



AGENCY: City of Fort Bragg
MEETING DATE: May 10, 2021
DEPARTMENT: Community Development
PRESENTED BY: Heather Gurewitz
EMAIL ADDRESS: hgurewitz@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

Receive Report and Consider Introducing by Title Only and Waiving the First Reading of Ordinance 966-2021 Amending Chapter 9.30 (Cannabis Businesses) of Title 9 (Public Peace, Safety and Morals) of the Fort Bragg Municipal Code

ISSUE:

Since the passage of the Medical Marijuana Regulation and Safety Act (MMRSA, 2015) and the Adult Use of Marijuana Act (AUMA, 2016), the State of California, through its Bureau of Cannabis Control, has been developing the laws, regulations and licensing requirements for cannabis businesses. On January 16, 2019, the California Office of Administrative Law (OAL) approved the Bureau of Cannabis Control's revised cannabis regulations.

The City of Fort Bragg adopted Ordinance 928-2017 in early 2017 regulating cannabis manufacturing uses following passage of the AUMA. Ordinance 928-2017 was applied and paid for by an applicant seeking to establish a cannabis manufacturing business in the City.

On February 12, 2018, the City Council provided direction to staff to revise the City's dispensary regulations. The City Council held numerous meetings to discuss cannabis business activities in the City of Fort Bragg since the passage of AUMA in 2016 and the adoption of the Medical Cannabis Regulation and Safety Act in 2017. Chapter 9.30 Cannabis Businesses of Title 9 (Public, Peace, Safety, and Morals) of the Fort Bragg Municipal Code (Code) was adopted on November 21, 2019, and addresses cannabis businesses in general but does not have provisions for cannabis cultivation. On October 13, 2020, the City Council directed staff to develop regulations and allow commercial cannabis cultivation within the City limits.

Additionally, through the implementation of Chapter 9.30, staff identified several sections of the Code that lacked clarity or could be revised to streamline the application process.

Staff met with the Community Development Committee on February 23, 2021 and March 23, 2021 to discuss changes to Chapter 9.30, the possible inclusion of cannabis cultivation within the City limits, and potential changes to include cultivation in the Inland Land Use and Development Code. Committee members deliberated, received public input, and provided direction to staff.

The City Council met on May 3, 2021 to discuss potential changes to Chapter 9.30 and the possibility of allowing commercial cannabis cultivation. The Council received public input, deliberated, and provided direction to staff on changes to chapter 9.30 and for the development of commercial cannabis cultivation regulations.

Staff reviewed Council direction and determined that the requirements for commercial cannabis cultivation can be included in the updates of Chapter 9.30.

ANALYSIS:

This ordinance is one of the required actions necessary to allow commercial cannabis cultivation in the City of Fort Bragg. If Council adopts the Ordinance, the City Council will still need to adopt an update to the Inland Land Use and Development Code (ILUDC) and the Coastal Land Use and Development Code (CLUDC) before it is allowable in either part of the City. The Council is scheduled to continue discussion of the land uses on May 20, 2021 for the ILUDC, after which it will be reviewed by the Planning Commission for additional recommendations before possible adoption by City Council.

If passed, the attached ordinance will make the following changes to Chapter 9.30:

Change	Effect
Move the management of Cannabis Business Permit applications from the City of Fort Bragg Police Department to Community Development Department.	The purpose of this change is to streamline the process and centralize applications for cannabis business activities with other required permissions in one department. The Police Department will still maintain authority over the public safety and criminal background elements of applications.
Change the grounds for denial based on criminal history in Section 9.30.100D to match the State of California Grounds for rejection of a cannabis license based on criminal history.	The City's code provided a stricter basis for denial of a cannabis business permit due to criminal history. The Council reviewed the existing regulation in comparison with the state and other local jurisdictions and gave staff direction to update the code to be consistent with the requirements of the State.
Make it legal for commercial cannabis to be cultivated within the City of Fort Bragg.	Currently, no section of the code addresses commercial cannabis cultivation. The additional sections of section 9.30 provide regulation and application requirements for parties interested in commercially cultivating cannabis within the City Limits.
Limit the cultivation of cannabis to indoor cultivation within a Fully Enclosed and Secure Structure (FESS).	At direction of City Council, commercial cannabis cultivation will only be allowable if it is grown in a Fully Enclosed and Secure Structure (FESS). This includes a greenhouse as long as it is not visible from the public right of way.

