

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. 966-2021

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, City Council has determined that Chapter 9.30 should be amended to regulate the commercial cultivation of cannabis; and

WHEREAS, the City Council finds that the adoption of this ordinance is exempt from environmental review under 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.

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 Chapter 9.30 to the 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. Chapter 9.30 (“Cannabis Businesses”) of Title 9 (“Public Peace, Safety and Morals”) of the Fort Bragg Municipal Code is hereby amended to provide as follows:

Chapter 9.30 Cannabis Businesses

Section

- 9.30.010 Purpose and intent
- 9.30.020 Definitions
- 9.30.030 Limitations on use
- 9.30.040 Cannabis businesses permit

- 9.30.050 Applications
- 9.30.060 Time limit for filing application for permit
- 9.30.070 Term of permits and renewals
- 9.30.080 Fees
- 9.30.090 Investigation and action on application
- 9.30.100 Grounds for rejection of application
- 9.30.110 Appeal from Chief of Police decision to reject application
- 9.30.120 Processing of cannabis business permit
- 9.30.130 Operating requirements
- 9.30.140 Commercial cannabis cultivation requirements
- 9.30.150 Minors
- 9.30.160 Display of permit
- 9.30.170 Registration of new employees
- 9.30.180 Transfer of permits
- 9.30.190 Suspension and revocation – notice
- 9.30.200 Suspension and revocation – grounds
- 9.30.210 Suspension and revocation – appeals
- 9.30.220 Suspension or revocation without hearing
- 9.30.230 Separate offense for each day
- 9.30.240 Public nuisance
- 9.30.250 Criminal penalties
- 9.30.260 Civil injunction
- 9.30.270 Administrative remedies
- 9.30.280 Severability

9.30.010 PURPOSE AND INTENT

It is the purpose and intent of this chapter to regulate cannabis businesses in order to promote the health, safety, morals, and general welfare of the residents and businesses within the City.

9.30.020 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICANT. A person who is required to file an application for a permit under this chapter, including an individual owner, managing partner, officer of a corporation, or any other agent of a cannabis business.

CANNABIS. All parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. “Cannabis” also means cannabis as defined by § 11018 of the Health and Safety Code and by other state law. “Cannabis” does not mean “industrial hemp” as defined by § 11018.5 of the Health and Safety Code.

CANNABIS BUSINESS. An entity engaged in the cultivation, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products for commercial purposes.

CANNABIS MANUFACTURING: The production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

CANNABIS OPERATOR or OPERATOR. The person or entity that is engaged in the conduct of any commercial cannabis business.

CANNABIS PRODUCT. Cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

CANNABIS RETAIL. A cannabis business where cannabis or cannabis products are offered, either individually or in any combination, for retail sale directly to customers. The primary use of a cannabis retail business is to sell products directly to on-site customers. Sales may also be conducted by delivery. Also known as a cannabis “dispensary.”

CANNABIS RETAIL – DELIVERY ONLY. A cannabis business that is closed to the public and conducts sales exclusively by delivery.

CHIEF OF POLICE. The Chief of Police of the City of Fort Bragg or the authorized representatives thereof.

CLONE. A portion of a stem that is cut from a parent plant and induced to form roots by chemical, mechanical, or environmental manipulations.

COMMERCIAL CANNABIS CULTIVATION. The planting, growing, harvesting of cannabis plants that are intended to be transported, processed, distributed, dispensed, delivered or sold.

COMMUNITY DEVELOPMENT DIRECTOR. The Director of the Community Development Department of the City of Fort Bragg or the authorized representatives thereof.

EDIBLE CANNABIS PRODUCT. A cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with § 32501) of the Food and Agricultural Code.

FULLY ENCLOSED AND SECURE STRUCTURE (FESS). A building or a space within a building that complies with the California Building Code, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, a foundation, slab or

equivalent base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, and is accessible only through one or more lockable doors. Walls and roofs must be constructed of solid materials that cannot be easily broken through. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement. If indoor grow lights or air filtration systems are used, they must comply with all applicable Building, Electrical, and Fire Codes.

