



# City of Fort Bragg

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

## Meeting Agenda Planning Commission

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Wednesday, March 9, 2022

6:00 PM

Town Hall, 363 N. Main Street and Via Video  
Conference

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### MEETING CALLED TO ORDER

### PLEDGE OF ALLEGIANCE

### ROLL CALL

### ZOOM WEBINAR INVITATION

*You are invited to a Zoom webinar.*

*When: Mar 9, 2022 06:00 PM Pacific Time (US and Canada)*

*Topic: Planning Commission Meeting*

*Please click the link below to join the webinar:*

*<https://us06web.zoom.us/j/86572678783>*

*Or Telephone: US: +1 720 707 2699 or +1 253 215 8782 (\*6 mute/unmute; \*9 raise hand)*

*Webinar ID: 865 7267 8783*

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

### **1. PUBLIC COMMENTS ON: (1) NON-AGENDA & (2) CONSENT CALENDAR ITEMS**

*MANNER OF ADDRESSING THE PLANNING COMMISSION: All remarks and questions shall be addressed to the Planning Commission; no discussion or action will be taken pursuant to the Brown Act. No person shall speak without being recognized by the Chair or Acting Chair. 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 Chair or Acting Chair 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 Chair or Acting Chair, may speak on any topic that may be a proper subject for discussion before the Planning Commission for such period of time as the Chair or Acting Chair 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 Commissioners' response to questions and requests made during this comment period.*

*WRITTEN PUBLIC COMMENTS: To submit written public comments to the Planning Commissioners, email [CDD@fortbragg.com](mailto:CDD@fortbragg.com). Any written public comments received after agenda publication will be forwarded to the Commissioners as soon as possible after receipt and will be available for inspection at City Hall, 416 N. Franklin*

Street, Fort Bragg, California. 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.

## **2. STAFF COMMENTS**

## **3. MATTERS FROM COMMISSIONERS**

## **4. CONSENT CALENDAR**

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

### **4A. [22-110](#) Minutes of the February 23, 2022 Planning Commission Meeting**

**Attachments:** [Minutes of the February 23, 2022 Planning Commission Meeting](#)

## **5. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS**

## **6. PUBLIC HEARINGS**

### **6A. [22-105](#) 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.**

**Attachments:** [Staff Report 03.09.2022](#)

[ATT 1 - 02.23.2022 Staff Report](#)

[ATT 2 - Proposed Ordinance](#)

[ATT 3 - Title 18 Chapter 4 Red Line Version](#)

[ATT 4 - CCM2022-02-28](#)

[ATT 5 - RESO XXX-2022 Amendment to Title 18 to Regulate Cannabis Business](#)

[ATT 6 - 03.09.2022 Presentation Slides](#)

[ATT 7 - Public Comments](#)

## **7. CONDUCT OF BUSINESS**

## **ADJOURNMENT**

The adjournment time for all Planning Commission meetings is no later than 9:00 p.m. If the Commission is still in session at 9:00 p.m., the Commission may continue the meeting upon majority vote.

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 4, 2022.

\_\_\_\_\_  
Sarah Peters  
Administrative Assistant, Community Development Department

**NOTICE TO THE PUBLIC**

Materials related to an item on this agenda submitted to the Commission after distribution of the agenda packet are available for public inspection in the Community Development Department at 416 North Franklin Street, Fort Bragg, California, during normal business hours. Such documents are also available on the City’s website at [www.fortbragg.com](http://www.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

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Fort Bragg, CA 95437  
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## Text File

File Number: 22-110

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**Agenda Date:** 3/9/2022

**Version:** 1

**Status:** Public Hearing

**In Control:** Planning Commission

**File Type:** Minutes

**Agenda Number:** 4A.

Minutes of the February 23, 2022 Planning Commission Meeting



# City of Fort Bragg

416 N Franklin Street  
Fort Bragg, CA 95437  
Phone: (707) 961-2823  
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## Meeting Minutes Planning Commission

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Wednesday, February 23, 2022

6:00 PM

Town Hall, 363 N.Main Street, Fort Bragg, CA  
Lake Forest Elementary School, 2240 Sailsbury Drive, El  
Dorado Hills, CA

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### MEETING CALLED TO ORDER

Chair Logan called the meeting to order at 6:00 P.M.

### PLEDGE OF ALLEGIANCE

### ROLL CALL

**Present** 5 - Chair Jeremy Logan, Vice Chair Jay Andreis, Commissioner Stan Miklose,  
Commissioner Michelle Roberts, and Commissioner Nancy Rogers

### ORDER OF BUSINESS

Chair Logan changed the order of the meeting agenda so that Item Number 7, Conduct of Business, could be addressed before Item Number 6, Public Hearings.

### 1. PUBLIC COMMENTS ON: (1) NON-AGENDA & (2) CONSENT CALENDAR ITEMS

Public Comment was received on Non-Agenda Items from Lydia Bernard.

Public Comment was received on Consent Calendar items from Jacob Patterson and Jenny Shattuck.

### 2. STAFF COMMENTS

Interim City Manager Spaur introduced himself to Commissioners and thanked them for their service.

### 3. MATTERS FROM COMMISSIONERS

None.

### 4. CONSENT CALENDAR

Item 4B was pulled from the Consent Calendar and moved to Conduct of Business.

A motion was made by Commissioner Roberts, seconded by Vice Chair Andreis, that these minutes be approved on the Consent Calendar. The motion carried by the following vote:

**Aye:** 5 - Chair Logan, Vice Chair Andreis, Commissioner Miklose, Commissioner Roberts and Commissioner Rogers

**4A.** [22-079](#) Minutes of the December 15, 2021 Planning Commission Meeting

**ITEMS REMOVED FROM CONSENT CALENDAR**

**4B.** [22-072](#) Resolution Making the Legally Required Findings to Authorize the Conduct of Remote "Telephonic" Meetings During the State of Emergency

Assistant Director Engineering O'Neal summarized the options for handling this agenda item.

Discussion: Commissioners discussed in-person and hybrid meeting possibilities. City Attorney Collins provided information on the legal requirements of the decision on this resolution. Interim City Manager Spaur gave input on how the Commission could move this item forward.

Commissioners reached consensus on the adoption of the resolution and in addition, asked that staff reach out to City Council to find out what the options are for moving toward a more hybrid or publicly accessible format.

**A motion was made by Vice Chair Andreis, seconded by Commissioner Roberts, that this Planning Resolution be adopted. The motion carried by the following vote:**

**Aye:** 5 - Chair Logan, Vice Chair Andreis, Commissioner Miklose, Commissioner Roberts and Commissioner Rogers

Enactment No: RES PC01-2022

**5. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS**

None.

**7. CONDUCT OF BUSINESS**

**7B.** [22-008](#) Perform Business Operations Established in Bylaws for 2022 Planning Year (Ord. 740 §1,1992; Fort Bragg Municipal Code §2.20.100)

Commissioner Logan was elected Chair. Commissioner Andreis removed himself from consideration as Vice Chair as he may not be serving on the Planning Commission for the entire term. Commissioner Roberts was elected Vice Chair.

**A motion was made by Commissioner Miklose that Commissioner Logan be elected Chair and Commissioner Roberts be elected Vice Chair. The motion carried by the following vote:**

**Aye:** 5 - Chair Logan, Vice Chair Andreis, Commissioner Miklose, Commissioner Roberts and Commissioner Rogers

Public Comment was received by Jacob Patterson and Jenny Shattuck.

Discussion: After discussion of the proposed 2022 By-Laws, the Commission reached consensus on directing staff to change the order of business so that it reflects current practice.

