



City of Fort Bragg

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

Meeting Agenda Planning Commission

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

MEETING CALLED TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

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.

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

Attachments: [Minutes of the December 15, 2021 Planning Commission Meeting](#)

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

Attachments: [PC Resolution PCXX-2022 Authorize Remote Meetings](#)
[ATT 1 - Public Comments, Item 4B](#)

5. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS

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.

Attachments: [Proposed ILUDC Amendments for Cannabis Staff Report](#)
[ATT 1- Proposed Amendments to Title 18 Chapter 2](#)
[ATT 2 - Proposed Amendments to Title 18 Chapter 4](#)
[ATT 3 - Proposed Amendments to Title 18 Chapter 10](#)
[ATT 4 - Draft Amendments to Chapter 9.30](#)
[ATT 5 - DCC-Cannabis-Regulations](#)
[ATT 6 - Draft Neg Dec Initial Study](#)
[ATT 6.E - MCAQMDCEQA Thresholds](#)
[ATT 7- DRAFT Resolution with Recommendations to Council](#)
[ATT 8 - Power Point Presentation](#)
[ATT 9 - Public Comments, Item 6A](#)

7. CONDUCT OF BUSINESS

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

Attachments: [PC Annual Business Operations Memo](#)
[Att 1. 2022 PC Meeting Schedule](#)
[Att 2. 2021 Planning Permit Hearings](#)
[Att 3. PC Bylaws Draft Amendment](#)
[Att 4. PC Resolution PC01-2022 Bylaws](#)
[Att 5. Public Comments, Item 7A](#)

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.



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Text File

File Number: 22-079

Agenda Date: 2/23/2022

Version: 1

Status: Business

In Control: Planning Commission

File Type: Minutes

Agenda Number: 4A.

Minutes of the December 15, 2021 Planning Commission Meeting



City of Fort Bragg

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

Meeting Minutes Planning Commission

Wednesday, December 15, 2021

6:00 PM

Town Hall, 363 N.Main Street

Special Meeting

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

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

None.

2. STAFF COMMENTS

Assistant Director O'Neal stated that the resolution authorizing remote meetings is on tonight's Consent Calendar as it was decided at the previous meeting to keep it on each meeting agenda as a safety mechanism for Commissioners to return to telephonic meetings if needed. If Commissioners don't wish to approve the item, it can be pulled from Consent and would not need to be voted on - it can just fail for a lack of motion. She reminded Commissioners that telephonic meetings provide the flexibility that allows us to still meet in person but allows members of the public to call in from home if needed. Assistant Director O'Neal also stated that the City had issued a press release that tonight's meeting would not be televised. She said we conferred with legal counsel and the City is not legally required to televise meetings. However, it was an unfortunate circumstance that led to our being unable to do so tonight, related to the transition to fully in-person meetings, difficulties with closed captioning, and some other challenges for IT. She said that should Commissioners choose to continue to meet in person, the intention for our next meeting is to return to pre-Covid meeting expectations, fully televised, and with full closed captioning functionality. O'Neal also gave Associate Planner Heather Gurewitz a shout out for receiving her AICP certification in November.

3. MATTERS FROM COMMISSIONERS

Commissioner Rogers requested an update on the status of the Grey Whale Inn Code Enforcement activities. Assistant Director O'Neal said she would check into it and send Commissioners an update.

4. CONSENT CALENDAR

Chair Logan asked for Item 4C to be removed from the Consent Calendar.

A motion was made by Commissioner Roberts, seconded by Commissioner Rogers, that the Consent Calendar be approved as amended. The motion carried by the following vote:

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

4A. [21-575](#) Minutes of the September 22, 2021 Planning Commission Meeting

4B. [21-577](#) Minutes of the September 29, 2021 Planning Commission Meeting

ITEMS REMOVED FROM THE CONSENT CALENDAR

4C. [21-647](#) Resolution Making the Legally Required Findings to Authorize the Conduct of Remote "Telephonic" Meetings During the State of Emergency

Chair Logan asked if Commissioners now have to pull the Resolution at every meeting, versus what was determined at the last meeting, that meetings would continue in person as long as the item wasn't pulled. Assistant Director O'Neal explained that staff had attempted to modify the language in order to leave that option, but was not comfortable with modifying the language in a way that would seem contradictory to State and City Council's direction that, in fact, declares this an emergency which allows us to retain the option to meet telephonically. O'Neal said that another option would be to not put the telephonic resolution on the agenda in the future. In that case we would have to call a special meeting in order to pass it should the need arise, so ultimately the simplest way is to maintain the language so Commissioners can pull it, choose to discuss, choose to deny, or choose for it to fail without a motion. Commissioners then discussed the Resolution and how it should be handled going forward, and directed staff to continue to include it on the Consent Calendar for each meeting.

This Planning Resolution was not acted on

5. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS

None.

6. PUBLIC HEARINGS

6A. [21-632](#) Receive Report, Conduct Public Hearing, and Consider Adoption of Planning Commission Resolution Approving Formula Business Use Permit 4-21 and Sign Permit 13-21 For The Baymont Inn & Suites

Assistant Planner Locke presented a report on the applicant's request for a use permit to operate a formula business and install a new sign. He gave some background on the site at 250 S. Main Street, where the EbbTide Lodge presently exists. He said the hotel was recently sold to new owners who are transitioning it to Baymont Inn and Suites, a mid-scale, formula hotel/motel. He then presented slides showing what a typical Baymont Inn looks like, summarized the criteria for a formula business, and talked about existing sign nonconformance, proposed modifications, and the Special Condition to reduce the height of the freestanding sign to fourteen feet. Locke

said Applicant plans to remove the wall sign and modify the freestanding sign's existing cabinet to include Baymont Inn branding. He then summarized the Use Permit analysis and findings, Formula Business analysis and findings, and Sign Permit analysis and findings in support of staff's recommendation to consider adoption of a Resolution to approve the Use Permit and Sign Permit subject to standard and special conditions. Commissioner Andreis asked if all the code violations by previous owners have been addressed. Assistant Planner Locke said that the security, fire, safety and building condition violations are mostly resolved. Some violations regarding long-term deferred maintenance are still open. Commissioner Miklose asked if the moratorium on formula business had ended. Locke responded that it was fully lifted on December 8, 2021. Commissioner questions about materials and operation of the business were deferred to the applicant.

Chair Logan opened the Public Hearing at 6:23 P.M.

Applicant Manish "Mike" Bhatt addressed the Commission. He introduced himself, saying that he is from Kansas and purchased the property 45 days ago. The property came with a lot of challenges, including ensuring that site security, site safety, and many building improvement needs were addressed. These have all been completed and the remodel of the rooms is almost done. He said they are doing their best to ensure compliance as they go along. Commissioner Miklose asked if there is a kitchen, to which Applicant responded that there is not. Commissioner Roberts asked whether or not consideration was given to sign materials closer to the original, to which Applicant responded that they can consider it. He said they have already made many changes but remain flexible. Commissioner Andreis asked how they would go about lowering the freestanding sign. Applicant responded that he is not an expert in that, but the sign will be lowered to the required specifications.

PUBLIC COMMENT

A public comment from Jacob Patterson was submitted to the Commission by email prior to the meeting.

There were no other public comments.

DELIBERATION

Under deliberation, Commissioners held a conversation about the proposed freestanding sign design and whether or not other types of illumination and materials would be more in keeping with the Design Guidelines and small town feel. Following this conversation, Commissioners directed staff to add special conditions requiring a high-quality wood material for the sign's background; paint colors that complement the site; and externally lit, downcast/dark sky compliant or chanel lettering for the sign face.

Chair Logan closed the Public Hearing at 6:31 P.M.

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

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

Enactment No: RES PC12-2021

7. CONDUCT OF BUSINESS

ADJOURNMENT

Chair Logan adjourned the meeting at 6:58 P.M.

Jeremy Logan, Chair

Sarah Peters, Administrative Assistant

IMAGED (_____)



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Text File

File Number: 22-072

Agenda Date: 2/23/2022

Version: 1

Status: Business

In Control: Planning Commission

File Type: Planning Resolution

Agenda Number: 4B.

Resolution Making the Legally Required Findings to Authorize the Conduct of Remote "Telephonic" Meetings During the State of Emergency

RESOLUTION NO. PC ____-2022

RESOLUTION OF THE FORT BRAGG PLANNING COMMISSION MAKING THE LEGALLY REQUIRED FINDINGS TO AUTHORIZE THE CONDUCT OF REMOTE “TELEPHONIC” MEETINGS DURING THE STATE OF EMERGENCY

WHEREAS, on March 4, 2020, pursuant to California Gov. Code Section 8625, the Governor declared a state of emergency; and

WHEREAS, on September 17, 2021, Governor Newsom signed AB 361, which bill went into immediate effect as urgency legislation; and

WHEREAS, on December 15, 2021, the Fort Bragg Planning Commission resolved to continue to hold in-person meetings due to the nature of public hearings for land use matters, while continually monitoring the nature of the threat associated with the emergency; and

WHEREAS, AB 361 added subsection (e) to Gov. Code Section 54953 to authorize legislative bodies to conduct remote meetings provided the legislative body makes specified findings; and

WHEREAS, as of February 11, 2022, the COVID-19 pandemic has killed more than 82,325 Californians; and

WHEREAS, social distancing decreases the chance of spread of COVID-19; and

WHEREAS, it is appropriate for this body to make the findings specified in subsection (3)(1) of section 54953, to thereby authorize this body and all of its standing subcommittees to meet remotely;

NOW, THEREFORE, IT IS RESOLVED by the Planning Commission of the City of Fort Bragg as follows:

1. This legislative body finds that as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

The above and foregoing Resolution was introduced by Commissioner _____, seconded by Commissioner _____, and passed and adopted at a special meeting of the Planning Commission of the City of Fort Bragg held on the 23rd day of February, 2022, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:

ATTEST:

[Name]
Chair

Sarah Peters
Administrative Assistant

Peters, Sarah

From: Jacob Patterson <jacob.patterson.esq@gmail.com>
Sent: Wednesday, February 23, 2022 9:38 AM
To: cdd
Cc: Peters, Sarah; O'Neal, Chantell
Subject: City misrepresentations about Zoom public comments

Follow Up Flag: Follow up
Flag Status: Flagged

City Council and Planning Commission,

I am dismayed that our City is choosing, yes choosing, to make it more difficult for the public to participate in the Planning Commission meetings. To make it worse, City staff went so far as to misrepresent why that is happening in an apparent pressure tactic to get the Planning Commissioners to approve the AB 361 resolution that would permit fully-virtual meetings. Let's be clear, hybrid meetings have always been possible and the City remains free to accept public comments through a variety of means. AB 361 and applicable state law only sets the legal minimums for public notice and public participation and is necessary in order to hold fully virtual meetings with no locations for in-person public comments. Not adopting the AB 361 resolution only means that in-person public comments have to be provided as one of the options for public comments but has no impact on the City choosing or not choosing to offer other means for public comments. The impacts of adopting or not adopting the AB 361 resolution basically only governs how the Planning Commissioners themselves need to participate in the meetings and does not limit the options available for public participation. From a public-participation perspective, the only thing adopting the AB 361 resolution would do is allow the City to not provide an in-person location for people to make public comments (or locations in cases where a Planning Commissioner is participating remotely as Nancy is for the meeting today).