GREENHOUSE. A completely enclosed structure whose structure members are made of pre-formed, rigid construction materials. The walls, roof, and ends are typically covered using a transparent material, often glass, that is fixed in place and which allows solar radiation to penetrate the surface and affect the growing environment of the plants inside.

HOOP HOUSE. A structure with structure members made of flexible and somewhat rigid construction materials, typically pvc pipe or similar material. The ends may be covered or left open and the material covering the structural members is readily removable and is typically removed and re-affixed frequently.

IMMATURE PLANT OR IMMATURE. A cannabis plant that has a first true leaf measuring greater than one half 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.

INDOORS or INDOOR CULTIVATION. The cultivation of cannabis within a fully enclosed and secure structure. This includes mixed-light or greenhouse cultivation within a Fully Enclosed and Secure Structure.

MATURE PLANT OR MATURE. A cannabis plant that is flowering.

MULTI-TIER CULTIVATION. A cultivation that uses interior fixtures or shelving to cultivate multiple levels of plants within a FESS.

NURSERY. All activities associated with producing clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

OUTDOOR or OUTDOOR CULTIVATION. Any cultivation that is not within a fully enclosed and secure structure. This includes hoop houses, and other structures that do not meet the definition of a Fully Enclosed and Secure Structure.

PERMITTEE. A person who holds an effective and current permit under this chapter.

PROCESS AND PROCESSING. All activities associated with the drying, curing, grading, trimming, rolling, storing, packaging, and labeling of cannabis or non-manufactured cannabis products.

RETAIL CANNABIS – DELIVERY ONLY. The commercial transfer of cannabis or cannabis products to a consumer. “Delivery” also includes the use of any technology platform owned

and controlled by a cannabis business operator that enables customers to arrange for or facilitate the commercial transfer by a permitted cannabis retail facility.

VOLATILE SOLVENT. Any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. Examples of volatile solvents include, but are not limited to, butane, hexane, and propane.

9.30.030 LIMITATIONS ON USE.

A. Compliance with City Code. Cannabis businesses shall only be allowed in compliance with this chapter and all applicable regulations promulgated by the City of Fort Bragg, including but not limited to all regulations governing building, grading, plumbing, septic, electrical, fire, hazardous materials, nuisance, and public health and safety.

B. Compliance with State Laws and Regulations. Cannabis businesses shall comply with all applicable state laws and regulations, as may be amended, including all permit, approval, inspection, reporting and operational requirements, imposed by the state and its regulatory agencies having jurisdiction over cannabis and/or cannabis businesses. All cannabis businesses shall comply with the rules and regulations for cannabis as may be adopted and as amended by any state agency or department including, but not limited to, the Bureau of Cannabis Control, the Department of Food and Agriculture, the Department of Public Health, the Department of Pesticide Regulation, and the Board of Equalization.

C. Cannabis businesses shall provide copies of state, regional and local agency permits, approvals or certificates upon request by the City to serve as verification for such compliance.

D. Cannabis business permits are only valid for one year from date of issue but may be renewed as set forth in this chapter.

E. Cannabis business permits are discretionary and valid only for the cannabis business activities specified on the approved permit.

9.30.040 CANNABIS BUSINESSES PERMIT.

A. It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City the commercial cultivation, processing, manufacture, distribution or retail sale of cannabis without a valid cannabis business permit from the City and a license from the State of California as herein required.

B. Cannabis businesses shall not be established or maintained except as authorized by the Inland Land Use and Development Code and/or the Coastal Land Use and Development Code, as applicable.

C. Dual Licensing. State law requires dual licensing at the state and local level for cannabis businesses. All cannabis operators shall therefore be required to obtain a cannabis license from the State of California, and shall comply at all times with all applicable state licensing

requirements and conditions. Cannabis businesses shall not be allowed to commence operations until the cannabis business can demonstrate that all necessary state licenses and agency permits have been obtained.

D. Failure to demonstrate dual licensing in accordance with this chapter shall be grounds for revocation of City approval. Revocation of a local permit and/or a state license shall terminate the ability of the cannabis business to operate until a new permit and/or state license is obtained.