**A motion was made by Chair Logan, seconded by Vice Chair Andreis, that this Planning Resolution be adopted as amended. The motion carried by the following vote:**

**Aye:** 4 - Chair Logan, Vice Chair Andreis, Commissioner Miklose and Commissioner Rogers

**No:** 1 - Commissioner Roberts

Enactment No: RES PC02-2022

**6. PUBLIC HEARINGS**

**6A. [22-065](#)** Receive Report, Conduct Public Hearing, and 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.

Chair Logan opened the public hearing at 6:51 PM.

Associate Planner Gurewitz presented the staff report for this agenda item, and responded to Commissioners’ clarifying questions.

Public Comment in favor of the ordinance was received from Anjelica Sanchez and Brandy Moulten.

Public Comment in opposition to the ordinance was received from Jay Koski, Jenny Shattuck, and Jacob Patterson.

Interim City Manager Spaur urged Commissioners to give direction to staff on details of concern and to move the ordinance forward with a recommendation to City Council.

Chair Logan closed the public hearing at 8:17 PM.

Chair Logan recessed the meeting at 8:17 PM; the meeting reconvened at 8:27 PM.

At 9:05 PM, Commissioners extended the meeting for an additional 30 minutes.

Discussion:

Under deliberation, Planning Commissioners discussion included zoning issues; on-site distribution and microbusiness terminology; buffer zones; public input; lingering discomfort with cannabis; staff oversight of potentially problematic aspects of cannabis businesses; moratorium extension; a requirement for Use Permits; better defining what is allowed and not allowed; and size limits on nurseries. The commission decided to hold additional work sessions and directed staff to provide another draft incorporating some of their suggestions in regard to microbusinesses, permitting, and buffer zones.

The public hearing was continued to a date certain of March 9, 2022 at 6:00 PM.

**A motion was made by Commissioner Rogers, seconded by Commissioner**

**Miklose, that this Public Hearing be continued to the next regularly scheduled Planning Commission meeting of March 9, 2022. The motion carried by the following vote:**

**Aye:** 5 - Chair Logan, Vice Chair Andreis, Commissioner Miklose, Commissioner Roberts and Commissioner Rogers

**ADJOURNMENT**

Chair Logan adjourned the meeting at 9:27 PM.

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Jeremy Logan, Chair

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Sarah Peters, Administrative Assistant

IMAGED (\_\_\_\_\_)





# City of Fort Bragg

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## Text File

File Number: 22-105

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**Agenda Date:** 3/9/2022

**Version:** 1

**Status:** Public Hearing

**In Control:** Planning Commission

**File Type:** Planning Resolution

**Agenda Number:** 6A.

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.

<b>AGENCY:</b>	City of Fort Bragg
<b>MEETING DATE:</b>	March 9, 2022
<b>PREPARED BY:</b>	Heather Gurewitz
<b>PRESENTED BY:</b>	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.

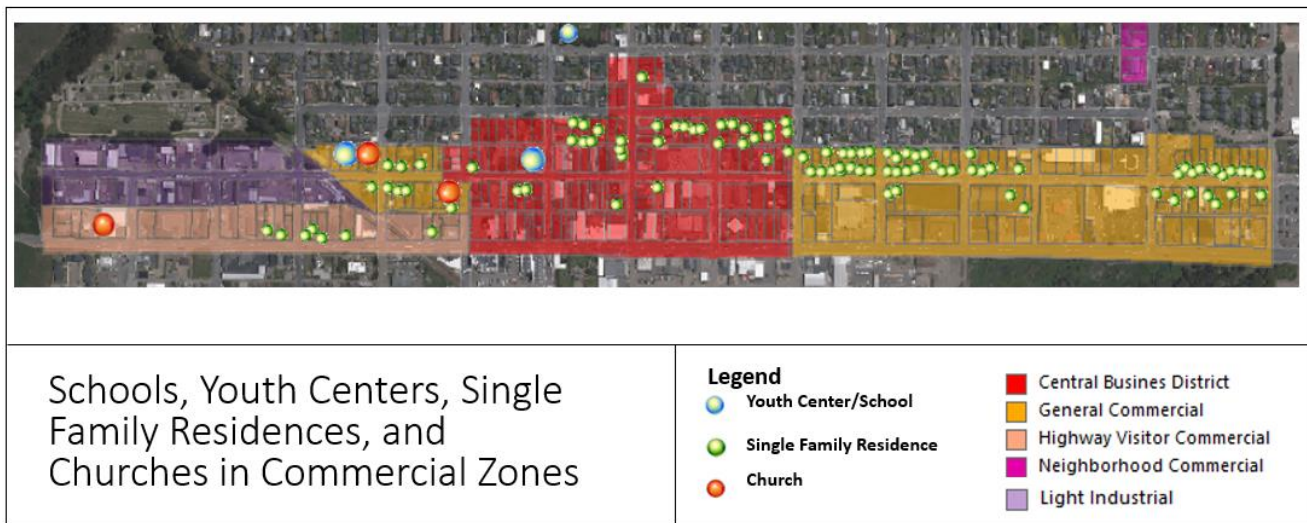
See **Attachment 2** –Proposed Ordinance which incorporates these changes.

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

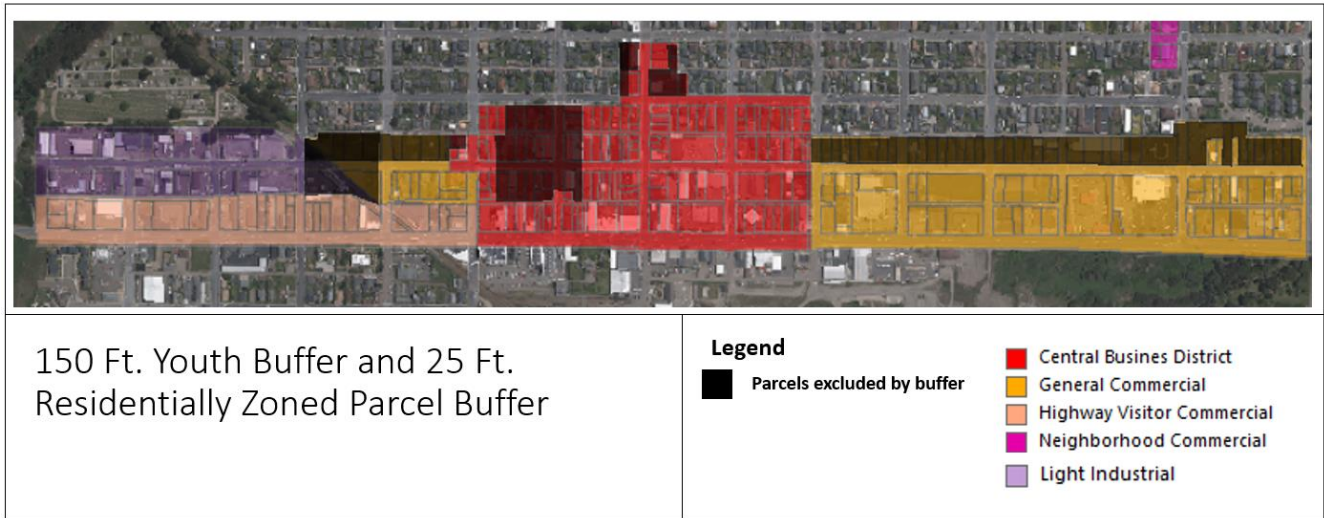
- The addition of §18.42.055 which provides specific Land Use Standards for Cannabis Cultivation

- 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:

<b>General Plan Consistency Analysis</b>
<b>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.</b>

