannabis manufacturing ordinance
- Two dispensaries approved under existing retail cannabis ordinance
- One application for a dispensary/microbusiness was denied by Planning Commission because:
 - Uses were not allowable
 - Uses were not accessory to the primary use
- Two applications for cannabis retail pending (one incomplete)

Two Options for the Microbusiness Question

1. Add more detail to existing cannabis retail definition in 18.42.57
2. Create a separate definition in 18.42 for “Cannabis Microbusiness”

Option #1: Amend Retail Accessory Definition

In the Central Business District and Highway Visitor Commercial Zones:

- A cultivation of immature plants no larger than XXX square feet for retail sale on site
- Processing of cannabis for retail sale on site
- Non-volatile manufacturing of cannabis for retail sale on site
- Retail delivery
- Accessory office

In the General Commercial Zone:

- A cultivation of immature plants no larger than X,XXX square feet
- Processing of cannabis for (retail and wholesale?) sale on site
- Non-volatile manufacturing of cannabis for (retail and wholesale?) sale on site
- Retail delivery
- Office space

The following are NOT allowed as accessory uses to cannabis retail in the commercial zone:

- Cultivation of mature or flowering plants
- Cannabis manufacturing using volatile substances
- Wholesale, warehousing, and distribution of cannabis

Option #2: Cannabis Microbusiness

- State definition says 3 or more types of activity
 - Retail, cultivation, distribution/wholesale
 - Retail, cultivation manufacturing
 - Cultivation, manufacturing, distribution
- Creates a specific definition for the purpose of allowing cannabis microbusinesses in some commercial zones.
- May not be necessary for industrial zones
 - All uses would be allowable with required permits
 - Retail Delivery only, no storefronts in industrial

Sample Policies for Microbusinesses in Commercial Zones

- Retail must take up the building frontage and have a main public entrance on the main street for retail sales.
- Non-retail activities shall not be visible from the public right of way and not accessible from main street frontage.
- Allowable activities shall not create significant noise, odor, traffic, or other public nuisance.
- All non-retail activities must take place in a fully enclosed and secure structures.
- Cultivation portion may not exceed size allowable in zoning district.

Should the City create a “Cannabis Microbusiness” use or modify accessory uses for Cannabis Retail?

If yes, where should it be allowed?

	Cannabis Business Permit Only (administrative)	CBP + Minor Use Permit (administrative)	CBP + Use Permit (Planning Commission)	Not Allowable
Microbusiness with Retail Delivery	IL, IH			
Microbusiness with Storefront Retail				

- Central Business District - CBD**
- Highway Commercial - CH**
- General Commercial - CG**
- Light Industrial - IL**
- Heavy Industrial -IH**

From: [CDD User](#)
To: [Munoz, Cristal](#)
Subject: FW: Public Comments Submission On Cannabis Ordinance Clarification for May 20 2021 City Council Session
Date: Tuesday, May 18, 2021 4:39:47 PM

Cristal,

Forwarding a public comment for the 5/20 CC meeting on the proposed Cannabis Ordinance.

Thanks,

Sarah Peters

Sarah Peters
Office Assistant
City of Fort Bragg
416 North Franklin Street
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Email: speters@fortbragg.com
City's website: <http://city.fortbragg.com/>



From: Mary Rose Kaczorowski <mrkaczorowski@gmail.com>
Sent: Tuesday, May 18, 2021 3:36 PM
To: Lemos, June <Jlemos@fortbragg.com>
Cc: Norvell, Bernie <Bnorvell2@fortbragg.com>; Miller, Tabatha <TMiller@fortbragg.com>; Peters, Lindy <LPeters2@fortbragg.com>; Gonzalez, Joanna <JGonzalez@fortbragg.com>; Marcial Cordon <marcialcordon@gmail.com>; Morsell-Haye, Jessica <Jmorsellhay@fortbragg.com>; Albin-Smith, Tess <Talbinsmith@fortbragg.com>; Dan Gjerde <gjerde@mendocinocounty.org>; CDD User <CDD@fortbragg.com>
Subject: Public Comments Submission On Cannabis Ordinance Clarification for May 20 2021 City Council Session

Dear Mayor and City Council.