Apparently, staff are actively misrepresenting these facts to the City Council members when they ask about why public comments are not being permitted via Zoom or over the phone for people planning to watch at home. This was even brought up during the Community Development Committee meeting yesterday and this same misrepresentation was made, pointing the finger at the Planning Commissioners themselves for why people can only make public comments in person at Town Hall at the meeting today. (There was no mention of staff also removing the email address for written public comments from the published agenda where people are being told their only public comment option is to go to Town Hall and make an oral public comment even though the public hearing notices listed emailed written comments as an option.) I guess it is possible this is a genuine mistake and staff just doesn't understand the legal requirements that apply to public comment options but that does not appear to be the case and none of you should tolerate the City not being as honest and transparent as is practical in any situation.

Disturbed,

--Jacob

Peters, Sarah

From: Jacob Patterson <jacob.patterson.esq@gmail.com>
Sent: Wednesday, February 23, 2022 2:09 PM
To: cdd
Cc: Peters, Sarah; O'Neal, Chantell
Subject: Public Comment -- 2/23/22 PC Mtg., Item No. 4B, AB 361 Resolution
Attachments: Today's Law As Amended - AB-361 Open meetings_ state and local agencies_ teleconferences_.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Planning Commission,

I have attached a document showing the changes AB 361 implemented to the existing statutes that relate to the draft resolution that is on your consent calendar since there appears to be some misunderstanding concerning what the requirements are now and what they would be if you had adopted the resolution.

Regards,

--Jacob



AB-361 Open meetings: state and local agencies: teleconferences. (2021-2022)

As Amends the Law Today

[As Amends the Law on Sep 17, 2021](#)

SECTION 1. *Section 89305.6 is added to the Education Code, to read:*

89305.6. *(a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a legislative body may hold public meetings through teleconferencing and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body.*

(b) (1) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the legislative body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the legislative body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the legislative body be physically present at the location specified in the notice of the meeting.

(c) A legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. A legislative body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a legislative body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the legislative body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each legislative body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a legislative body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the legislative body's internet website.

(f) All legislative bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to legislative body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 2. Section 11133 is added to the Government Code, to read:

11133. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a state body may hold public meetings through teleconferencing and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body.

(b) (1) For a state body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the state body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a state body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the state body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the state body be physically present at the location specified in the notice of the meeting.

(c) A state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the state body allow members of the public to attend the meeting and offer public comment. A state body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a state body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the state body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each state body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a state body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the state body's internet website.

(f) All state bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to state body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 3. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, "state of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 3.1. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local ~~agency,~~ *agency in person*, except as otherwise provided in this chapter. *Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.*

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide

an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be

construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, "state of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 4. *Section 54953 is added to the Government Code, to read:*

54953. *(a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.*

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any

meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 4.1. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, in person except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 5. *Sections 3.1 and 4.1 of this bill incorporate amendments to Section 54953 of the Government Code proposed by both this bill and Assembly Bill 339. Those sections of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, but this bill becomes operative first, (2) each bill amends Section 54953 of the Government Code, and (3) this bill is enacted after Assembly Bill 339, in which case Section 54953 of the Government Code, as amended by Sections 3 and 4 of this bill, shall remain*

operative only until the operative date of Assembly Bill 339, at which time Sections 3.1 and 4.1 of this bill shall become operative.

SEC. 6. *It is the intent of the Legislature in enacting this act to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future applicable emergencies, by allowing broader access through teleconferencing options consistent with the Governor's Executive Order No. N-29-20 dated March 17, 2020, permitting expanded use of teleconferencing during the COVID-19 pandemic.*

SEC. 7. *The Legislature finds and declares that Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:*

This act is necessary to ensure minimum standards for public participation and notice requirements allowing for greater public participation in teleconference meetings during applicable emergencies.

SEC. 8. (a) *The Legislature finds and declares that during the COVID-19 public health emergency, certain requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) were suspended by Executive Order N-29-20. Audio and video teleconference were widely used to conduct public meetings in lieu of physical location meetings, and public meetings conducted by teleconference during the COVID-19 public health emergency have been productive, have increased public participation by all members of the public regardless of their location in the state and ability to travel to physical meeting locations, have protected the health and safety of civil servants and the public, and have reduced travel costs incurred by members of state bodies and reduced work hours spent traveling to and from meetings.*

(b) The Legislature finds and declares that Section 1 of this act, which adds and repeals Section 89305.6 of the Education Code, Section 2 of this act, which adds and repeals Section 11133 of the Government Code, and Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, all increase and potentially limit the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

(1) By removing the requirement that public meetings be conducted at a primary physical location with a quorum of members present, this act protects the health and safety of civil servants and the public and does not preference the experience of members of the public who might be able to attend a meeting in a physical location over members of the public who cannot travel or attend that meeting in a physical location.

(2) By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, including from the member's private home or hotel room, this act protects the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.

SEC. 9. *This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:*

In order to ensure that state and local agencies can continue holding public meetings while providing essential services like water, power, and fire protection to their constituents during public health, wildfire, or other states of emergencies, it is necessary that this act take effect immediately.



City of Fort Bragg

416 N Franklin Street
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Text File

File Number: 22-065

Agenda Date: 2/23/2022

Version: 1

Status: Public Hearing

In Control: Planning Commission

File Type: Planning Resolution

Agenda Number: 6A.

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.

AGENCY:	City of Fort Bragg
MEETING DATE:	February 23, 2022
PREPARED BY:	Heather Gurewitz
PRESENTED BY:	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 3rd and May 20th, 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:

Attachment 1	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
Attachment 2	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
Attachment 3	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:

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

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

Sustainability Goal S-3: Policy S-3.1 Reduce Water Use: Minimize the use of potable water in new and existing development.

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:

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

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

DRAFT Updates to Title 18 Chapter 2 Land Use Tables

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) Permit requirement set by Specific Use Regulations S Regulations — Use not allowed						
LAND USE (1)	PERMIT REQUIRED BY DISTRICT <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%; border: none;">CN</td> <td style="width: 15%; border: none;">CO</td> <td style="width: 15%; border: none;">CBD</td> <td style="width: 15%; border: none;">CG</td> <td style="width: 15%; border: none;">CH</td> <td style="width: 20%; border: none;">Specific Use Regulations</td> </tr> </table>	CN	CO	CBD	CG	CH	Specific Use Regulations
CN	CO	CBD	CG	CH	Specific Use Regulations		

AGRICULTURAL, RESOURCE AND OPEN SPACE USES

Cannabis – Indoor Nursery Cultivation	—	—	S	S	S	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	—	—	
Printing and publishing	—	—	P	P	—	
Research and development (R&D)	—	—	—	UP	—	
Recycling - Small facility	P	P	P	P	P	18.42.150
Recycling - Large facility	—	—	—	UP	—	18.42.150
Cannabis Microbusiness	—	—	MUP	MUP	MUP	Chapter 9.30 18.42.058

Key to Zoning District Symbols

CN	Neighborhood Commercial	CG	General Commercial
CO	Office Commercial	CH	Highway and Visitor Commercial
CBD	Central Business District		

Notes:

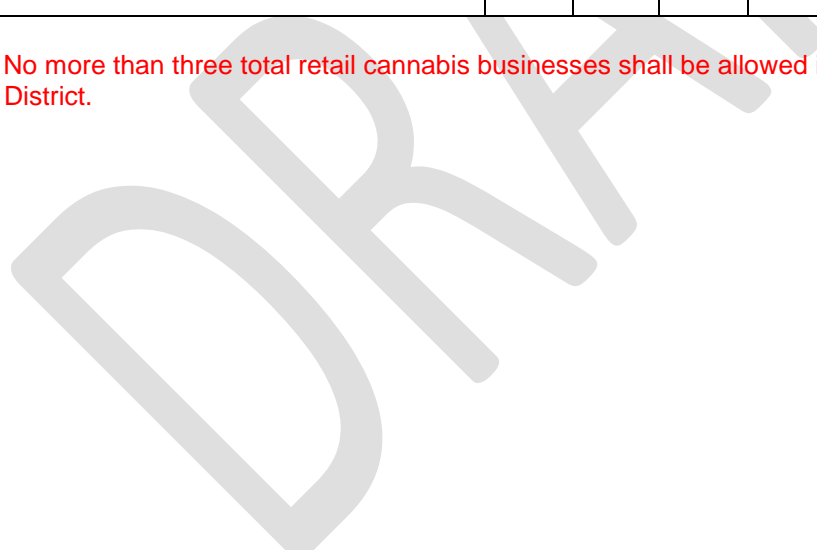
- (1) See Article [10](#) for land use definitions.
- (2) Use shall be entirely enclosed within a building, unless outdoor activities and/or storage are authorized by Use Permit.