<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><b>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.</b></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><b>Land Use Goal LU-3 Ensure that the Central Business District remains the historic, civic, cultural, and commercial core of the community.</b></p>
<p>CONSISTENT – (see below)</p>
<p><b>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).</b></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><b>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.</b></p>
<p>CONSISTENT – the proposed ordinance does not modify the primary function of retail for the area.</p>
<p><b>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.</b></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><b>Land Use Goal LU-5 Support industrial development which is consistent with the protection, enhancement, and restoration of natural and scenic resources.</b></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><b>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.</b></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><b>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.</b></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><b>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</b></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><b>Open Space Goal OS-7 Improve air quality</b></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><b>Sustainability Goal S-2 Encourage development that minimizes the demand for non-renewable energy and reduces Green House Gas (GHG) emissions.</b></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><b>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</b></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><b>Sustainability Goal S-3: Minimize the use of potable water in new and existing development.</b></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><b>Sustainability Goal S-3: Policy S-3.1 Reduce Water Use: Minimize the use of potable water in new and existing development.</b></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:

	<b>Light Manufacturing</b>	<b>Medium Manufacturing</b>	<b>Heavy Manufacturing</b>
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"> <li>• Clothing/Fabric</li> <li>• Electronics, equipment, and appliances</li> <li>• Food and beverage (including breweries and bottling plants)</li> <li>• Furniture</li> <li>• Small-scale manufacturing</li> <li>• Metal fabrication/machine shops</li> <li>• Paper products</li> </ul>	<ul style="list-style-type: none"> <li>• Lumber/wood product</li> <li>• Machinery</li> <li>• Motor vehicle/transport</li> <li>• Stone and cut stone</li> <li>• Structural clay and pottery</li> </ul>	<ul style="list-style-type: none"> <li>• Chemical Product</li> <li>• Glass Product</li> <li>• Concrete/plaster</li> <li>• Petroleum</li> <li>• Paving/roofing</li> <li>• Plastics</li> <li>• Primary metal</li> <li>• Pulp (Product)</li> <li>• textile</li> </ul>

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.

<b>AGENCY:</b>	City of Fort Bragg
<b>MEETING DATE:</b>	February 23, 2022
<b>PREPARED BY:</b>	Heather Gurewitz
<b>PRESENTED BY:</b>	Heather Gurewitz

## AGENDA ITEM SUMMARY REPORT

**APPLICATION NO.:** ILUDC Amendment 1-22

**OWNER:** Various

**APPLICANT:** City of Fort Bragg

**AGENT:** N/A

**PROJECT:** Receive Report, Conduct Public Hearing, and 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

In 1996, the People of the State of California voted to enact Proposition 215, the Compassionate Use Act (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. Then, in 2003, the California Legislature enacted Senate Bill 420, 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.

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.

This was followed by 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” in February of 2016.

Shortly thereafter, the voters approved Proposition 64 (“Prop 64”) in November of 2016 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.

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”).

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. Through multiple public meetings various options were discussed and on November 21, 2019, City Council adopted Ordinance 953-2019 which established rules and regulations for Cannabis Businesses. On October 13, 2020, Council further directed staff to develop regulations for commercial cannabis cultivation.

Regulations were drafted and reviewed by the Community Development Committee (CDC) at public meetings on February 23, 2021 and March 23, 2021 where the CDC deliberated and provided additional direction. Following the March 23, 2021 meeting, CDC determined that full council input was needed to draft commercial cannabis cultivation regulations, and on May 3<sup>rd</sup> and May 20<sup>th</sup>, the City Council held public meetings where they deliberated and provided additional direction to staff.

On May 24, 2021, City Council adopted Ordinance 966-2021 amending Chapter 9.30 Cannabis Businesses to regulate commercial cannabis cultivation in the City. Staff were directed to continue with the development of necessary amendments to the Inland Land Use and Development Code to allow commercial cannabis cultivation.

Staff determined that the proposed actions constituted a project and was not exempt from review under the California Environmental Quality Act Public Resources Code Public Resources Code §21000, et seq. and the CEQA Guidelines, 14 California Code of Regulations §15000, et seq. Due to the drought and the existing local emergency related to COVID-19, the initial study was delayed.

Meanwhile, the State of California determined a need to make changes to the agencies responsible for regulating cannabis businesses. On July 1, 2021, the Bureau of Cannabis Control, the California Department of Agriculture CalCannabis Program, and the California Department of Public Health Manufactured Cannabis Safety Branch were consolidated into the Department of Cannabis Control and new regulations of cannabis businesses were adopted in September of 2021 (ATTACHMENT 5).

On September 27, 2021, the City Council adopted a moratorium on cannabis businesses. The reason for the moratorium was to allow staff and the City Council to study and consider updates to the existing Cannabis Business Regulations to:

- resolve potential conflicts with residential uses;
- define what constitutes a “youth center” and if a buffer of more or less than 600 feet is appropriate for Fort Bragg;
- clarify cannabis microbusinesses;
- resolve concerns about overconcentration of cannabis dispensaries in the CBD (a limit on the number allowed or a required buffer between dispensaries); and
- consider whether cannabis dispensaries should be limited in where they are allowed in the CBD or any other district where allowed.

The City Council discussed the above matters at public meetings on October 25, November 8, and December 13, 2021. The proposed amendments to Title 18 Inland Land Use and Development Code incorporate the direction provided by the City Council.

Staff, in consultation with Metropolitan Planning Group, subsequently began the required Initial Study in compliance with the California Environmental Quality Act. Based on the results of the initial study, it was determined that the proposed project would have no environmental impacts and a Negative Declaration was prepared. The draft Negative Declaration began circulation on or before February 17, 2022 and was also sent to the Department of Cannabis Control for review on that same date. The City is currently accepting public comments on the draft document.

It is critical to note that the scope of the project in the Negative Declaration/Initial Study includes the amendments to Chapter 9.30 Cannabis Businesses, however, as this chapter is in the Municipal Code, the Planning Commission does not make recommendations to City Council on Municipal Code Amendments. The draft updates to Chapter 9.30 (Attachment 4) are provided for reference purposes only, as are the Department of Cannabis Control Regulations (Attachment 5), because they are integral to the regulation of cannabis businesses in the City limits. For the purposes of this hearing, the project is limited to the land use element of the project, proposed amendments to Title 18.

## PROJECT DESCRIPTION

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.

The proposed project will also amend four sections of the Inland Land Use and Development Code (ILUDC) to provide land use regulations for commercial cannabis cultivation and to amend existing regulations for cannabis business activities in commercial zones. See the following attachments for the draft proposed amendments:

<b>Attachment 1</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
<b>Attachment 2</b>	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
<b>Attachment 3</b>	Proposed Amendment to ILUDC Chapter 10 Definitions Including New and Revised Definitions in §18.100.020



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 proposed changes to the ILUDC Chapter 2 §18.22.030 Commercial Districts (Attachment 1) 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 (Attachment 1) 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 (Attachment 2) 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 (Attachment 3) adds definitions for cannabis cultivation, cannabis microbusiness, and other definitions necessary to support regulations of these activities. Minor modifications are made to the definition of accessory use.

The proposed project will amend 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.