The proposed Cannabis Ordinance that allows:
"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." **belongs in an industrial area of the City of Ft. Bragg and not in the heart of downtown or the**

Central Business District.

Please read the following and keep cannabis manufacturing, cultivation and/or processing outside of the Downtown, outside of the CBD and away from residential neighborhoods.

The City does not have the expertise nor is able to monitor or enforce safety for such operations, for cannabis operations employees or nearby businesses.

Cannabis Retail operations should not allow cannabis manufacturing, cultivation and/or processing as accessory uses.

This is a bad precedent. This ordinance is incompatible with what residents have envisioned for Fort Bragg's revitalization in many previous scoping sessions and design charrettes (collaborative effort used to create a detailed design or plan for specific goal or geographic area) done by the City of Fort Bragg.

Please Note: Since Cannabis is still illegal under Federal law- federal protections do not exist for cannabis employees.

Here are a few of the hazards:

1. **OSHA's [Hazard Communication Standard \(HazCom\)](#)**. This standard provides information on individual chemicals via labels and safety data sheets, including how to react to specific chemicals in the event of a fire and how and where to store chemicals and which pesticides and herbicides require workers to use respiratory protection. Each state may have their own or use OSHA guidelines.
2. **Electrical.** Cannabis extraction labs must be designed to local and federal building codes. The most common electrical hazard is when employees 'daisy chain' power strips together or attach one to the end of an extension cord. These are small but easily overlooked hazards, that

quickly become permanent fixtures and overloading electrical circuits are a common source of ignition.

3. **Machine Guarding.** Assembly lines in cannabis plants can cause accidents when the belt is moving quickly and a slip, trip or fall causes a body part to be crushed. The same applies when machinery doesn't have the proper guards or cutters and rotating parts are not properly engaged.
4. **Personal Protective Equipment (PPE).** Some cannabis growers employ UV lights in their work, which can be dangerous for employees with repeated exposure. To minimize the exposure, some growers offer workers special sunglasses.
5. **Slips, trips and falls.** The most common accident in any type of commercial or industrial production setting – slips, trips and falls – are usually preventable with good housekeeping. Remove clutter from the production space, including cardboard boxes used to move product. Often times, cannabis extraction operations will have a lot of water on the ground. When this is the case, boots may be worn to prevent falls.

Article from Chemistry World online

<https://www.chemistryworld.com/news/accidents-at-cannabis-cultivation-facilities-worry-industry-chemists/3009412.article>

Recent safety incidents at US cannabis cultivation facilities have caused concern at the American Chemical Society's (ACS) autumn meeting. 'I have a level of professional and personal concern about this new-born industry – while marijuana has been around a long time, at the industrial production level it is an infant,' stated [Neal Langerman](#), a safety consultant and founder of Advanced Chemical Safety in

California, during a session of the [256th American Chemical Society meeting in Boston](#), US on 20 August

From POLITICO

<https://www.politico.com/story/2019/02/18/marijuana-factories-explosions-safety-issues-1155850>

Federal safety and health standards do apply to marijuana companies, **but many are too small to fall under the jurisdiction of the Occupational Safety and Health Administration.** Since 1977, a rider that's included routinely in appropriations bills prevents the agency from inspecting farm operations with 10 employees or fewer.

States are facing a new danger as legal marijuana spreads across the country: Explosions and fires at cannabis factories are sending workers to the hospital with severe burns, revealing the nascent industry's lack of proper safety standards.

In the 33 states where the drug is legal for medical or recreational use, at least 10 fires or explosions have occurred in the past five years at facilities that extract hash oil used in edible products. Nearly all resulted in serious injuries for production-line staff.

The California Division of Occupational Safety and Health (Cal/OSHA) cited a marijuana producer for a workplace explosion in which an employee suffered burns. As the marijuana industry takes hold in states allowing recreational marijuana use, state agencies are taking steps to ensure compliance with worker safety and health standards.