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

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	18.42.130
Cannabis Retail	—	—	S(3)	S	S	18.42.057 Chapter 9.30
Cannabis retail - Delivery only	—	—	S	S	S	18.42.059 Chapter 9.30

(3) No more than three total retail cannabis businesses shall be allowed in the Central Business District.



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	
LAND USE (1)	PERMIT REQUIRED BY DISTRICT		Specific Use Regulations
	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	
Cannabis Microbusiness	MUP	MUP	Chapter 9.30 18.42.058
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	
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	

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	
LAND USE (1)	PERMIT REQUIRED BY DISTRICT		Specific Use Regulations
	IL	IH	
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 § 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 Chapter 9.30

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

PROPOSED DRAFT Title 18 Chapter 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 to, related and clearly subordinate to a primary use on the same parcel, which does not alter the primary use. Accessory uses may include activities that require additional State cannabis licenses including

processing, manufacturing, distribution and retail. The following activities are authorized as accessory uses to commercial cannabis cultivation:

Industrial Zones	Storefront cannabis retail Delivery cannabis retail Processing Distribution and Wholesale Manufacturing
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18.42.057 Cannabis Storefront Retail

- A. **Cannabis Business Permit 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.
- B. **Permitted Use.** A cannabis storefront retail business is a permitted use in the Central Business District, General Commercial, and Highway Visitor Commercial Zones subject to the limitations imposed in Table 2-6, the requirements of this section, and the requirements of Chapter 9.30 of the Municipal Code. A cannabis retail – delivery only is a permitted use in Commercial General and Highway Visitor Commercial.
- C. **Accessory uses.** As defined in Article 10, an accessory use is customarily incidental to, related and clearly subordinate to a primary use, on the same parcel, which does not alter the primary use as defined in Article 10. ~~nor serve property other than the parcel where the primary use is located.~~ A cannabis business with more than one accessory use, or with another use that does not qualify as accessory, shall be considered a microbusiness and subject to section 18.42.058. A retail business may still be considered retail with two accessory uses only if one of the uses is “onsite distribution” as defined in Article 10. Accessory uses are determined by the definitions in Article 10.

1. The following uses are allowable as accessory uses to cannabis storefront retail:

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

	Distribution and Wholesale; 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 or as part of a microbusiness with a licensed and permitted retail cannabis 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.

18.42.058 Cannabis Microbusiness

A cannabis microbusiness, as defined in Article 10 is a cannabis business that conducts either two commercial cannabis activities on one parcel where neither can be determined to be accessory to the other, or a cannabis business that conducts more than two commercial cannabis activities on one parcel. In addition to the operating requirements set forth in Chapter 9.30, this Section provides location and operating requirements for cannabis microbusinesses.

A. General Commercial Zone (CG) and Visitor Highway Commercial Zone (CH) requirement for a cannabis microbusiness:

1. A cannabis microbusiness in the CH or CG zones shall include a retail business with a storefront facing the street.
2. A cannabis microbusiness in the CH or CG zones shall meet the operating requirements for Cannabis Storefront Retail Section 18.42.057(B)
3. A microbusiness that includes nursery cultivation shall meet the requirements of Section 18.42.055 Cannabis Cultivation.
4. Allowable microbusiness activities in the CH or CG zones may include Storefront Retail Cannabis, Retail Delivery, cannabis processing, non-volatile manufacturing, wholesale and distribution of cannabis, and nursery cannabis cultivation.
5. The cultivation of mature or flowering cannabis plants is not allowed in commercial zones.
6. Manufacturing of cannabis using volatile chemicals is prohibited in commercial zones.

7. Non-retail cannabis activities in commercial zones shall not be visible from the public right of way.
 8. A cannabis microbusiness shall not create noise above the noise level performance standards set in the Inland General Plan Noise Element Table N-5 (55 db) as registered at the nearest residential property line,
 9. A cannabis microbusiness shall not create a public nuisance as defined in Municipal Code Chapter 6.12.
- B. A cannabis microbusiness in the industrial zone shall meet the following requirements:
1. Conditional use. A Minor Use Permit shall be required to operate a cannabis microbusiness in accordance with Table 2-10 of Article 2.
 2. A microbusiness that includes cultivation shall meet the requirements set forth in Section 18.42.055.
 3. A microbusiness that includes storefront retail component shall meet the operating requirements in 9.30.150.
 4. A microbusiness that includes volatile manufacturing shall require a Use Permit.

18.42.059 - Cannabis Retail - Delivery Only

In addition to the operating requirements set forth in Chapter [9.30](#), this Section provides location and operating requirements for cannabis retail - delivery only. Chapter [9.30](#) contains definitions of terms used herein.

A. Conditional use. A Minor Use Permit shall be required to operate cannabis retail - delivery only in accordance with Table 2-6 of Article [2](#).

B. Operational requirements. In addition to project specific conditions of approval and the requirements set forth in Chapter [9.30](#), cannabis retail - delivery only uses shall comply with the following operational requirements:

1. Cannabis retail - delivery only uses shall comply with the same operational requirements applicable to cannabis retail uses, as described in § [18.42.057](#).
2. 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.

18.100.020 - Definitions of Specialized Terms and Phrases

As used in this Inland Land Use and Development Code, the following terms and phrases shall have the meaning ascribed to them in this Section, unless the context in which they are used clearly requires otherwise:

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. ~~nor serve property other than the parcel where the primary use is located.~~

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**

Artisan Shop. A retail store selling art glass, ceramics, jewelry, paintings, sculpture, and other handcrafted items, where the store includes an area for the crafting of the items being sold.

B. Definitions, "B." – No changes to definitions in section B.

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 Microbusiness.** A cannabis business that conducts either two commercial cannabis activities on one parcel where neither can be determined to be accessory, or a cannabis business that conducts more than two commercial cannabis activities on one parcel.
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 definition for Cannabis and regulated under Municipal Code 9.30, and for which specific land use regulations are provided in Chapter 18.42.055.**

D. Definitions, “D.” – No change

E. Definitions, “E.” – No change.

F. Definitions, “F.” – No change.

G. Definitions, “G.” – No change.

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.

Groceries, Specialty Foods. A retail business where the majority of the floor area, open to the public, is occupied by food products for preparation and consumption away from the store. Includes retail bakeries, where any on-site baking is only for on-site sales.

H. Definitions, “H.” – No changes

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.

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
- plating, stripping, and coating shops
- sheet metal 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”).

N. Definitions, “N.” – No changes recommended

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.

Q. Definitions, “Q.” – No changes recommended

R. Definitions, “R.” – No changes recommended

S. Definitions, “S.” – No changes recommended

T. Definitions, “T.” – No changes recommended

U. Definitions, “U.” – No changes recommended

V. Definitions, “V.” – No changes recommended

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.

X. Definitions, "X." – No changes recommended

Y. Definitions, "Y." – No changes recommended

Z. Definitions, "Z." – No changes

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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, and 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 1 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 (0.5) inch long from base to tip (if started from seed) or a mass of roots measuring greater than one-half (0.5) 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 1 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, a community choice aggregate energy provider, 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 of 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 1 year following their issuance. Cannabis business permits may be renewed by the Community Development Director for additional 1-year periods upon application by the permittee, unless the permit is suspended or revoked subject to § [9.30.200](#). 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 [9.30.200](#). 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 prorated 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 1 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 Professions Code § [26057](#)(b)(4), (5), (6) or (7) with the exception of criminal activity that falls under Business and Professions Code § [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 § [9.30.130](#) and, if applicable, § [9.30.140](#) or § [9.30.150](#).

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:

- A. Compliance with other required permits or licenses necessary prior to operation;
- B. Compliance with all rules, regulations, ordinances and requirements of the City, including but not limited to § [9.30.130](#) and, if applicable, § [9.30.140](#); and
- C. 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 premises;
- C. Individuals not listed as employees, owners, or managers of the business shall not be permitted in nonpublic 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.

H. Any cannabis business shall not be located within 100 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). 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 to the closest property line of the lot on which the cannabis business is located.

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 a community choice aggregate energy provider or install solar panels.

9.30.150 Retail Cannabis 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.

D. 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.

E. 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.

F. Drive-through services. Drive-through or walk-up window services in conjunction with cannabis retail are prohibited.

G. Delivery services. The primary use as defined in 18.100.020 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:

1. Delivery to locations outside a permitted cannabis retail facility shall only be permitted in conjunction with a permitted cannabis facility. Delivery of cannabis without a storefront component shall be considered cannabis retail - delivery only, and subject to the requirements of § 18.42.059.

2. If delivery services will be provided, the application shall incorporate security protocols in compliance with State law.

9.30.160 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.

9.30.170 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.

9.30.180 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 10 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 10 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 10 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.

9.30.190 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.

9.30.200 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 1 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.

9.30.210 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](#); or
- F. Violates or fails to comply with the terms and conditions of any required discretionary permit.

9.30.220 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.

9.30.230 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.

9.30.240 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.

9.30.250 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](#).

9.30.260 CRIMINAL PENALTIES.

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

9.30.270 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.

9.30.280 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.

9.30.290 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 1 or more sections, subsections, sentences, clauses, or phrases may be held invalid or unconstitutional.

**Department of Cannabis Control
 Medicinal and Adult-Use Commercial Cannabis Regulations
 California Code of Regulations Title 4
 Division 19. Department of Cannabis Control**

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Chapter 1. All Licensees

Article 1. Division Definitions and General Requirements

§15000. Definitions.