9.30.050 APPLICATIONS.

Any application for a cannabis business permit shall be filed with the Community Development Department and may be filed concurrently with an application for a conditional use permit or a Business License Application. The application shall be made under penalty of perjury. Any application for a cannabis business permit shall include the following information:

- A. The full name, present address, and telephone number of the applicant;
- B. The address to which notice of action on the application and all other notices are to be mailed;
- C. Previous addresses for the past 5 years immediately prior to the present address of the applicant;
- D. Written proof that the applicant is over 21 years of age;
- E. Photographs for identification purposes (photographs shall be taken by the Police Department);
- F. A copy of all the Applicant's valid state cannabis license(s) or copy of the complete pending cannabis application(s) related to the permit;
- G. The cannabis business history of the applicant, including whether the applicant, in previously operating in any city, county, or state under permit, has had a permit revoked or suspended and, if so, the reason therefor;
- H. The name or names of the person or persons having the management or supervision of the cannabis business;
- I. Whether the person or persons having the management or supervision of the cannabis business have been convicted of a crime(s), the nature of the offense(s), and the sentence(s) received therefor;
- J. A security plan ensuring the safety of employees and visitors from criminal activity, including theft and unauthorized entry;

- K. A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the cannabis business and the purpose and security of each room or area of operation;
- L. A diagram illustrating the use and coverage of security cameras, security lighting, and necessary access restrictions;
- M. A notarized statement by the property owner certifying under penalty of perjury that he or she has given consent to the applicant to operate a cannabis business at the location, or providing proof that the applicant owns the property;
- N. Detailed operating procedures, which shall include the following:
1. Proposed hours of operation;
 2. How the business will comply with applicable state regulations;
 3. Product safety and quality assurances;
 4. Record keeping procedures;
 5. Product recall procedures;
 6. A solid waste disposal plan, with certification that waste transport entities and disposal facilities have agreed to haul and receive solid waste produced by the cannabis business;
 7. Product supply chain information (cultivation, testing, transportation, manufacturing, packaging and labeling, etc.);
 8. An odor prevention plan, illustrating how the cannabis business will be consistent with § 17.30.080(J) and/or § 18.30.080(J). The odor prevention plan may include an odor absorbing ventilation and exhaust system or other measures to ensure the use does not produce odors which are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public; and
 9. Other information as required by the Community Development Director or the Chief of Police as necessary to ensure the project's compliance with local, state and federal regulations;
- O. Applications for a permit to conduct commercial cannabis cultivation shall include the following additional elements:
1. Drawings and plan specifications for the exact location and exact size of the Fully Enclosed and Secure Structure where any cannabis will be cultivated including seeds, clones, immature, and mature plants. Specifications shall include any plans for multi-tier cultivation;
 2. A water usage plan that indicates the planned source of water, month by month annual usage in gallons, and any plans for water conservation which may include water recycling, on-site water storage, development of a well, or use of reclaimed city water;
 3. An energy plan that indicates the estimated monthly energy usage in kilowatt hours, the source(s) of energy, and any planned energy conservation practices including plans that utilize natural sunlight, solar panels, LED lighting, Sonoma Clean Power, or other methods to reduce energy consumption; and

4. Any other information required by the Community Development Department.

P. Authorization for the City, its agents and employees to seek verification of the information contained within the application; and

Q. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.

9.30.060 TIME LIMIT FOR FILING APPLICATION FOR PERMIT.

If the applicant has completed the application improperly, or if the application is incomplete, the Community Development Director shall, within 30 days of receipt for the original application, notify the applicant of the fact and, on request of the applicant, grant the applicant an extension of time of 30 days or more to submit a complete application.

9.30.070 TERM OF PERMITS AND RENEWALS.

Cannabis business permits issued under this chapter shall expire one year following their issuance. Cannabis business permits may be renewed by the Community Development Director for additional one-year periods upon application by the permittee, unless the permit is suspended or revoked subject to § 9.30.190. Applications for renewal shall be made at least 45 days before the expiration date of the permit and shall be accompanied by the nonrefundable fee referenced in § 9.30.080. When made less than 45 days before the expiration date, the expiration of the permit will not be stayed. Applications for renewal shall be acted on as provided herein for action upon applications for permits. The Chief of Police may recommend to deny an application for renewal based on any of the grounds referenced in §§ 9.30.100 and 9.30.190. An applicant aggrieved by the Community Development Director's decision to deny a renewal of a cannabis business permit may appeal pursuant to § 9.30.110.