## **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:

<b>General Plan Consistency Analysis</b>
<b>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.</b>
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.
<b>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.</b>
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.
<b>Land Use Goal LU-3 Ensure that the Central Business District remains the historic, civic, cultural, and commercial core of the community.</b>
CONSISTENT – (see below)
<b>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).</b>
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.
<b>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.</b>
CONSISTENT – the proposed ordinance does not modify the primary function of retail for the area.
<b>Land Use Goal LU-4 Promote the economic vitality of the City’s existing commercial areas.</b>
CONSISTENT – Streamlining the permit process for cannabis dispensaries allows for more economic opportunities in the commercial area.
<b>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.</b>
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.
<b>Land Use Goal LU-5 Support industrial development which is consistent with the protection, enhancement, and restoration of natural and scenic resources.</b>

<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><b>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.</b></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><b>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.</b></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><b>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</b></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><b>Open Space Goal OS-7 Improve air quality</b></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><b>Sustainability Goal S-2 Encourage development that minimizes the demand for non-renewable energy and reduces Green House Gas (GHG) emissions.</b></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><b>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</b></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><b>Sustainability Goal S-3: Minimize the use of potable water in new and existing development.</b></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</p>

recycling and encourages proposed projects to use alternate sources of water from the City's potable water system.
<b>Sustainability Goal S-3: Policy S-3.1 Reduce Water Use: Minimize the use of potable water in new and existing development.</b>
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. 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:

	<b>Light Manufacturing</b>	<b>Medium Manufacturing</b>	<b>Heavy Manufacturing</b>
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	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.

	characteristics of the manufacturing processes and the materials used are unlikely to cause significant impacts on surrounding land uses or the community.		
Examples	<ul style="list-style-type: none"> <li>• Clothing/Fabric</li> <li>• Electronics, equipment, and appliances</li> <li>• Food and beverage (including breweries and bottling plants)</li> <li>• Furniture</li> <li>• Small-scale manufacturing</li> <li>• Metal fabrication/machine shops</li> <li>• Paper products</li> </ul>	<ul style="list-style-type: none"> <li>• Lumber/wood product</li> <li>• Machinery</li> <li>• Motor vehicle/transport</li> <li>• Stone and cut stone</li> <li>• Structural clay and pottery</li> </ul>	<ul style="list-style-type: none"> <li>• Chemical Product</li> <li>• Glass Product</li> <li>• Concrete/plaster</li> <li>• Petroleum</li> <li>• Paving/roofing</li> <li>• Plastics</li> <li>• Primary metal</li> <li>• Pulp (Product)</li> <li>• textile</li> </ul>

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 suggests that a fully licensed dispensary is compatible with 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 ordinance, 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 this by creating a table of accessory uses allowed and specifying the difference between a microbusiness and a retail business with an accessory use.

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 ordinance update 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.

## **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.



## **RECOMMENDED PLANNING COMMISSION ACTION**

Review proposed code amendments and either recommend that the City Council adopt existing ordinance, recommend adoption with suggested changes, or recommend that the Council do not adopt the proposed code amendments.

## **ATTACHMENTS**

1. Proposed Amendments to Title 18 Chapter 2
2. Proposed Amendments to Title 18 Chapter 4
3. Proposed Amendments to Title 18 Chapter 10
4. Draft Amendments to Chapter 9.30
5. DCC Cannabis Regulations
6. Negative Declaration – Initial Study
7. Draft Resolution

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

**AN ORDINANCE AMENDING CHAPTER  
9.30 (CANNABIS BUSINESSES) OF  
TITLE 9 (PUBLIC PEACE, SAFETY AND  
MORALS) OF THE FORT BRAGG  
MUNICIPAL CODE**

**ORDINANCE NO. XXX-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**, 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 is will not have a significant impact on the environment under the California Environmental Quality Act (CEQA) pursuant to California Business and Professions Code 26055(h). CEQA document language for (probably ND).

**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. The adoption of this ordinance is exempt from the California Environmental Quality Act (“CEQA”), pursuant to California Business and Professions Code 26055(h), CEQA does not apply because this ordinance requires discretionary review and approval of permits, licenses, and other authorizations to engage in commercial cannabis activity.

**Section 2.** Title 18 (“Inland Land Use and Development Code”) of the Fort Bragg Municipal Code is hereby amended to provide as follows:

**Article 2**

**18.22.030 Commercial District Land Uses and Permit Requirements**

<b>TABLE 2-6</b> <b>Allowed Land Uses and Permit Requirements for Commercial Zoning Districts</b>	<b>P Permitted use, Zoning Clearance required</b> <b>MUP Minor Use Permit required (see § 18.71.060)</b> <b>UP Use Permit required (see § 18.71.060)</b> <b>S Permit requirement set by Specific Use Regulations</b> <b>— Use not allowed</b>					
	<b>PERMIT REQUIRED BY DISTRICT</b>					<b>Specific Use Regulations</b>
<b>LAND USE (1)</b>	<b>CN</b>	<b>CO</b>	<b>CBD</b>	<b>CG</b>	<b>CH</b>	

**AGRICULTURAL, RESOURCE AND OPEN SPACE USES**

Cannabis – Indoor Nursery Cultivation	—	—	MUP(3)	MUP(3)	MUP(3)	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	—	—	
Cannabis – Artisan/craft manufacturing			MUP(3)	MUP(3)	MUP(3)	Chapter 9.30 18.42.057
Printing and publishing	—	—	P	P	—	
Research and development (R&D)	—	—	—	UP	—	

LAND USE (1)	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
	CN	CO	CBD	CG	CH	
	Recycling - Small facility	P	P	P	P	
Recycling - Large facility	—	—	—	UP	—	<u>18.42.150</u>
Wholesaling and Distribution				MUP(3)	MUP(3)	

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.
- (3) Use shall only be allowable as an accessory use to a retail business.

LAND USE (1)	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
	CN	CO	CBD	CG	CH	
	Artisan shop	UP	UP	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	<u>18.42.130</u>
Cannabis Retail	—	—	MUP(4)	MUP	MUP	<u>18.42.057</u> Chapter 9.30
Cannabis retail - Delivery only	—	—	MUP(5)	MUP(5)	MUP(5)	<u>18.42.059</u>

RETAIL TRADE

LAND USE (1)	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
	CN	CO	CBD	CG	CH	
	Artisan shop	UP	UP	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	<u>18.42.130</u>
Cannabis Retail	—	—	MUP(4)	MUP	MUP	<u>18.42.057</u> Chapter 9.30
Cannabis retail - Delivery only	—	—	MUP(5)	MUP(5)	MUP(5)	<u>18.42.059</u>

TABLE 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	<b>P</b> Permitted use, Zoning Clearance required <b>MUP</b> Minor Use Permit required (see § 18.71.060) <b>UP</b> Use Permit required (see § 18.71.060) <b>S</b> Permit requirement set by Specific Use Regulations <b>—</b> Use not allowed					
	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
LAND USE (1)	CN	CO	CBD	CG	CH	Chapter 9.30

- (4) No more than three total retail cannabis businesses shall be allowed in the Central Business District.
- (5) Use shall only be allowable as an accessory use to a cannabis retail business.