- (a) “Act” means the Medicinal and Adult-Use Cannabis Regulation and Safety Act, codified in Business and Professions Code section 26000, et seq.
- (b) “Adulterated” or “adulteration” has the meaning stated in section 26039.6(a) of the Act.
- (c) “Allergen” means a major food allergen as defined in 21 U.S.C § 321(qq).
- (d) “Appellation of Origin” means a designation to indicate that the cannabis meets the requirements developed by the program established pursuant to section 26063 of the Act.
- (e) “Applicant” means an owner that is applying for a Department-issued license.
- (f) “Batch” means a specific quantity of homogeneous cannabis or cannabis product that is one of the following types:
- (1) “Harvest batch” means a specifically identified quantity of dried flower or trim, leaves, and other cannabis plant matter that is harvested at the same time, and, if applicable, cultivated using the same pesticides and other agricultural chemicals.
 - (2) “Manufactured cannabis batch” or “production batch” means either:
 - (A) An amount of cannabis concentrate or extract produced in one production cycle using the same extraction methods and standard operating procedures; or
 - (B) An amount of a type of cannabis product produced in one production cycle using the same formulation and standard operating procedures.
- (g) “Cannabis accessories” has the meaning stated in Health and Safety Code section 11018.2.
- (h) “Cannabis concentrate” means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. For purposes of this division, “cannabis concentrate” includes, but is not limited to, the separated resinous trichomes of cannabis, tinctures, capsules, suppositories, extracts, vape cartridges, inhaled products (e.g., dab, shatter, and wax), and tablets as defined in subsection (nnn).
- (i) “Cannabis goods” means cannabis and cannabis products in final form. For the purposes of section 15311, “cannabis goods” includes all cannabis and cannabis products in any form.
- (j) “Cannabis product” means 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.

(k) “Cannabis product quality,” “quality cannabis product,” or “quality” means that the cannabis product consistently meets the established specifications for identity, cannabinoid concentration, homogeneity, composition, and testing standards pursuant to sections 15718 through 15724, and has been manufactured, packaged, labeled, and held under conditions to prevent adulteration and misbranding.

(l) “Cannabis waste” means any material intended for disposal that contains cannabis but is not otherwise considered a hazardous waste. Cannabis waste consisting solely of plant material shall be considered an organic waste as defined in Public Resources Code section 42649.8(d).

(m) “Canopy” means the designated area(s) at a licensed premises that will contain mature plants at any point in time.

(n) “CBD” means the compound cannabidiol, CAS number 13956-29-1. “Total CBD” is defined in section 15700(qqq).

(o) “Commercial cannabis activity” includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of cannabis or cannabis products as provided for in this division, or acting as a cannabis event organizer for temporary cannabis events.

(p) “Commercial-grade, non-residential door lock” means a lock manufactured for commercial use.

(q) “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

(r) “Cultivation site” means a location where commercial cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where any combination of those activities occurs.

(s) “Delivery employee” means an individual employed by a licensed retailer or licensed microbusiness authorized to engage in retail sales who delivers cannabis goods from the licensed retailer or licensed microbusiness premises to a customer at a physical address.

(t) “Designated responsible party” means the individual identified by the commercial cannabis business who has legal authority to bind the commercial cannabis business and who is the primary contact for the application and license-related issues.

(u) “Distribution” means the procurement, sale, and transport of cannabis and cannabis products between licensees.

(v) “Dried flower” means all dead cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.

(w) “Edible cannabis product” means a cannabis product intended to be used orally, in whole or in part, for human consumption. For purposes of this division, “edible cannabis product” includes cannabis products that dissolve or disintegrate in the mouth, but does not include any product otherwise defined as “cannabis concentrate.”

(x) “Extraction” means a process by which cannabinoids are separated from cannabis plant material through chemical or physical means.

(y) “Final form” refers to cannabis and cannabis products that are packaged and labeled as they will be sold at retail to a consumer.

(z) “Flowering” means that a cannabis plant has formed a mass of pistils measuring greater than one-half inch wide at its widest point.

(aa) “Free cannabis goods” means any amount of cannabis goods provided to any person without cost or payment or exchange of any other thing of value.

(bb) “Immature plant” or “immature” means 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 that is not flowering. For retail purposes, “immature plant” or “immature” means a cannabis plant that is nonflowering and shorter and narrower than 18 inches.

(cc) “Indoor cultivation” means the cultivation of cannabis within a 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.

(dd) “Informational panel” means any part of the cannabis product label that is not the primary panel and that contains required labeling information.

(ee) “Infusion” means a process by which cannabis, cannabinoids, or cannabis concentrates are directly incorporated into a product formulation to produce a cannabis product.

(ff) “Infused pre-roll” means a pre-roll into which cannabis concentrate (other than kief) or other ingredients have been incorporated.

(gg) “Ingredient” means any substance that is used in the manufacture of a cannabis product and that is intended to be present in the finished cannabis product.

(hh) “Kief” means the resinous trichomes of cannabis that have been separated from the cannabis plant.

(ii) “Labeling” means any label or other written, printed, or graphic matter upon cannabis or a cannabis product, upon its container or wrapper, or that accompanies any cannabis or cannabis product.

(jj) “Licensee” means any person holding a license issued under the Act.

(kk) “Light deprivation” means the use of any technique to eliminate natural light in order to induce flowering.

(ll) “Limited-access area” means an area in which cannabis or cannabis products are stored or held and is only accessible to a licensee and authorized persons.

(mm) “Lot” means a batch, or specifically identified portion of a batch.

(nn) “Lot number” or “batch number” means a distinctive group of numbers, letters, or symbols or any combination of these that is unique to a group of cannabis or cannabis products.

(oo) “Manufacture” means to compound, blend, extract, infuse, or otherwise make or

prepare a cannabis product.

(1) The term “manufacture” includes the following processes:

(A) Extraction;

(B) Infusion;

(C) Packaging or repackaging of cannabis products;

(D) Labeling or relabeling the packages of cannabis products;

(E) Post-processing refinement of cannabis extract (“post-processing”); and

(F) Remediation of failed harvest batches or cannabis product batches, other than relabeling to correct cannabinoid content.

(2) The term “manufacture” does not include the following:

(A) The repacking of cannabis products from a bulk shipping container by a distributor or retailer where the product’s original packaging and labeling is not otherwise altered;

(B) The preparation of pre-rolls by a licensed distributor in accordance with the requirements of section 15303;

(C) The collection of the resinous trichomes that are dislodged or sifted from the cannabis plant incidental to cultivation activities by a licensed cultivator;

(D) The processing of nonmanufactured cannabis products, as defined in subsection (eee) of this section; or

(E) The addition of cannabinoid content on the label of a package of cannabis or cannabis product by a distributor in accordance with section 17407.

(pp) “Manufacturing” or “manufacturing operation” means all aspects of the extraction process, infusion process, post-processing, remediation, and packaging and labeling processes, including processing, preparing, holding, and storing of cannabis products. Manufacturing also includes any processing, preparing, holding, or storing of components and ingredients.

(qq) “Mature plant” or “mature” means a cannabis plant that is flowering.

(rr) “Medicinal cannabis patient” includes both a qualified patient as defined in Health and Safety Code section 11362.7 and a person in possession of a valid identification card issued under Health and Safety Code section 11362.71.

(ss) “Mixed-light cultivation” means the cultivation of mature cannabis in a greenhouse, hoop-house, glasshouse, conservatory, hothouse, or other similar structure using a combination of:

(1) Natural light and light deprivation, and either of the models listed below:

(A) “Mixed-light Tier 1,” without the use of artificial light or the use of artificial light at a rate above zero, but no more than six watts per square foot;

(B) “Mixed-light Tier 2,” the use of artificial light at a rate above six and below or equal to twenty-five watts per square foot; or

(2) Natural light and either of the models listed below:

(A) “Mixed-light Tier 1,” the use of artificial light at a rate above zero, but no more than six watts per square foot;

(B) “Mixed-light Tier 2,” the use of artificial light at a rate above six and below or equal to twenty-five watts per square foot.

(tt) “Nonmanufactured cannabis goods” means final form items that contain only cannabis.

(uu) “Nonvolatile solvent” means any solvent used in the extraction process that is not a volatile solvent. “Nonvolatile solvent” includes carbon dioxide, ethanol, and nonhydrocarbon-based or other solvents such as water, vegetable glycerin, vegetable oil, animal fat, and glycerin.

(vv) “Nursery” means all activities associated with producing clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

(ww) “Orally consumed concentrate” means a cannabis concentrate that is intended to be consumed by mouth and is not otherwise an edible cannabis product. “Orally consumed concentrate” includes tinctures, capsules, and tablets as defined in subsection (nnn).

(xx) “Outdoor cultivation” means the cultivation of mature cannabis without the use of artificial lighting or light deprivation in the canopy area at any point in time.

(yy) “Package” or “packaging” means any container or wrapper that may be used for enclosing or containing any cannabis or cannabis product. “Package” does not include a shipping container or outer wrapping used solely for the transport of cannabis or cannabis products in bulk quantity to a licensed premises.

(zz) “Person” includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

(aaa) “Pest” means an undesired insect, rodent, nematode, fungus, bird, vertebrate, invertebrate, weed, virus, bacteria, or other microorganism (except microorganisms on or in living humans or other living animals) that is, or is liable to become, injurious, dangerous, or detrimental to health, the environment, or the agricultural environment of the state.

(bbb) “Pre-roll” means any combination of the following rolled in paper: flower, shake, leaf, or kief that is obtained from accumulation in containers or sifted from loose, dry cannabis flower or leaf with a mesh screen or sieve.

(ccc) “Premises” means the designated structure(s) and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.

(ddd) “Primary panel” means the part of a cannabis goods label that is most likely to be

displayed, presented, shown, or examined under customary conditions of display for retail sale.

(eee) "Processing" means all activities associated with the drying, curing, grading, trimming, rolling, storing, packaging, and labeling of cannabis or nonmanufactured cannabis products.

(fff) "Product Identity" or "identity of the product" means the generic, common, or usual name of a product by which it is most commonly known.