9.30.080 FEES.

Every application for a cannabis business permit or renewal shall be accompanied by a nonrefundable fee, as established by resolution adopted by the City Council from time to time. This application or renewal fee is in addition to fingerprinting, photographing, and background check costs and shall be in addition to any other permit fee imposed by this code or other governmental agencies. Fingerprinting, photographing, and background check fees will be as established by resolution adopted by the City Council from time to time.

A. The fee schedule is intended to allow recovery of all costs incurred by the City in processing permit applications to the maximum extent allowed by the law.

B. Timing of payment. No application shall be deemed complete, and processing shall not commence on any application until all required fees or deposits have been paid. Failure to timely pay supplemental requests for payment of required fees and/or deposits shall be a basis for denial or revocation of any permit.

C. Refunds and withdrawals. Application fees cover City costs for public hearings, mailings, staff time, and the other activities involved in processing applications. Therefore, no refund due to a disapproval shall be allowed. In the case of a withdrawal, the Director shall have the

discretion to authorize a partial refund based upon the pro-rated costs to date and the status of the application at the time of withdrawal.

9.30.090 PUBLIC SAFETY REVIEW AND ACTION ON APPLICATION.

After the application is deemed complete and the fees or deposits have been collected, the Community Development Director will send the completed application to the Chief of Police for Public Safety review. The Chief of Police or his designee shall conduct a background check of the applicant and conduct a public safety review of the proposed project. After the background checks and public safety review are complete, the Chief of Police or his designee shall formally recommend either approval or denial of the application.

If an application is recommended for denial by the Chief of Police or his designee, the Community Development Director shall not approve the application. The applicant will be notified by a letter sent by certified mail and will have 30 days to modify the existing application. If the application is not modified within 30 days and the applicant has not requested more time, it will be denied by the Community Development Director.

The Chief of Police or his designee may recommend conditional approval of an application with specific requirements that the applicant shall meet. The Community Development Director will require the fulfillment of the conditions prior to final issuance of the permit.

9.30.100 GROUNDS FOR DENIAL OF APPLICATION.

The grounds for a denial of a cannabis business permit application shall be one or more of the following:

- A. The business or conduct of the business at a particular location is prohibited by any local or state law, statute, rule, or regulation;
- B. The applicant has violated any local or state law, statute, rule, or regulation respecting a cannabis business;
- C. The applicant has knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application for a permit;
- D. The applicant, owner, or permittee has a criminal history that falls under the Business and Professional Code Section 26057(b)(4), 26057(b)(5), 26057(b)(6) or 26057(b)(7) with the exception of criminal activity that falls under Business and Professional Code Section 26059;
- E. The applicant has engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices;
- F. The applicant is under 21 years of age;
- G. The cannabis business does not comply with Title 17 (Coastal Land Use Development Code) or Title 18 Inland Land Use and Development Code;

H. The required application or renewal fees have not been paid; or

I. The applicant's plan fails to comply with section 9.30.130 and, if applicable, section 9.30.140.

9.30.110 APPEAL FROM COMMUNITY DEVELOPMENT DEPARTMENT DECISION TO DENY APPLICATION.

The Community Development Director shall cause a written notice of decision to deny a cannabis business permit application to be mailed to the applicant by certified U.S. mail, postage prepaid, return receipt requested, to the address provided by the applicant for sending of notices. An applicant aggrieved by the decision to deny an application may appeal the decision in accordance with the procedures described in Chapter 1.08. If an appeal is not taken within such time (15 days), the Community Development Director's decision shall be final.

9.30.120 PROCESSING OF CANNABIS BUSINESS PERMIT.

If an application is recommended for approval by the Chief of Police, it shall be reviewed by the Community Development Director for:

1. Compliance with other required permits or licenses necessary prior to operation;
2. Compliance with all rules, regulations, ordinances and requirements of the City, including but not limited to Section 9.30.130 and if applicable, section 9.30.140; and
3. Compliance with the California Environmental Quality Act.