### 18.42.030 – Industrial Land Uses and Permit Requirements

TABLE 2-10 Allowed Land Uses and Permit Requirements for Industrial Zoning Districts	<b>P</b> Permitted use, Zoning Clearance required <b>MUP</b> Minor Use Permit required (see § 18.71.060) <b>UP</b> Use Permit required (see § 18.71.060) <b>S</b> Permit requirement set by Specific Use Regulations <b>—</b> Use not allowed		
	PERMIT REQUIRED BY DISTRICT		Specific Use Regulations
LAND USE (1)	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	
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	

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 § <a href="#">18.71.060</a> )	
	UP	Use Permit required (see § <a href="#">18.71.060</a> )	
S	Permit requirement set by Specific Use Regulations		
—	Use not allowed		
LAND USE (1)	PERMIT REQUIRED BY DISTRICT		Specific Use Regulations
	IL	IH	
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	<a href="#">18.42.150</a>
Recycling - Small facility	P	P	<a href="#">18.42.150</a>
Storage - Outdoor	UP	UP	<a href="#">18.42.140</a>
Storage - Personal storage facility (mini-storage)	UP	P	
Storage - Warehouse, indoor storage	P	P	
Wholesaling and distribution	P	P	

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 § <a href="#">18.71.060</a> )	
	UP	Use Permit required (see § <a href="#">18.71.060</a> )	
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	<a href="#">18.42.020</a>
Building and landscape materials sales - Indoor	P	P	
Building and landscape materials sales - Outdoor	UP	P	<a href="#">18.42.130</a>
Cannabis retail	MUP(2)	MUP(2)	18.42.057 Chapter 9.30
Cannabis retail - Delivery only	MUP (2)	MUP (2)	<a href="#">18.42.057</a>



TABLE 2-10 Allowed Land Uses and Permit Requirements for Industrial Zoning Districts	PERMITTED USE, ZONING CLEARANCE REQUIRED		
	P	Minor Use Permit required (see § 18.71.060)	
	MUP	Use Permit required (see § 18.71.060)	
	UP	Permit requirement set by Specific Use Regulations	
	S	Use not allowed	
	—		
LAND USE (1)	PERMIT REQUIRED BY DISTRICT		Specific Use Regulations
	IL	IH	
			Chapter 9.30

(2) Use shall only be allowable as an accessory use to a cannabis business engaged in cultivation, processing, manufacturing, and/or distribution.

## **Article 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 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. Accessory uses may include activities that require additional State cannabis licenses including processing, manufacturing, distribution and retail.

#### **18.42.057 Cannabis Storefront Retail**

In addition to the operating requirements set forth in Chapter 9.30, this Section provides requirements for cannabis retail. Article 10 contains definitions of terms used herein.

- A. **Conditional use.** A Minor Use Permit shall be required to operate cannabis retail in accordance with Table 2-6 of Article 2.
- B. **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.
- C. **Delivery services.** The primary use 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:
  - a. Commercial delivery to locations outside a permitted cannabis retail facility shall only be permitted in conjunction with a permitted cannabis retail facility that has a physical location and a retail storefront open to the public. A cannabis retail use shall not conduct sales exclusively by delivery. Delivery of cannabis without a storefront component shall be considered cannabis retail - delivery only, and subject to the requirements of § 18.42.059, in addition to Chapter 9.30.
  - b. Minor Use Permit applications for cannabis retail shall include a statement as to whether the use will include delivery of cannabis and/or cannabis products to customers located outside the cannabis retail facility. If a permitted cannabis retail use without a delivery component chooses to provide delivery services at a later date, an amendment to the Minor Use Permit shall be required.
  - c. If delivery services will be provided, 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.

- D. **Drive-through services.** Drive-through or walk-up window services in conjunction with cannabis retail are prohibited.
- E. **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.
- F. **Lighting and Screening.** Projects that are on properties adjacent to residential properties shall comply with §18.30.050(F) and §18.30.070.
- G. **Location.** A cannabis retail business shall not be located within 150 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). A cannabis retail shall not be located within 25 feet of a residentially zoned parcel (measured parcel line to parcel line). 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/residential zone to the closest property line of the lot on which the cannabis business is located.
- H. **Accessory uses.** As defined in Article 10, an accessory use 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. Accessory uses are determined by square footage and the definitions in Article 10.

1. The following uses are allowable as accessory uses to cannabis storefront retail. In addition to meeting the definition of accessory, the combined accessory uses shall not exceed the total square footage of the primary use:

Zone	Allowable Accessory Uses
Central Business District	Nursery (non-flowering) cultivation; Cannabis - Artisan/craft manufacturing; Retail Delivery; On-Site Distribution
Highway Visitor Commercial	Nursery (non-flowering) cultivation; Processing; Cannabis - Artisan/craft manufacturing; Manufacturing (non-volatile); Distribution and Wholesale; Retail Delivery; On-Site Distribution
General Commercial	Nursery (non-flowering) cultivation; Processing; Distribution and Wholesale; Cannabis - Artisan/craft manufacturing;

	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 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.
- I. **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.

**Article 10**

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

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.

**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

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

Code 9.30, and for which specific land use regulations are provided in Chapter 18.42.055.

G. Definitions, "G."

**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.

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. Cannabis Manufacturing as a use is defined as either heavy manufacturing, medium intensity manufacturing, or light manufacturing.

**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
- 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”).

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.

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 3. 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, CMC  
City Clerk**

**PUBLISH: date XX, 2022 and date XX, 2022 (by summary).  
EFFECTIVE DATE: Date XX, 2022.**

### 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 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. Accessory uses may include activities that require additional State cannabis licenses including processing, manufacturing, distribution and retail.

### 18.42.057 Cannabis Storefront Retail

In addition to the operating requirements set forth in Chapter 9.30, this Section provides location and operating requirements for cannabis retail. ~~Chapter 9.30~~ **Article 10** contains definitions of terms used herein.

- A. **Conditional use.** A Minor Use Permit shall be required to operate cannabis retail in accordance with Table 2-6 of Article [2](#).
- B. **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.
- C. **Delivery services.** The primary use 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:
  - a. Commercial delivery to locations outside a permitted cannabis retail facility shall only be permitted in conjunction with a permitted cannabis retail facility that has a physical location and a retail storefront open to the public. A cannabis retail use shall not conduct sales exclusively by delivery. Delivery of cannabis without a storefront component shall be considered cannabis retail - delivery only, and subject to the requirements of § 18.42.059, in addition to Chapter 9.30.
  - b. Minor Use Permit applications for cannabis retail shall include a statement as to whether the use will include delivery of cannabis and/or cannabis products to customers located outside the cannabis retail facility. If a permitted cannabis retail use without a delivery component chooses to provide delivery services at a later date, an amendment to the Minor Use Permit shall be required.
  - c. If delivery services will be provided, 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.
- D. **Drive-through services.** Drive-through or walk-up window services in conjunction with cannabis retail are prohibited.
- ~~E. **Operational requirements.** In addition to project specific conditions of approval and the requirements set forth in Chapter 9.30, cannabis retail shall comply with the following operational 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.~~

~~4.~~ **E. Hours of operation.** Cannabis retail may operate between the hours of 9:00 a.m. to 97:00 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.

**F. Lighting and Screening.** Projects that are on properties adjacent to residential properties shall comply with §18.30.050(F) and §18.30.070.

**G. Location.** A cannabis retail business shall not be located within 150 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). A cannabis retail shall not be located within 25 feet of a residentially zoned parcel (measured parcel line to parcel line). 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/residential zone to the closest property line of the lot on which the cannabis business is located.

~~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.

**H. Accessory uses.** As defined in Article 10, an accessory use 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. Accessory uses are determined by square footage and the definitions in Article 10.

1. The following uses are allowable as accessory uses to cannabis storefront retail. In addition to meeting the definition of accessory, the combined accessory uses shall not exceed the total square footage of the primary use:

<b>Zone</b>	<b>Allowable Accessory Uses</b>
Central Business District	Nursery (non-flowering) cultivation; Cannabis - Artisan/craft manufacturing; Retail Delivery; On-Site Distribution

Highway Visitor Commercial	Nursery (non-flowering) cultivation; Processing; Cannabis - Artisan/craft manufacturing; Manufacturing (non-volatile); Distribution and Wholesale; Retail Delivery; On-Site Distribution
General Commercial	Nursery (non-flowering) cultivation; Processing; Distribution and Wholesale; Cannabis - Artisan/craft manufacturing; 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 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.
- I. **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.