(ggg) "Promotional materials" means any form, letter, circular, pamphlet, publication, or other written material directed to a customer or prospective customer to induce retail sales. Promotional material does not include permitted signs, displays, decorations, cannabis accessories, or cannabis or cannabis products furnished by a licensed cultivator, licensed manufacturer, licensed distributor, licensed microbusiness, or licensed cannabis event organizer to a retail licensee for advertising purposes. Promotional materials shall have no intrinsic or secondary value.

(hhh) "Publicly owned land" means any building or real property that is owned, leased, or occupied by a city, county, state, federal, or other government entity.

(iii) "Quarantine" means the storage or identification of cannabis or cannabis product to prevent use, movement or transfer of the cannabis or cannabis product.

(jjj) "Residential area" is an area that is within 600 feet of any single-family or multifamily residence, other than commercial hotels, motels, and similar establishments for temporary lodging.

(kkk) "Retail area" means a building, room, or other area that is open to the public, upon the licensed retailer or licensed microbusiness premises authorized to engage in retail sales in which cannabis goods are sold or displayed.

(lll) "Serving" means the designated amount of cannabis product established by the manufacturer to constitute a single unit.

(mmm) "Sublet" means to lease or rent all or part of a leased or rented property.

(nnn) "Tablet" means a solid preparation containing a single serving of THC or other cannabinoid that is intended to be swallowed whole, not formulated to be chewable, dispersible, effervescent, orally disintegrating, used as a suspension, or consumed in a manner other than swallowed whole, and does not contain any added natural or artificial flavor or sweetener.

(ooo) "Tamper-evident" means that the cannabis goods packaging is sealed in a manner that prevents the packaging from being opened without obvious destruction of the seal.

(ppp) "THC" or "delta-9 THC" means the compound tetrahydrocannabinol, CAS number 1972-08-3. "Total THC" is defined in section 15700(rrr).

(qqq) "Tincture" means a solution of cannabis extract, derived either directly from the cannabis plant or from a manufactured cannabis extract, dissolved in alcohol, glycerin, or vegetable oils.

(rrr) "Topical cannabis product" means a cannabis product intended to be applied to the

skin rather than ingested or inhaled.

(sss) “Track and trace system” means the program for reporting the movement of cannabis and cannabis products through the distribution chain established by the Department in accordance with section 26067 of the Act.

(ttt) “Transport” means the physical movement of cannabis or cannabis products from one licensed premises to another licensed premises.

(uuu) “Unique identifier” or “UID” means an alphanumeric code or designation used for reference to a specific plant and any cannabis or cannabis product derived or manufactured from that plant.

(vvv) “Universal symbol” means the symbol developed by the Department pursuant to section 26130(c)(7) of the Act to indicate that a product contains cannabinoids.

(www) “Vehicle alarm system” is a device or series of devices installed to discourage theft of the vehicle or its contents and is intended to summon general attention or to summon law enforcement as a result of an indication of an attempted breach of the vehicle.

(xxx) “Volatile solvent” means 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.

(yyy) “Watts per square foot” means the sum of the maximum wattage of all lights identified in the designated canopy area(s) in the premises diagram divided by the sum of the dimensions in square feet of the same designated canopy area(s).

(zzz) “Wholesale cost” has the meaning stated in title 18, California Code of Regulations, section 3700.

Authority: Section 26013, Business and Professions Code. Reference: Section 26013, Business and Professions Code.

§15000.1. General Requirements.

(a) Every person who conducts commercial cannabis activity shall obtain and maintain a valid license from the Department for each separate premises at which commercial cannabis activity is conducted.

(b) Commercial cannabis activity shall only be conducted between licensees. Licensed retailers and licensed microbusinesses authorized to engage in retail sales may conduct commercial cannabis activity with customers or nonprofits in accordance with this division.

(c) The licensee shall only conduct commercial cannabis activities authorized by the license and on the premises licensed for the activity.

(d) All transfers of cannabis and cannabis product shall be conducted by a licensed distributor.

(e) Licenses shall not be transferrable or assignable to another person or premises, except as provided in section 26050.2 of the Business and Professions Code. In the event of the sale or other transfer of the commercial cannabis business, changes in ownership shall be made in accordance with section 15023.

(f) Applicants and licensees shall use their legal business name on all documents related to commercial cannabis activity.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26053, 26057 and 26070, Business and Professions Code.

§15000.2. A- and M-Designations.

(a) Licensees may conduct business with other licensees irrespective of the A-designation or M-designation on their licenses.

(b) Licensees authorized to engage in distribution shall only transport and sell cannabis goods designated as “For Medical Use Only” to M-designated retailers or M-designated microbusinesses authorized to engage in retail sales.

(c) Licensees authorized to engage in retail sales shall only sell cannabis goods designated as “For Medical Use Only” to medicinal customers.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26001, 26013, 26050 and 26053, Business and Professions Code.

§15000.3. Premises Location.

(a) A licensed premises shall not be in a location that requires persons to pass through a business that sells alcohol or tobacco or a private residence to access the licensed premises.

(b) A licensed premises shall not be in a location that requires persons to pass through the licensed premises to access a business that sells alcohol or tobacco or a private residence.

(c) A licensed premises shall not be located within a private residence. This subsection does not apply to cultivation licensees.

(d) Licensees shall ensure that the Department has immediate access to their licensed premises. If the Department is denied access to a licensee’s premises for any reason, the licensee shall be held responsible and subject to discipline. If the Department is denied access to one licensee’s premises because of another licensee’s refusal to grant access when the only access to one licensed premises is through another licensed premises, all licensees shall be held responsible and subject to discipline.

(e) Nothing in this section shall be interpreted to prohibit two or more licensed premises from occupying separate portions of the same parcel of land or sharing common use areas, such as a bathroom, breakroom, hallway, or building entrance.

(f) All structures included as part of the licensed premises shall be permanently affixed to

the land by a method that would cause the structure to ordinarily remain affixed for an indefinite period of time. Structures that are not considered to be permanent structures include, but are not limited to, shipping containers that are not affixed to the land, modular buildings that are not affixed to the land, structures that rest on wheels, or any structure that can be readily moved. This provision is not applicable to licensees engaging in cultivation for cultivation related activities.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26050, 26051.5, 26054, 26055 and 26160, Business and Professions Code.

§15000.4. Subletting of Premises.

Except as allowed pursuant to article 2 of chapter 8, a licensee shall not sublet any area designated as the licensed premises for the licensee's commercial cannabis activity.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26070, Business and Professions Code.

§15000.5. Licensee's Responsibility for Acts of Employees and Agents.

In construing and enforcing the provisions of the Act and the regulations in this division, the act, omission, or failure of an agent, officer, representative, or other person acting for or employed by a licensee, within the scope of his or her employment or office, shall in every case be deemed the act, omission, or failure of the licensee.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26031 and 26110, Business and Professions Code.

§15000.6. Age Restriction.

Employees or persons retained by a licensee to work within or on a licensed premises or to handle cannabis or cannabis products shall be at least 21 years of age.

Authority: Section 26013, Business and Professions Code. Reference: Section 26140, Business and Professions Code.

§15000.7. Storage of Inventory.

(a) All inventory stored on the licensed premises shall be secured in a limited-access area.

(b) A licensee shall not store cannabis goods outdoors.

(c) Employee break rooms, changing facilities, and bathrooms shall be separated from all storage areas.

(d) All cannabis and cannabis products must be stored on the licensed premises.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26053 and 26070, Business and Professions Code.

Article 2. Applications

§15001. Provisional Licenses.

- (a) A provisional licensee shall comply with all laws applicable to a licensee holding an annual license of the same type.
- (b) A provisional license does not create a vested right in the holder to renewal of the provisional license or issuance of an annual license.
- (c) A provisional license shall no longer be valid upon issuance of an annual license, denial of an annual license, abandonment of an application for licensure, withdrawal of an application for licensure, or surrender of the provisional license.
- (d) A provisional licensee must actively and diligently pursue requirements for an annual license to continue to hold a provisional license, which includes meeting all the following requirements:
- (1) Paying the license fee within 60 calendar days of the date the Department sends a notification that the license fee is due.
 - (2) Providing all information requested by the Department or otherwise elaborating upon information previously provided to the Department, or providing a statement demonstrating that the information cannot be provided due to circumstances beyond the provisional licensee's control. The information or statement shall be provided by the response date specified by the Department, or within 30 calendar days of the date the Department sends the information request to the provisional licensee if the Department does not specify a response date.
- (e) Refusal by the Department to issue or renew a provisional license pursuant to section 15001.1 or section 15001.2 shall not entitle the applicant to a hearing or an appeal of the decision. Chapter 2 (commencing with section 480) of division 1.5, chapter 4 (commencing with section 26040), and sections 26031 and 26058 of the Business and Professions Code shall not apply to licenses issued pursuant to this section.
- (f) No provisional license issued by the Department shall be effective after January 1, 2026.

Authority: Section 26013, Business and Professions Code. Reference: Section 26050.2, Business and Professions Code.

§15001.1. Issuance of Provisional License.

- (a) Until June 30, 2022, the Department may, in its sole discretion, issue a provisional license to a commercial cannabis business if:
- (1) The applicant submits a complete application, in accordance with section 15002, and the required application fee to the Department on or before March 31, 2022.
 - (2) For an application for a license that includes cultivation activities, the applicant provides any of the following documents:
 - (A) A final streambed alteration agreement;

(B) A draft streambed alteration agreement provided by the Department of Fish and Wildlife and signed and returned to the Department of Fish and Wildlife;

(C) Written verification by the Department of Fish and Wildlife that a streambed alteration agreement is not needed; or

(D) Written verification by the Department of Fish and Wildlife that the applicant submitted a notification described in section 1602 of the Fish and Game Code, submitted payment of applicable fees pursuant to section 1609 of the Fish and Game Code, and is responsive to the Department of Fish and Wildlife as prescribed in section 26050.2 of the Business and Professions Code.