9.30.130 OPERATING REQUIREMENTS.

A cannabis business shall meet the following operating requirements for the duration of the use:

- A. The design, location, size and operating characteristics of the cannabis business shall comply with the findings and conditions of any applicable discretionary permit obtained for its operation;
- B. A cannabis business use shall maintain a current register of the names of all current owners and all current employees who will be on the premise;
- C. Individuals not listed as employees, owners, or managers of the business, shall not be permitted in non-public areas of the business;
- D. The building entrance to a cannabis business shall be clearly and legibly posted with a notice indicating that persons under the age of 21 are precluded from entering the premises unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or legal guardian;
- E. No cannabis business shall hold or maintain a license from the State Department of Alcoholic Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. In addition, alcohol shall not be provided, stored, kept, located, sold, dispensed, or used on the premises of the cannabis business use;

F. A cannabis business shall provide adequate security on the premises, including lighting and alarms, to ensure the safety of employees and visitors from criminal activity, including theft and unauthorized entry; and

G. A cannabis business shall provide the Chief of Police and Fire Chief with the name, phone number, and facsimile number of an on-site community relations staff person to whom one can provide notice if there is an emergency or there are operating problems associated with the cannabis business. The cannabis business management shall make every good faith effort to encourage residents to call this person to try to solve operating problems, if any, before any calls or complaints are made to the Police or Community Development Department.

9.30.140 COMMERCIAL CANNABIS CULTIVATION.

A. Commercial Cannabis shall be cultivated only in a Fully Enclosed and Secured Structure (FESS). Commercial cannabis cultivation that occurs within a greenhouse that meets the criteria for a FESS shall not be visible from any public right of way.

B. Commercial Cannabis Cultivation shall be reviewed for compliance with the California Environmental Quality Act.

C. Commercial cannabis cultivation shall utilize on-site water recycling practices.

D. Commercial cannabis cultivation shall either enroll in Sonoma Clean Power or install solar panels.

9.30.150 MINORS.

A. It shall be unlawful for any permittee, operator, or other person in charge of any cannabis business to employ any person who is not at least 21 years of age.

B. Persons under the age of 21 shall not be allowed on the premises of a cannabis business unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or legal guardian.

9.30.160 DISPLAY OF PERMIT.

Every cannabis business shall display at all times during business hours the permit issued pursuant to the provisions of this chapter for cannabis businesses in a conspicuous place so that the same may be readily seen by all persons entering the cannabis business.

9.30.170 REGISTRATION OF NEW EMPLOYEES.

A. As a further condition of approval of every cannabis business permit issued pursuant to this chapter, every owner or operator shall register every employee with the Police Department within ten business days of the commencement of the employee's period of employment at the cannabis business.

B. The owner or operator will submit a color copy of the new employee's photo identification card as part of the registration process. Upon request from the Police Department, the employee shall provide their original photo identification card for review.

C. The Police Department shall be notified within ten business days of any employee no longer employed by the business and the owner shall provide an updated roster of all current employees. The roster shall be dated and signed by the owner or operator declaring that it is complete.

D. Failure to register each new employee within ten days of the commencement of employment or to maintain a current register of the names of all employees shall be deemed a violation of the conditions of the permit and may be considered grounds for suspension or revocation of the permit.

9.30.180 TRANSFER OF PERMITS.

A. A permittee shall not operate a cannabis business under the authority of a Cannabis Business Permit at any place other than the address or parcel of the cannabis business stated in the application for the permit.

B. A permittee shall not transfer ownership or control of a cannabis business or transfer a Cannabis Business Permit to another person unless and until the transferee obtains an amendment to the permit from the Community Development Director or Chief of Police stating that the transferee is now the permittee. The amendment may be obtained only if the transferee files an application with the Community Development Director in accordance with § 9.30.050, accompanies the application with a transfer fee in an amount set by resolution of the City Council, and the Chief of Police determines in accordance with § 9.30.090 that the transferee would be entitled to the issuance of an original permit.

C. No permit may be transferred when the Community Development Director has notified the permittee that the Permit has been or may be suspended or revoked.

D. Any attempt to transfer a Permit either directly or indirectly in violation of this section is hereby declared void, and the permit shall be deemed revoked.