# 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, February 28, 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**

Mayor Norvell stated he will recuse himself on Item 7A and the Vice Mayor will conduct that public hearing. He reported on a conversation he had with Supervisor Gjerde regarding tax sharing. The County Board of Supervisors has established an ad hoc committee consisting of Supervisors Gjerde and Mulheren to discuss this matter. Mayor Norvell appointed Vice Mayor Morsell-Haye and Councilmember Peters to join Gjerde and Mulheren in a joint City/County ad hoc committee regarding tax sharing with the County. This committee will be in effect for one year, through February 28, 2023. Mayor Norvell requested that an agenda item be added to the March 14, 2022 City Council agenda to discuss the holding of public meetings, transition to hybrid meetings, costs of staffing, etc.

#### **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, Brandy Moulton, LimaSierra Wooten, and Jacob Patterson.
- (2) None.
- (3) None.

#### **3. STAFF COMMENTS**

City Manager Spaur reported that he attended the Planning Commission meeting last Wednesday and urged them to move the cannabis ordinance item forward with a recommendation to Council.

#### **4. MATTERS FROM COUNCILMEMBERS**

Mayor Norvell said that the Mayor cannot direct any Councilmember to respond to questions from members of the public, but he would hope that all Councilmembers will be responsive to calls and emails.

## **5. CONSENT CALENDAR**

### **Approval of the Consent Calendar**

**A motion was made by Councilmember Peters, seconded by Councilmember Albin-Smith, to approve the Consent Calendar. The motion carried by the following vote:**

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

- 5A. [22-083](#)** Adopt City Council Resolution Making the Legally Required Findings to Continue to Authorize the Conduct of Remote "Telephonic" Meetings During the State of Emergency
- This Resolution was adopted on the Consent Calendar.**
- Enactment No: RES 4512-2022
- 5B. [22-084](#)** 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 4513-2022
- 5C. [22-090](#)** Adopt City Council Resolution Authorizing Submittal of Notification of Intent to Comply with SB 1383 Regulations
- This Resolution was adopted on the Consent Calendar.**
- Enactment No: RES 4514-2022
- 5E. [22-092](#)** Adopt City Council Resolution Approving Professional Services Agreement with City Management Advisors, LLC dba Peckham & McKenney to Provide Executive Recruitment Services for the Position of Police Chief and Authorizing the City Manager to Execute Same (Amount Not to Exceed \$27,000; Account No. 110-4130-0317)
- This Resolution was adopted on the Consent Calendar.**
- Enactment No: RES 4515-2022
- 5F. [22-094](#)** Adopt City Council Resolution Approving a Payment to the Fort Bragg Unified School District from the Measure AB Special Project Funds for the Improvements to Dana Gray Water System and Authorizing the City Manager to Release Payment (Amount Not to Exceed: \$36,500; Account No. 110-4390-0619)
- This Resolution was adopted on the Consent Calendar.**

Enactment No: RES 4516-2022

- 5G.** [22-085](#) Receive and File Minutes of the Public Safety Committee Meeting of January 19, 2022

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

- 5H.** [22-096](#) Receive and File Minutes of the Finance and Administration Committee Meeting of December 8, 2021

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

- 5I.** [22-080](#) Approve Minutes of February 14, 2022

**These Minutes were approved on the Consent Calendar.**

## **6. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS**

None.

## **7. PUBLIC HEARING**

- 7A.** [22-062](#) Conduct Public Hearing, Receive Report, and Consider Adoption of City Council Resolution Vacating the Adoption of the Mitigated Negative Declaration with Mitigation Monitoring and Reporting Plan, and Vacating the Approval of Coastal Development Permit 8-19, Design Review 1-19, and Parcel Merger 1-19 for the Grocery Outlet Project at 825, 845, and 851 S. Franklin Street

**Mayor Norvell recused himself from the meeting, citing a personal conflict of interest as his residence is within 1000 feet of the subject property. He appointed Vice Mayor Morsell-Haye as Acting Mayor and left the meeting at 6:16 PM.**

**Acting Mayor Morsell-Haye opened the public hearing at 6:17 PM.**

Associate Planner Gurewitz presented the staff report for this agenda item.

Public Comment was received from:

- Jim Moose, attorney for the applicant and author of the letter written on behalf of Best Development Group, requested that the Council vacate the permit approvals. He noted that his clients felt the more prudent course of action would be to do the Environmental Impact Report (EIR) and complete that process to obtain the permits, which will perhaps be shorter than pursuing the litigation.
- Jacob Patterson stated he agreed with the recommendation to vacate the permits but disagreed with perfunctorily doing an EIR without addressing the serious defects in the Mitigated Negative Declaration because it had unsupported assertions without documented bases. He commented on the need to address design issues, traffic flow issues, and general plan policies.

Discussion:

Councilmembers weighed in regarding the request to vacate permits during deliberations, and the consensus was to agree to revoke the approved permits for the Grocery Outlet project so the applicant can submit a new application and obtain an EIR.

**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 - Vice Mayor Morsell-Haye, Councilmember Albin-Smith, Councilmember Peters and Councilmember Rafanan

**Recuse:** 1 - Mayor Norvell

Enactment No: RES 4517-2022

- 7B. [22-068](#)** Conduct Public Hearing, Receive Report and Consider Adoption of Urgency Ordinance Extending the Temporary Four (4) Month Moratorium on the Approval of Applications and Permits for Cannabis Dispensaries in the Inland Zoning Areas for an Additional Ten (10) Months

**Mayor Norvell rejoined the meeting at 6:29 PM and opened the public hearing at 6:30 PM.**

Assistant Director Engineering O'Neal presented the staff report on this agenda item.

Public Comment was received from:

- Angelica Sanchez, director of Government Affairs for Perfect Union, stated that she submitted an application seven months ago and has been stuck in the queue. She asked if Council would consider allowing applications for cannabis dispensaries located within the general commercial zone to move forward. She said that a ten-month moratorium is essentially a death sentence for them because they are paying dead rent on a building in which they cannot open a business.
- Brandy Moulton, CEO of Sovereign, urged the Council not to extend the moratorium, stating that every applicant that wants to come into the city will miss the application deadline of March 30. She remarked on the empty storefronts and businesses that want to come to Fort Bragg but are prevented from doing so. Ms. Moulton stated that other jurisdictions in the state are light years ahead of Fort Bragg on cannabis regulations.
- Jacob Patterson said moratoriums are in place because things are uncertain during the review process and he likened it to the formula business moratorium. He stated that the issue of provisional licenses and the deadline doesn't make any sense and is irrelevant to Council's decision because the first and second reading of the ordinance have to be held and the ordinance could not go into effect before the deadline.

Discussion: After discussing the matter, Council consensus was to shorten the proposed ten-month additional moratorium period to 45 days. Interim City Manager Spaur noted that Council can direct the Planning Commission to consider a 100-foot setback buffer from youth centers for cannabis dispensaries and a 25-foot buffer from residences at their upcoming meetings on March 9 and March 23, and to return recommendations to the City Council before the moratorium expires in April. If more time is needed to finalize the ordinance, then a new urgency ordinance imposing a new moratorium on cannabis dispensary permits could be prepared and presented to Council for adoption. Council unanimously approved the direction to the Planning Commission outlined by Mr. Spaur.

**A motion was made by Mayor Norvell, seconded by Vice Mayor Morsell-Haye, that this Urgency Ordinance be adopted as amended, to replace "ten months" with "45 days" throughout, and to replace "December 28, 2022" with "April 14, 2022" throughout. 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: ORD 976-2022

**8. CONDUCT OF BUSINESS**

- 8A. [22-082](#) Receive Report and Consider Introducing by Title Only and Waiving the First 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

City Clerk Lemos summarized the staff report on this agenda item.  
Public Comment was received from Jacob Patterson.