(3) Issuance of the license would not cause the commercial cannabis business to hold multiple cultivation licenses on contiguous premises to exceed one acre of total canopy for outdoor cultivation, or 22,000 square feet for mixed-light or indoor cultivation, if the application is received on or after January 1, 2022. For purposes of this subsection, premises will be considered contiguous if they are connected, touching, or adjoining.

(b) After June 30, 2022, and until September 30, 2022, the Department may, in its sole discretion, issue a provisional license for cultivation to a commercial cannabis business if:

(1) The applicant submits a complete application, in accordance with section 15002, and the required application fee to the Department on or before June 30, 2022.

(2) The commercial cannabis business is not applying for a cultivation license for a premises that exceeds 20,000 square feet of total canopy for outdoor cultivation.

(3) The commercial cannabis business provides any of the following documents:

(A) A final streambed alteration agreement;

(B) A draft streambed alteration agreement provided by the Department of Fish and Wildlife and signed and returned to the Department of Fish and Wildlife;

(C) Written verification by the Department of Fish and Wildlife that a streambed alteration agreement is not needed; or

(D) Written verification by the Department of Fish and Wildlife that the applicant has submitted a notification described in section 1602 of the Fish and Game Code, submitted payment of applicable fees pursuant to section 1609 of the Fish and Game Code, and is responsive to the Department of Fish and Wildlife as prescribed in section 26050.2 of the Business and Professions Code.

(4) Issuance of the license would not cause the commercial cannabis business to hold multiple cultivation licenses on contiguous premises to exceed one acre of total canopy for outdoor cultivation, or 22,000 square feet for mixed-light or indoor cultivation, if the application is received on or after January 1, 2022. For the purposes of this subsection, premises will be considered contiguous if they are connected, touching, or adjoining.

(c) After June 30, 2022, and until June 30, 2023, the Department may, in its sole discretion, issue a provisional license to a local equity license applicant, as defined in section 26240(c) of the Business and Professions Code, if:

(1) The applicant submits a complete application, in accordance with section 15002, and the required application fee to the Department on or before March 31, 2023.

(2) For an application for a license that includes cultivation activities, the following conditions are met:

(A) The local equity license applicant provides any of the following documents:

(i) A final streambed alteration agreement;

(ii) A draft streambed alteration agreement provided by the Department of Fish and Wildlife and signed and returned to the Department of Fish and Wildlife;

(iii) Written verification by the Department of Fish and Wildlife that a streambed alteration agreement is not needed; or

(iv) Written verification by the Department of Fish and Wildlife that the applicant has submitted a notification described in section 1602 of the Fish and Game Code, submitted payment of applicable fees pursuant to section 1609 of the Fish and Game Code, and is responsive to the Department of Fish and Wildlife as prescribed in section 26050.2 of the Business and Professions Code.

(B) The local equity applicant is not applying for a cultivation license for a premises that exceeds one acre of total canopy for outdoor cultivation, or 22,000 square feet for mixed-light or indoor cultivation.

(C) Issuance of the license would not cause the local equity applicant to hold multiple cultivation licenses on contiguous premises to exceed one acre of total canopy for outdoor cultivation, or 22,000 square feet for mixed-light or indoor cultivation. For the purposes of this subsection, premises will be considered contiguous if they are connected, touching, or adjoining.

Authority: Section 26013, Business and Professions Code. Reference: Section 26050.2, Business and Professions Code.

§15001.2. Renewal of Provisional License.

(a) To timely renew a provisional license, the provisional licensee shall comply with the requirements of section 15020.

(b) For provisional license renewals from July 1, 2022, through June 30, 2023, in addition to the requirements of section 15020, a provisional licensee must also provide to the Department:

(1) Evidence that one of the following California Environmental Quality Act (CEQA) (Division 13 (commencing with section 21000) of the Public Resources Code) requirements has been met:

(A) Documentation, such as a letter, report, notice or other type of written communication from the local jurisdiction, demonstrating that the local jurisdiction is in the process of preparing a site-specific initial study, addendum, or checklist pursuant to title 14, California Code of Regulations, section 15063, 15164, 15168, or 15183 to demonstrate

whether it is consistent with a previously circulated and adopted negative declaration, mitigated negative declaration, or environmental impact report;

(B) Documentation, such as a letter, report, notice or other type of written communication from the local jurisdiction, demonstrating that the local jurisdiction has made substantial progress during the previous 12-month licensure term toward completing project specific environmental review by drafting, preparing, or circulating for public review an environmental document pursuant to CEQA;

(C) Documentation requested by the Department of the provisional licensee that demonstrates the furtherance of environmental review during the previous 12-month licensure term;

(D) Other information requested by the Department from the provisional licensee that demonstrates evidence of substantial progress toward compliance with CEQA during the previous 12-month licensure term; or

(E) Documentation that demonstrates compliance with CEQA is complete.

(2) For cultivation licenses, a provisional licensee must also provide one of the following forms of documentation demonstrating progress with compliance with chapter 6 (commencing with section 1600) of division 2 of the Fish and Game Code:

(A) A final streambed alteration agreement issued by the Department of Fish and Wildlife;

(B) A draft streambed alteration agreement provided by the Department of Fish and Wildlife and signed and returned to the Department of Fish and Wildlife by the provisional licensee;

(C) Written verification by the Department of Fish and Wildlife that the provisional licensee has submitted a complete notification described in section 1602 of the Fish and Game Code; or

(D) Written verification by the Department of Fish and Wildlife that a streambed alteration agreement is not needed.

(c) For provisional license renewals on or after July 1, 2023, in addition to the information required in section 15020, a provisional licensee must also provide to the Department:

(1) Documentation, such as a full or partial copy of the administrative record, demonstrating that one of the following CEQA requirements has been met:

(A) The local jurisdiction has prepared and circulated for public review a negative declaration or a mitigated negative declaration;

(B) The local jurisdiction has determined that an environmental impact report is required pursuant to section 21157 of the Public Resources Code and has either made substantial progress in preparing that environmental impact report or has a contract or contracts with consultants in place for the preparation of that environmental impact report;

(C) The local jurisdiction has certified that it has conducted a reasonably comprehensive site-specific review and has reviewed, prepared, and deemed complete an initial study, addendum, or checklist pursuant to title 14, California Code of Regulations, section

15063, 15164, 15168, or 15183 demonstrating consistency with a previously circulated and adopted negative declaration, mitigated negative declaration, or environmental impact report, in preparation for approval of an annual license; or

(D) The local jurisdiction has reviewed, prepared, and deemed complete a notice of exemption pursuant to section 21108 or 21152 of the Public Resources Code, except for ministerial projects not subject to the California Environmental Quality Act pursuant to section 21080(b)(1) of the Public Resources Code.

(E) Documentation submitted pursuant to subsection (c)(1) may include, but is not limited to:

(i) Any environmental documentation, including, but not limited to, an exemption, initial study, negative declaration, mitigated negative declaration, and/or environmental impact report;

(ii) Any staff reports and related documents prepared by the local jurisdiction;

(iii) Any written transcript or minutes of the proceedings of the local jurisdiction;

(iv) Any notice(s) issued by the local jurisdiction to comply with CEQA and the CEQA Guidelines;

(v) Any proposed decisions or findings considered by the local jurisdiction by its staff or the applicant; and

(vi) Any documentation of the local jurisdiction's final decision.

(2) For cultivation licensees, one of the following forms of documentation demonstrating progress with compliance with chapter 6 (commencing with section 1600) of division 2 of the Fish and Game Code:

(A) A final streambed alteration agreement issued by the Department of Fish and Wildlife;

(B) A draft streambed alteration agreement provided by the Department of Fish and Wildlife and signed and returned to the Department of Fish and Wildlife by the provisional licensee; or

(C) Written verification from the Department of Fish and Wildlife that a streambed alteration agreement is not needed.

(d) The Department will not renew a provisional license authorizing cultivation if:

(1) The State Water Resources Control Board has notified the Department that the provisional licensee is not in compliance with section 26060.1(a) or (b) of the Business and Professions Code or the principles, guidelines, and requirements established pursuant to section 13149 of the Water Code.

(2) The Department of Fish and Wildlife has notified the Department that the provisional licensee is not in compliance with any final streambed alteration agreement, any conditions set forth in a signed draft streambed alteration agreement, or a condition established pursuant to section 26060.1(a) or (b)(1) and (2) of the Business and Professions Code.

(3) After January 1, 2023, if renewing the license would cause a licensee to hold multiple cultivation licenses on contiguous premises to exceed one acre of total canopy for outdoor cultivation or 22,000 square feet for mixed-light or indoor cultivation. For the purposes of this section, premises will be considered contiguous if they are connected, touching, or adjoining.

Authority: Section 26013, Business and Professions Code. Reference: Section 26050.2, Business and Professions Code.

§15001.3. Notice of Provisional License Review.

(a) When the Department is considering the suspension, revocation, or denial of renewal of a provisional license pursuant to Business and Professions Code section 26050.2, the Department shall issue a Notice of Provisional License Review to a provisional licensee for failure to comply with the Act or its implementing regulations.

(b) The Notice of Provisional License Review shall be in writing and state the following:

(1) The nature and facts of each violation, including a reference to the statutory and/or regulatory section(s) violated;

(2) The manner in which the provisional licensee must correct the violation(s) to achieve compliance;

(3) That the Department is considering suspending, revoking, or denying the renewal of the provisional license.

(4) That the provisional licensee may provide the Department with information related to the observed violation(s) and potential license action for the Department's consideration during its provisional license review. The information may include statements, including a statement that the Department should not take the action under consideration, and any relevant documentation, including evidence that the violation(s) did not occur, of correction of the violation(s), or of mitigation. The provisional licensee may also request an informal meeting with the Department to discuss the matter and may be accompanied by an attorney or other representative.