Change	Effect
Require all proposed commercial cannabis cultivations to be evaluated in compliance with CEQA.	All permits issued through Chapter 9.30 will be discretionary permits and therefore qualify as projects and must be evaluated in compliance with CEQA. Each project will be individually evaluated.
Require commercial cannabis cultivation applicants to submit a water usage plan and an energy usage plan.	At direction from Council, staff included requirements for both a water usage and energy usage plan that will include conservation measures.
Require all commercial cannabis cultivations to use on-site water recycling practices.	This will reduce the impacts of cultivation on the City's water and wastewater systems and was included at the direction of Council.
Require all commercial cannabis cultivations to enroll in Sonoma Clean Power or install solar panels.	At the direction of Council, staff included this requirement to minimize impacts on the energy grid and reduce the environmental impacts of cultivation.

City Council provided direction to include LED lighting, private water sources, and water as a “should” in the code. However, in his review of the ordinance, the City Attorney strongly discouraged the use of the word should, because it is not an enforceable word despite its ample use throughout various sections of the Municipal Code including the CLUDC and the ILUDC. If the Council wants to provide recommendations, they can be included in the updates to the ILUDC under “Specific Land Use Standards.”

Environmental Determination

In the initial review, the proposed ordinance was found to be exempt from CEQA in accordance with Section 26055(h) of the California Business and Professional Code, which allows local jurisdictions to adopt an ordinance, rule, or regulation that requires discretionary review and approval of permit to engage in commercial cannabis activity. This exemption becomes inoperative on July 1, 2021. If there are changes required prior to adoption, staff will redo the initial review and may be required to conduct an initial study in order to comply with CEQA.

Note: This is an exemption for the passing of this ordinance only. Any changes to the Inland Land Use and Development Code will have to be reviewed under CEQA and all cannabis cultivation projects will have to be reviewed for compliance with CEQA as noted in Section 9.30.120 and Section 9.30.140 of the proposed ordinance.

While Cannabis cultivation in the City will not be allowable until the Council passes an ordinance to address cannabis cultivation in the ILUDC, passing this ordinance moves this process forward and qualifies for the current CEQA exemption due to expire on July 1, 2021.

RECOMMENDED ACTION:

Staff recommends introduction of Ordinance 966-2021 on May 10, 2021, with adoption of the ordinance scheduled for the next regular meeting of the City Council, on May 24, 2021.

ALTERNATIVE ACTION(S):

Make changes to the proposed ordinance and/or postpone adoption and conduct a new CEQA initial study and possibly initial review before bringing it back to Council.

FISCAL IMPACT:

There is no significant fiscal impact by adopting this ordinance.

GREENHOUSE GAS EMISSIONS IMPACT:

Cannabis cultivation can be an energy intensive activity. However, the City’s proposed ordinance requires an energy conservation plan. Until changes to the ILUDC are adopted to allow cannabis cultivation, the actual impacts on GHG emissions is unknown and impossible to estimate, but will be considered on a case-by-case basis.

CONSISTENCY:

Goal/Policy/Program	Consistency
Land Use Goal LU-5: Support industrial development which is consistent with the protection, enhancement, and restoration of natural and scenic resources.	The ordinance will provide another opportunity for industrial development but provides regulation that will reduce the impact of the activity on the environment.
Public Facilities Program PF-2.2.5: Continue to encourage water conservation techniques and water conserving fixtures in all new development projects.	The ordinance requires commercial cannabis cultivations onsite water recycling and a plan for water conservation.
Sustainability Goal S-2: Encourage development that minimizes the demand for non-renewable energy and reduces Green House Gas (GHG) emissions.	The ordinance requires commercial cannabis cultivations to provide an energy plan for energy conservation measures and allows for a greenhouse meeting the definition of a FESS to encourage the use of natural light.
Policy S-3.1: Reduce Water Use: Minimize the use of potable water in new and existing development.	The ordinance requires commercial cannabis cultivations to have onsite water recycling and a plan for water conservation

The proposed ordinance does not conflict with any of the elements, goals, policies, or programs of the general plan.

IMPLEMENTATION/TIMEFRAMES:

If introduced by City Council, the ordinance will be placed on the Consent Calendar for adoption at the City Council meeting on May 24th and will take effect on June 23, 2021.

ATTACHMENTS:

1. Draft Ordinance amending Chapter 9.30 "Cannabis Businesses"

NOTIFICATION:

1. Cannabis Notify Me subscriber list