**A motion was made by Councilmember Peters, seconded by Mayor Norvell, that this Ordinance be introduced by title only, waiving further reading of the text. The motion carried by the following vote:**

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

**9. CLOSED SESSION**

**Mayor Norvell recessed the meeting at 7:20 PM; the meeting reconvened to Closed Session at 7:25 PM.**

- 9A. [22-095](#) 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 7:41 PM and reported that no reportable action had been taken on the Closed Session item.**

**ADJOURNMENT**

**Mayor Norvell adjourned the meeting at 7:41 PM.**

\_\_\_\_\_  
 BERNIE NORVELL, MAYOR

\_\_\_\_\_  
 June Lemos, MMC, City Clerk

IMAGED ( \_\_\_\_\_ )

**RESOLUTION NO. PC XX-2022**

**RESOLUTION OF THE FORT BRAGG PLANNING COMMISSION RECOMMENDING APPROVAL OF INLAND LAND USE AND DEVELOPMENT CODE AMENDMENT 1-22 TO REGULATE COMMERCIAL CANNABIS CULTIVATION AND AMEND EXISTING REGULATIONS FOR CANNABIS BUSINESSES 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 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 DATE the moratorium on cannabis businesses was renewed to allow for the completion of the aforementioned study; 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**, City Council has determined that Title 18 should be amended to regulate the commercial cannabis activities; and

**WHEREAS**, Cannabis cultivations can have a heavy impact on the City's infrastructure systems; and

**WHEREAS**, Cannabis businesses in the City of Fort Bragg are required to apply for a discretionary Cannabis Business Permit and subject to review under the California Environmental Quality Act.

**WHEREAS**, a Negative Declaration and Initial Study was prepared and was circulated to the public on February 17, 2022.

**WHEREAS**, on February 23, 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;

**WHEREAS**, on March 9, 2022, the Planning Commission continued their consideration of adoption of the proposed amendments to Title 18 Inland Land Use and Development Code, which included evidence establishing 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 code amendments; and public testimony submitted as part of the Planning Commission's regular meeting of February 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 a number of Goals, Policies, and Programs in the Inland General Plan that focus on land use, public facilities, and economic vitality, and environmental protection including Goal LU-1, Policy LU1.1, Goal LU-3, Policy LU-3.1, Policy LU3.2, Goal LU-4, Policy LU-4.3, Goal LU-5, Policy LU-5.2, Program L-U5.2.1, Program PF-2.2.5, Goal OS-7, Goal S-2, Policy S-2.5, Goal S-3, and Policy S-3.1.
- b. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City. Specifically, it provides buffers between residential and commercial zones that currently do not exist and it provides for a buffer between youth centers and retail cannabis businesses.
- c. The proposed amendment is internally consistent with other applicable provisions of this Development Code because it addresses development in existing commercial and industrial zones within the City of Fort Bragg and provides additional guidelines and regulations for cannabis business activity in these areas. Additionally, the proposed amendments do not alter the standards in Article 3 for Site Planning, Article 5 for Resource Protection, nor Article 6 for Site Development.

**NOW, THEREFORE, BE IT RESOLVED** that the Fort Bragg Planning Commission does hereby recommend approval of the modified Cannabis Business Ordinances by the Fort Bragg City Council.

**The above and foregoing Resolution was introduced by Commissioner, seconded by, and passed and adopted at a meeting of the Planning Commission of the City of Fort Bragg held on the 9th day of March 2022, by the following vote:**

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

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**Jeremy Logan, Chair**

**ATTEST:**

---

**Sarah Peters, Administrative Assistant**

**DRAFT**



# ILUDC Amendment 1-22 Cannabis Land Use Updates

HEATHER GUREWITZ, MCRP, AICP  
ASSOCIATE PLANNER  
COMMUNITY DEVELOPMENT DEPARTMENT

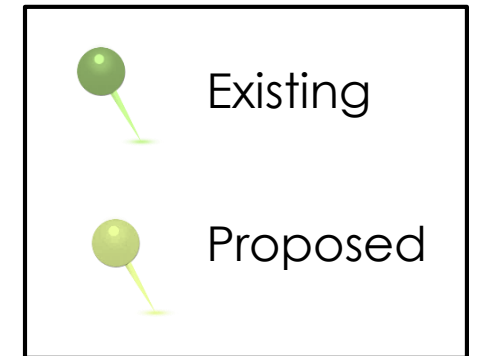
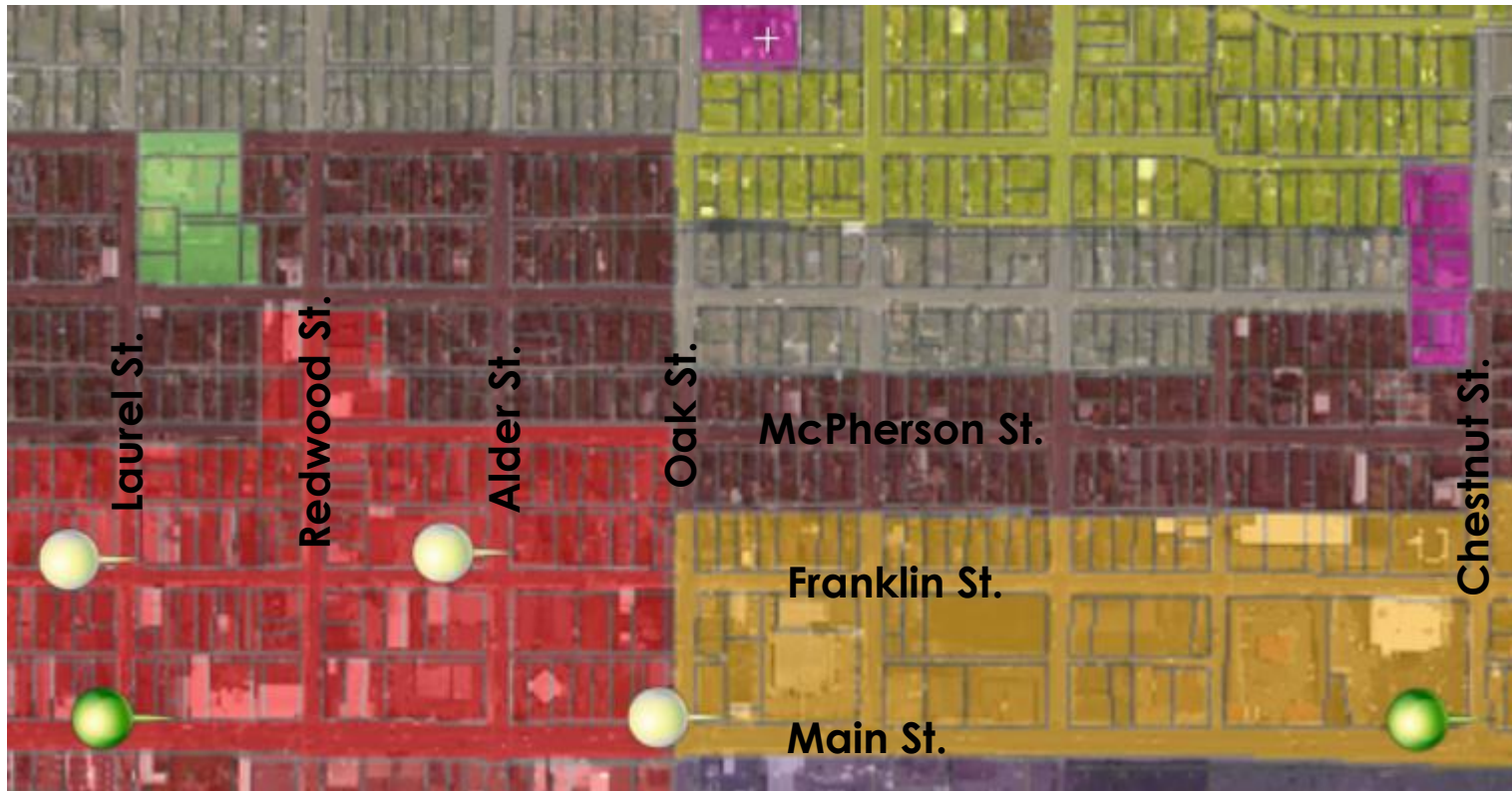