(c) The Department shall serve the Notice of Provisional License Review by mail or electronic mail to the provisional licensee's designated responsible party, or in person to the licensee or an employee or agent of the provisional licensee.

Authority: Section 26013, Business and Professions Code. Reference: Section 26050.2, Business and Professions Code.

§15001.4. Immediate Suspension of Provisional License.

(a) The Department may immediately suspend any provisional license, or immediately impose licensing restrictions or other conditions upon any provisional licensee, if necessary to protect public health, safety, or welfare.

(b) An order issued pursuant to subsection (a) shall be in writing and describe the following:

(1) The nature and facts of each violation, including a reference to the statutory and/or regulatory section(s) violated; and

(2) Whether the provisional license is suspended or the provisional licensee may continue to operate subject to restrictions or other conditions.

(c) Following the issuance of an order pursuant to subsection (a), the Department shall serve the provisional licensee with a Notice of Provisional License Review pursuant to section 15001.3.

Authority: Section 26013, Business and Professions Code. Reference: Section 26050.2, Business and Professions Code.

§15002. Annual License Application Requirements.

(a) Applications may be completed and submitted online at www.cannabis.ca.gov.

(b) Applicants who submit their applications online shall first register for a user account if required by the licensing system. To register for a user account, the applicant shall do all of the following as requested by the licensing system:

(1) Create a username, password, and security question and answer;

(2) Provide an email address; and

(3) Provide the owner's first and last name, primary phone number, Social Security number or individual taxpayer identification number, date of birth, and mailing address.

(c) An application must be completed by an owner as defined by section 15003 of this division. An application for an annual cannabis license includes the following:

(1) The legal first and last name of the applicant and the legal business name of the commercial cannabis business.

(2) Every business trade name, fictitious business name, and doing business as ("DBA") under which the commercial cannabis business will operate.

(3) The commercial cannabis license for which the applicant is applying, and whether the applicant is requesting that the license be designated as medicinal, adult-use, or both, if applicable.

(4) Payment of an application fee pursuant to section 15014 of this division.

(5) The physical address of the premises. If the Department is unable to confirm that the address provided is valid, then the applicant shall provide a document that confirms the physical address of the premises. Such a document may include a utility bill, printed information from the county assessor, deed, or title.

- (6) The mailing address for the commercial cannabis business, if different from the premises address.
- (7) The telephone number for the commercial cannabis business.
- (8) The website address of the commercial cannabis business, if any.
- (9) The number under which the commercial cannabis business files federal taxes, such as a federal employer identification number, federal taxpayer identification number, individual taxpayer identification number, Social Security number, or national identification number.
- (10) Contact information for the owner of the commercial cannabis business who will serve as the designated primary contact person or designated responsible party for the business, including the name, title, phone number, and email address of the individual.
- (11) The full legal name, mailing address, primary contact phone number, email address, and preferred method of written communication (e.g., standard mail or email) of each individual or entity serving as agent for service of process for the commercial cannabis business, if any.
- (12) A description of the business organizational structure of the commercial cannabis business, such as partnership, joint venture, limited liability company, sole proprietorship, trust, or corporation.
- (13) Upon request, business formation documents that are not available online through the California Secretary of State, which may include, but are not limited to operating agreements, bylaws, and other documents that establish ownership or control over the commercial cannabis business. If the commercial cannabis business is held in trust, the applicant shall provide a copy of the certificate of trust establishing trustee authority.
- (14) A commercial cannabis business that is a foreign corporation or foreign limited liability company shall include in its application a certificate of qualification, certificate of registration, or certificate of status issued by the California Secretary of State.
- (15) A complete list of every financial interest holder of the commercial cannabis business as defined in section 15004 of this division, who is not an owner as defined in section 15003 of this division. The list of financial interest holders shall include:
 - (A) For financial interest holders that are individuals, the first and last name of the individual, a contact phone number and email address, and the type and number of the individual's government-issued identification, such as a driver's license.
 - (B) For financial interest holders that are entities, the legal business name, the name and phone number and email address of the entity's primary contact, and federal taxpayer identification number of the entity.
- (16) A complete list of every owner of the commercial cannabis business, as defined in section 15003 of this division. Each individual named on this list shall submit the following information:
 - (A) The full name of the owner.
 - (B) The owner's title within the commercial cannabis business.

- (C) The owner's date of birth and place of birth.
- (D) The owner's Social Security number or individual taxpayer identification number.
- (E) The owner's mailing address.
- (F) The owner's telephone number. This may include a number for the owner's home, business, or mobile telephone.
- (G) The owner's email address.
- (H) The owner's current employer.
- (I) The percentage of the ownership interest held in the commercial cannabis business by the owner.
- (J) The number of the owner's government-issued identification. Acceptable forms of identification are a document issued by a federal, state, county, or municipal government that includes the name, date of birth, height, gender, and photo of the person, such as a driver license.
- (K) A copy of the owner's completed application for electronic fingerprint images submitted to the Department of Justice.
- (L) A statement of rehabilitation may be submitted by the owner for any conviction, but is not required. The statement of rehabilitation is to be written by the owner and may contain evidence that the owner would like the Department to consider that demonstrates the owner's fitness for licensure. Supporting evidence may be attached to the statement of rehabilitation and may include, but is not limited to, a certificate of rehabilitation under Penal Code section 4852.01, and dated letters of reference from employers, instructors, or professional counselors that contain valid contact information for the individual providing the reference.
- (M) If applicable, a detailed description of any administrative orders or civil judgments for violations of labor standards, any suspension of a commercial cannabis license, revocation of a commercial cannabis license, or sanctions for unlicensed commercial cannabis activity by a licensing authority, local agency, or state agency against the owner in their individual capacity or a business entity in which the owner was an owner or officer within the three years immediately preceding the date of the application. The owner may provide mitigating information including, but not limited to, a statement of rehabilitation, to the Department for consideration if any prior discipline disclosed pursuant to this section may result in denial of the application.
- (N) Attestation to the following statement: Under penalty of perjury, I hereby declare that the information contained within and submitted with this application is complete, true, and accurate. I understand that a misrepresentation of fact is cause for rejection of this application, denial of the license, or revocation of a license issued.
- (17) Evidence that the commercial cannabis business has the legal right to occupy and use the proposed location that complies with section 15007 of this division.
- (18) An attestation that the proposed premises is in compliance with Business and Professions Code section 26054(b) and, if requested, evidence of compliance. For

purposes of this section, evidence of compliance with Business and Professions Code section 26054(b) may be a copy of a valid license, permit, or other authorization issued by the applicable local jurisdiction or a notification from the applicable local jurisdiction stating that the commercial cannabis business is in compliance with local ordinances and regulations.

(19) For a commercial cannabis business with 20 or more employees, the applicant shall either provide a notarized statement that the commercial cannabis business will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement. For a commercial cannabis business with less than 20 employees that has not yet entered into a labor peace agreement, provide a notarized statement indicating that the applicant will enter into and abide by the terms of a labor peace agreement within 60 days of employing its 20th employee.

(20) The applicant shall provide a valid seller's permit number issued by the California Department of Tax and Fee Administration, if applicable. If the commercial cannabis business has not yet received a seller's permit, the commercial cannabis business shall attest that the commercial cannabis business is currently applying for a seller's permit.

(21) A diagram of the premises as required by section 15006 of this division.

(22) Proof of a surety bond of at least \$5,000 payable to the State of California for each licensed premises. All bonds required under this section shall be issued by a corporate surety licensed to transact surety business in the State of California. An aggregated bond may be used when multiple licenses are held by the same commercial cannabis business.

(23) Additional information as required by section 15011.

(24) When an applicant provides a license, permit, or other authorization from the local jurisdiction where the licensed premises will be or is located, the Department will notify the applicable local jurisdiction to confirm the validity of the authorization. If the local jurisdiction does not respond within 10 calendar days, the Department shall consider the authorization valid.

(25) The limited waiver of sovereign immunity required by section 15009 of this division, if applicable.

(26) Evidence of exemption from, or compliance with, the California Environmental Quality Act as required by section 15010 of this division.

(27) The commercial cannabis business' State Employer Identification Number (SEIN) issued by the California Employment Development Department, if applicable.

(28) For a commercial cannabis business with more than one employee, the applicant shall attest that the commercial cannabis business employs, or will employ within one year of receiving a license, one supervisor and one employee who have successfully completed a Cal-OSHA 30-hour general industry outreach course offered by a training provider that is authorized by an OSHA Training Institute Education Center to provide the course.

(29) An applicant shall disclose whether they have been denied a license or had a

license suspended or revoked by the Department or any other state cannabis licensing authority. The applicant shall provide the type of license denied, suspended, or revoked, the name of the licensing authority, and the date of the denial, suspension, or revocation.

(d) An applicant for a cannabis event organizer license shall not be required to comply with subsections (c)(5), (c)(17), (c)(20), (c)(21), (c)(22), (c)(24), (c)(25), and (c)(26).

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26050, 26051.5 and 26055, Business and Professions Code.

§15002.1. Temporary Cannabis Event Application.

(a) A temporary cannabis event license shall only be issued to a person who holds a cannabis event organizer license issued by the Department.

(b) An application for a temporary cannabis event license shall include the following:

(1) The name of the applicant. For applicants who are individuals, the applicant shall provide both the first and last name of the individual. For applicants who are business entities, the applicant shall provide the legal business name of the entity.

(2) The license number for each state cannabis license held by the applicant.

(3) The address of the location where the temporary cannabis event will be held.

(4) The name of the temporary cannabis event.

(5) A diagram of the physical layout of the temporary cannabis event. The diagram shall clearly indicate where the temporary cannabis event will be taking place on the location grounds, all entrances and exits that will be used by participants during the event, all cannabis goods consumption areas, and all retail areas where cannabis goods will be sold. The hours during which cannabis goods will be sold shall be noted on the diagram. The diagram shall also clearly indicate the area where cannabis waste will be stored, all areas where cannabis goods will be stored, and the specific location of each cannabis licensee who will be participating in the event. Each cannabis licensee participating in the event shall be identified with an assigned temporary cannabis event location number. The diagram shall not contain highlighting and the markings on the diagram shall be in black-and-white print.

