

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

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

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	P	<u>18.42.150</u>
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	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 <u>9.30</u>
Cannabis retail - Delivery only	—	—	MUP(5)	MUP(5)	MUP(5)	<u>18.42.059</u>

RETAIL TRADE

Artisan shop	UP	UP	P	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 <u>9.30</u>
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	P Permitted use, Zoning Clearance required MUP Minor Use Permit required (see § 18.71.060) UP Use Permit required (see § 18.71.060) S Permit requirement set by Specific Use Regulations — 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	P Permitted use, Zoning Clearance required MUP Minor Use Permit required (see § 18.71.060) UP Use Permit required (see § 18.71.060) S Permit requirement set by Specific Use Regulations — 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		Specific Use Regulations
	MUP Minor Use Permit required (see § 18.71.060)		
	UP Use Permit required (see § 18.71.060)		
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	18.42.150
Recycling - Small facility	P	P	18.42.150
Storage - Outdoor	UP	UP	18.42.140
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		Specific Use Regulations
	MUP Minor Use Permit required (see § 18.71.060)		
	UP Use Permit required (see § 18.71.060)		
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	18.42.020
Building and landscape materials sales - Indoor	P	P	
Building and landscape materials sales - Outdoor	UP	P	18.42.130
Cannabis retail	MUP(2)	MUP(2)	18.42.057 Chapter 9.30
Cannabis retail - Delivery only	MUP (2)	MUP (2)	18.42.057

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
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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.**