9.30.190 SUSPENSION AND REVOCATION – NOTICE.

A. Any permit issued under the terms of this chapter may be suspended or revoked by the Chief of Police or the Community Development Director when it appears to them that the permittee has committed any one or more of the acts or omissions constituting the grounds for suspension or revocation under this chapter.

B. No permit shall be revoked or suspended by virtue of this section until a hearing has been held by the City. Written notice of the time and place of the hearing shall be served upon the person to whom the permit was granted at least 5 days prior to the date set for the hearing. The notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending the permit. Notice may be given either by personal delivery to the permittee or by

depositing it in the U.S. mail in a sealed envelope, postage prepaid, addressed to the permittee at the address provided by the permittee for sending of notices.

9.30.200 SUSPENSION AND REVOCATION – GROUNDS.

It shall be a ground for suspension or revocation of a permit if any permittee or person, his or her agent, or employee:

- A. Does any act which violates any of the grounds set forth in § 9.30.100, which sets forth the grounds for denial of an application for a permit for the cannabis business;
- B. Violates any other provision of this chapter or any local or state law, statute, rule, or regulation relating to his or her permitted activity;
- C. Conducts the permitted business in a manner contrary to the peace, health, or safety of the public;
- D. Fails to take reasonable measures to control the establishment's patrons' conduct resulting in disturbances, vandalism, or crowd control problems occurring inside of or outside the premises, traffic control problems, or creation of a public or private nuisance, or obstruction of the business operation of another business;
- E. Violates any provision of Title 15 of this Code; or
- F. Violates or fails to comply with the terms and conditions of any required discretionary permit.

9.30.210 SUSPENSION AND REVOCATION – APPEALS.

Any permittee aggrieved by the decision of the City in suspending or revoking a permit may, within 15 calendar days, appeal the decision in accordance with the procedures described in Chapter 1.08. If a decision of the City to suspend or revoke a permit is not appealed within 15 calendar days, the decision of the City shall be final.

9.30.220 SUSPENSION OR REVOCATION WITHOUT HEARING.

If any person holding a permit or acting under the authority of the permit under this chapter is convicted of a misdemeanor in any court for the violation of any law which relates to his or her permit, the Chief of Police shall revoke the permit forthwith without any further action thereof, other than giving notice of revocation to the permittee. If a permit is summarily revoked pursuant to the provisions of this section, a permittee may, within 15 calendar days, appeal the revocation in accordance with the procedures described in Chapter 1.08. During the pendency of the appeal, the permit shall be deemed suspended. If the appeal is not taken within 15 days, the decision of the Chief of Police shall be final.

9.30.230 SEPARATE OFFENSE FOR EACH DAY.

Any person that violates any provision of this chapter shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly.

9.30.240 PUBLIC NUISANCE.

Any use or condition caused or permitted to exist in violation of any of the provisions of this chapter shall be and is hereby declared a public nuisance and may be abated by the City pursuant to Chapter 6.12.

9.30.250 CRIMINAL PENALTIES.

Any person who violates, causes, or permits another person to violate any provision of this chapter commits a misdemeanor.

9.30.260 CIVIL INJUNCTION.

The violation of any provision of this chapter shall be and is hereby declared to be a public nuisance and contrary to the public interest and shall, at the discretion of the City, create a cause of action for injunctive relief.

9.30.270 ADMINISTRATIVE REMEDIES.

In addition to the civil remedies and criminal penalties set forth above, any person that violates the provisions of this chapter may be subject to administrative remedies, as set forth by City ordinance.

9.30.280 SEVERABILITY.

If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions of this chapter. The City Council of the City hereby declares that it would have passed the ordinance codified in this chapter and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases may be held invalid or unconstitutional.

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 Councilmember _____ at a regular meeting of the City Council of the City of Fort Bragg held on May 10, 2021 and adopted at a regular meeting of the City of Fort Bragg held on May 24, 2021 by the following vote:

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

BERNIE NORVELL
Mayor

ATTEST:

June Lemos, CMC
City Clerk

PUBLISH: May 13, 2021 and June 3, 2021 (by summary).
EFFECTIVE DATE: June 23, 2021.