ARTICLE FROM *EHS Daily Advisor* (Environment, Health, and Safety)

Enforcement and Inspection, Personnel Safety

Explosion and Injury at Marijuana Processor Leads to Citation

By Guy Burdick Jan 7, 2019 [Enforcement and Inspection, Personnel Safety](#)

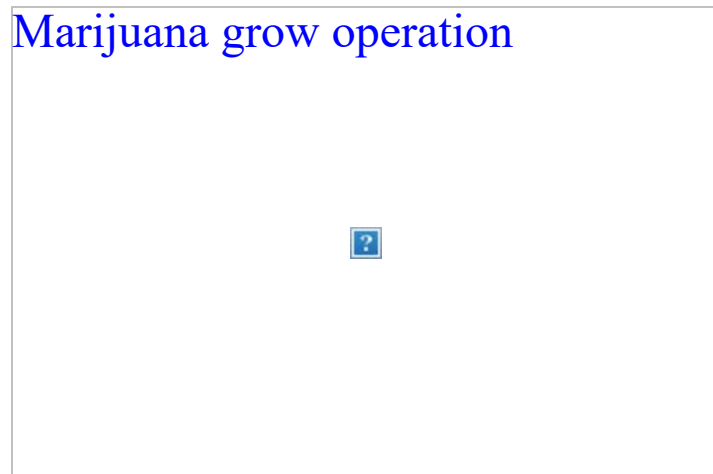


Photo: Canna Obscura / [Shutterstock.com](#)

An employee of the company was working alone June 19, 2018, inside a 128-square-foot portable storage container, using propane to extract oil from cannabis leaves.

The propane ignited, causing an explosion that badly burned the worker. He was hospitalized for several days following the incident.

Firefighters take 4 hours to extinguish fire at commercial structure housing marijuana grow operation in South L.A.: LAFD

KTLA NEWS <https://ktla.com/news/local-news/firefighters-battling-commercial-structure-fire-in-south-l-a/>

Posted: Apr 3, 2021 / 04:03 PM PDT / Updated: Apr 3, 2021 / 10:39 PM PDT

About 170 firefighters took four hours to extinguish a fire that largely destroyed commercial structures housing a marijuana grow operation in South Los Angeles Saturday afternoon, officials said.

The fire at 8730 Crocker St. in the Green Meadows neighborhood in South L.A. was first reported around 2:20 p.m. as an outside fire to the rear of a one-story commercial building, according to a Los Angeles Fire Department alert.

My Best Regards,

Mary Rose Kaczorowski, M.T.S.- Pacific School of Religion/Graduate Theological Union

<https://muckrack.com/mary-rose-kaczorowski>

How to pronounce my name? <https://www.youtube.com/watch?v=5Sik7LKjTY>

[linkedin.com/in/mrk2008](https://www.linkedin.com/in/mrk2008)

"Be calm, like a giant tree in a storm."



Fort Bragg City Council
416 N Franklin St.
Fort Bragg, CA 95437

May 18, 2021

Honorable Council,

The Mendocino Cannabis Alliance (MCA) is this county's premier trade association, representing over 125 members in all sectors of the legalized cannabis industry. MCA appreciates the efforts of the City of Fort Bragg's council members and staff to engage in fruitful discussions surrounding the city's purpose to "promote the health, safety, morals and general welfare of the residents and businesses within the city."

Please consider the following stakeholder input, recommendations and questions regarding the agenda items referenced.

1D

- We recommend the development of both the microbusiness permit AND further clarification of the accessory use definition so that small business owners may utilize the most appropriate path to licensure and success. (page 52)

- We recommend the following definitions
 - a. *“Microbusiness” means at least three of the following commercial cannabis activities: (1) cultivation of cannabis on an area 10,000 square feet or less, (2) distribution, (3) Manufacturing Level 1 (Non-Volatile), and (4) acting as a licensed retailer/dispensary (to include delivery only) “*

- We recommend defining each accessory use individually by square footage, not collectively.

- We recommend allowing the microbusiness license (as defined in this memo) in all areas where the proposed uses are allowed.

Thank you for your consideration of MCA's recommendations for a city ordinance that is safe and supportive of this nascent industry and its potential to help drive economic development in Fort Bragg.

We are available to discuss any of these items further at your convenience.

Sincerely,
Mendocino Cannabis Alliance