# Changes Made based on Perceived Direction



- ▶ Microbusiness removed
- ▶ All cannabis businesses, including retail require a minor use permit
- ▶ Definition for cannabis – artisan manufacturing added
- ▶ Buffer maps created to facilitate continued deliberations

# Existing and Pending Dispensaries



# Schools, Youth Centers, Single Family Residences, and Churches in Commercial Zones



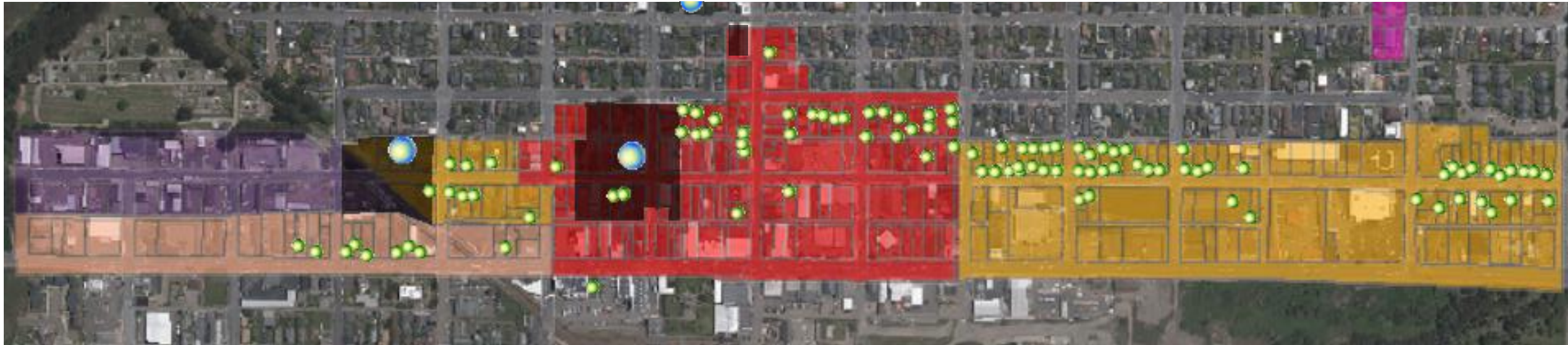
Schools, Youth Centers, Single Family Residences, and Churches in Commercial Zones

## Legend

-  Youth Center/School
-  Single Family Residence
-  Church
-  Central Business District
-  General Commercial
-  Highway Visitor Commercial
-  Neighborhood Commercial
-  Light Industrial



# 150 Ft. Buffer from Schools/Youth Center



## Legend

- |  |                            |  |                            |
|--|----------------------------|--|----------------------------|
|  | Youth Center/School        |  | Central Business District  |
|  | Single Family Residence    |  | General Commercial         |
|  | Church                     |  | Highway Visitor Commercial |
|  | Parcels excluded by buffer |  | Neighborhood Commercial    |
|  |                            |  | Light Industrial           |

# 300 Ft Buffer from Schools/Youth Center



## Legend

 Youth Center/School

 Single Family Residence

 Church

 Parcels excluded by buffer

 Central Business District

 General Commercial

 Highway Visitor Commercial

 Neighborhood Commercial

 Light Industrial

# 150 Ft. Buffer Schools, Youth Center, Churches




## Legend

- |                                                                                     |                            |                                                                                     |                            |
|-------------------------------------------------------------------------------------|----------------------------|-------------------------------------------------------------------------------------|----------------------------|
|  | Youth Center/School        |  | Central Business District  |
|  | Single Family Residence    |  | Highway Visitor Commercial |
|  | Church                     |  | General Commercial         |
|  | Parcels excluded by buffer |  | Neighborhood Commercial    |
|                                                                                     |                            |  | Light Industrial           |

# 300 Ft. Buffer from Schools/Youth Centers, Churches










## Legend

- |                                                                                     |                            |                                                                                     |                            |
|-------------------------------------------------------------------------------------|----------------------------|-------------------------------------------------------------------------------------|----------------------------|
|  | Youth Center/School        |  | Central Business District  |
|  | Single Family Residence    |  | General Commercial         |
|  | Church                     |  | Highway Visitor Commercial |
|  | Parcels excluded by buffer |  | Neighborhood Commercial    |
|                                                                                     |                            |  | Light Industrial           |

# 25 Ft. Buffer around all parcels with a Single Family Residential












**Legend**

	Single Family Residence		Central Business District
	Parcels excluded by buffer		General Commercial
			Highway Visitor Commercial
			Neighborhood Commercial
			Light Industrial

# 25 ft. Buffer from SFR and 150 Ft. from Schools, Youth Center, and Churches



**Legend**

 Youth Center/School	 Central Business District
 Single Family Residence	 General Commercial
 Church	 Highway Visitor Commercial
 Parcels excluded by buffer	 Neighborhood Commercial
	 Light Industrial





# 25 Ft. Buffer from a Residentially Zoned Parcel



## Legend



Parcels excluded by buffer

-  Central Business District
-  General Commercial
-  Highway Visitor Commercial
-  Neighborhood Commercial
-  Light Industrial

# 150 Ft. Youth Buffer and 25 Ft. Residentially Zoned Parcel Buffer



150 Ft. Youth Buffer and 25 Ft.  
Residentially Zoned Parcel Buffer

## Legend



Parcels excluded by buffer



Central Business District



General Commercial



Highway Visitor Commercial



Neighborhood Commercial









Light Industrial



# 300 Ft. Youth and 25 Ft. Residentially Zoned Parcel



**Legend**

	Parcels excluded by buffer		Central Business District
			General Commercial
			Highway Visitor Commercial
			Neighborhood Commercial
			Light Industrial

# 150 Ft. Youth, School, and Church and 25 Ft. Residentially Zoned Parcel Buffer



## Legend

- Parcels excluded by buffer
- Central Business District
- General Commercial
- Highway Visitor Commercial
- Neighborhood Commercial
- Light Industrial

# 300 Ft. Youth and Church and 25 Ft. Residential Zone



## Legend

- Parcels excluded by buffer
- Central Business District
- General Commercial
- Highway Visitor Commercial
- Neighborhood Commercial
- Light Industrial

# Alternative Language Option

- Cannabis Dispensaries shall only be allowed to locate to the west of the street centerline of Franklin St. and shall not be located within 150 Ft. of a youth center.



150 ft. Buffer from Youth Centers and Restriction to west of the centerline of Franklin St.

## Legend



Parcels where Retail Cannabis is allowed



Central Business District



General Commercial



Highway Visitor Commercial



Neighborhood Commercial



Light Industrial

## Peters, Sarah

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**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](mailto:Bhorvel2@fortbragg.com); [Peters, Lindy](#); [Jmorselhave@fortbragg.com](mailto: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

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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](mailto: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

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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

<https://goodeydaysacramento.cbslocal.com/2021/12/20/sacramento-cannabis-distributors-burglaries/>

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