(6) The dates and hours of operation for which the temporary cannabis event license is being sought. A temporary event license is required for any date in which the applicant engages in onsite cannabis goods sales or allows onsite cannabis goods consumption.

(7) Contact information for the applicant's designated primary contact person regarding the temporary event license, including the name, title, address, phone number, and email address of the individual.

(8) Contact information for a designated contact person(s) who shall be onsite at the event and reachable by telephone at all times during the event.

(9) Written approval from the local jurisdiction authorizing the applicant to engage in onsite cannabis goods sales to, and onsite consumption by, persons 21 years of age or

older at the temporary cannabis event at the proposed location.

(10) A list of all licensees and employees who will be providing onsite sales of cannabis goods at the temporary cannabis event.

(11) Attestation to the following statement: Under penalty of perjury, I hereby declare that the information contained within and submitted with this application is complete, true, and accurate. I understand that a misrepresentation of fact is cause for rejection of this application, denial of the license, or revocation of a license issued.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26200, Business and Professions Code.

§15003. Owners of Commercial Cannabis Businesses.

(a) An applicant for a commercial cannabis license or a licensee shall disclose all owners of the commercial cannabis business. An owner of the commercial cannabis business includes all of the following:

(1) A person with an aggregate ownership interest of 20 percent or more in the commercial cannabis business, unless the interest is solely a security, lien, or encumbrance. For purposes of this section, “aggregate” means the total ownership interest held by a single person through any combination of individually held ownership interests in a commercial cannabis business and ownership interests in an entity that has an ownership interest in the same commercial cannabis business. For example, a person who owns 10 percent of the stock in a commercial cannabis business as an individual shareholder and 100 percent of the stock in an entity that owns 10 percent of the stock in the same commercial cannabis business has a 20 percent aggregate ownership interest in the commercial cannabis business.

(2) An individual who manages, directs, or controls the operations of the commercial cannabis business, including but not limited to:

(A) A member of the board of directors of a nonprofit.

(B) A general partner of a commercial cannabis business that is organized as a partnership.

(C) A non-member manager or managing member of a commercial cannabis business that is organized as a limited liability company.

(D) The trustee(s) and all persons who have control of the trust and/or the commercial cannabis business that is held in trust.

(E) The chief executive officer, president or their equivalent, or an officer, director, vice president, general manger or their equivalent.

(b) If the commercial cannabis business is owned in whole or in part by an entity and the entity includes individuals who manage, direct, or control the operations of the commercial cannabis business, as described in subsection (a)(2)(E), those individuals shall also be disclosed as owners.

(c) If available evidence indicates that an individual qualifies as an owner, the Department may notify the applicant or licensee that they must either disclose the individual as an owner and submit the information required by section 15002 or demonstrate that the individual does not qualify as an owner.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26001 and 26012, Business and Professions Code.

§15004. Financial Interest in a Commercial Cannabis Business.

(a) An applicant for a commercial cannabis license or a licensee shall disclose all financial interest holders. A financial interest holder of the commercial cannabis business includes all of the following, except as provided in subsection (b):

- (1) A person with an aggregate ownership interest of less than 20 percent.
- (2) A person providing a loan to the commercial cannabis business.
- (3) A person entitled to receive 10 percent or more of the profits of the commercial cannabis business, including:
 - (A) An employee who has entered into a profit share plan with the commercial cannabis business.
 - (B) A landlord who has entered into a lease agreement with the commercial cannabis business for a share of the profits.
 - (C) A consultant who is providing services to the commercial cannabis business for a share of the profits.
 - (D) A person acting as an agent, such as an accountant or attorney, for the commercial cannabis business for a share of the profits.
 - (E) A broker who is engaging in activities for the commercial cannabis business for a share of the profits.
 - (F) A salesperson who earns a commission.

(b) Financial interest holders do not include any of the following:

- (1) A bank or financial institution whose interest constitutes a loan;
- (2) Persons whose only financial interest in the commercial cannabis business is through an interest in a diversified mutual fund, blind trust, or similar instrument;
- (3) Persons whose only financial interest is a security interest, lien, or encumbrance on property that will be used by the commercial cannabis business; and
- (4) Persons who hold a share of stock that is less than 10 percent of the total shares in a publicly traded or privately held company.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26051.5, Business and Professions Code.

§15005. Personnel Prohibited from Holding Licenses.

(a) A license authorized by the Act and issued by the Department may not be held by, or issued to, any person holding office in, or employed by, any agency of the State of California or any of its political subdivisions when the duties of such person have to do with the enforcement of the Act or any other penal provisions of law of this State prohibiting or regulating the sale, use, possession, transportation, distribution, testing, manufacturing, or cultivation of cannabis or cannabis products.

(b) This section applies to, but is not limited to, any person employed in the State of California Department of Justice as a peace officer, in any district attorney's office, in any city attorney's office, in any sheriff's office, or in any local police department.

(c) No person listed in subsection (a) or (b) of this section may have any ownership interest, directly or indirectly, in any business to be operated or conducted under a cannabis license.

(d) This section does not apply to any person who holds a license in the capacity of executor, administrator, or guardian.

Authority: Section 26013, Business and Professions Code. Reference: Section 26012, Business and Professions Code.

§15006. Premises Diagram.

(a) An applicant shall submit to the Department, with the application, a complete and detailed diagram of the proposed premises. The diagram shall be used by the Department to determine whether the premises meets the requirements under this division and the Act. The Department shall deny an application if the premises does not qualify for licensure pursuant to Business and Professions Code section 26057.

(b) The diagram shall show the boundaries of the property and the proposed premises to be licensed, showing all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, windows, and doorways, and shall include a brief statement or description of the principal activity to be conducted therein.

(c) The diagram shall show and identify commercial cannabis activities that will take place in each area of the premises, and identify limited-access areas. Commercial cannabis activities that shall be identified on the diagram include the following, if applicable to the business operations: storage, batch sampling, loading or unloading of shipments, packaging and labeling, customer sales, loading for deliveries, extraction, infusion, cultivation, and processing.

(d) The diagram shall show where all cameras are located and assign a number to each camera for identification purposes unless the premises is exempt from the video surveillance requirement pursuant to section 15315 or section 15044 of this division.

(e) The diagram shall be to scale.

(f) The diagram shall not contain any highlighting and the markings on the diagram shall be in black-and-white print.

(g) If the proposed premises consists of only a portion of a property, the diagram must be labeled indicating which part of the property is the proposed premises and for what purpose(s) the remaining property is used.

(h) If the proposed premises consists of only a portion of a property that will contain two or more licensed premises, the diagram shall clearly show the designated entrances and walls under the exclusive control of the commercial cannabis business for the premises, as well as the designated entrances and walls for each additional premises. The diagram shall also show all proposed common or shared areas of the property. Such areas may include lobbies, bathrooms, hallways, and breakrooms.

(i) If the commercial cannabis business is seeking a license to conduct cultivation activities on the proposed premises, the following must be clearly identified on the premises diagram:

(1) All roads and water crossings on the property.

(2) All water sources identified and labeled for beneficial use type, including but not limited to, irrigation, domestic, fire protection, power, fish and wildlife preservation and enhancement, and recreation.

(3) If the commercial cannabis business is proposing to use a diversion from a waterbody or an underground stream flowing in a known and definite channel, groundwater well, or rain catchment system as a water source for cultivation, include the following locations on the premises diagram with locations also provided as coordinates in either latitude and longitude or the California Coordinate System:

(A) Sources of water used, including the location of waterbody diversions(s), pump locations(s), and distribution system; and

(B) Location, type, and capacity of each water storage unit to be used for cultivation.

(4) The assessor's parcel number(s).

(5) For applicants for a Specialty Cottage, Specialty, Small, and Medium license:

(A) Canopy area(s), including aggregate square footage if the canopy areas are noncontiguous. All unique areas separated by identifiable boundaries pursuant to section 15000(m) shall be clearly described and labeled in the premises diagram. If mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation;

(B) Area(s) outside of the canopy where only immature plants shall be maintained, if applicable. This area may not be shared among multiple licenses held by one licensee;

(C) Designated pesticide and other agricultural chemical storage area(s);

(D) Designated processing area(s) if the licensee will process onsite. This area may not be shared among multiple licenses held by one licensee;

(E) Designated packaging area(s) if the licensee will package products onsite. This area may not be shared among multiple licenses held by one licensee;

(F) Designated composting area(s) if the licensee will compost cannabis waste onsite;

(G) Designated secured area(s) for cannabis waste if different from subsection (F) above;

(H) Designated area(s) for harvested cannabis storage;

(I) Designated area(s) for physically segregating cannabis or nonmanufactured cannabis products subject to an administrative hold pursuant to section 17815. This area may not be shared among multiple licenses held by one licensee;

(J) Designated area(s) that are shared between licenses held by one licensee. The shared area(s) must be contiguous, be indicated on the premises diagram for each application, and be one or more of the following designated area(s) shared between licenses held by one licensee: pesticide and other agricultural chemical storage area(s), composting area(s), and secured area(s) for cannabis waste; and

(K) Common use area(s), such as hallways, bathrooms, and breakrooms. This area may be shared by multiple licensees.

(6) For indoor and mixed-light license type applications, a lighting diagram with the following information must be included:

(A) Location of all lights in the canopy area(s); and

(B) Maximum wattage, or wattage equivalent, of each light.

(7) For applicants for a nursery license:

(A) Designated pesticide and other agricultural chemical storage area(s);

(B) Designated composting area(s) if the licensee will compost cannabis waste onsite;

(C) Designated secured area(s) for cannabis waste if different from subsection (B) above;

(D) At least one of the following areas:

(i) Area(s) that shall contain only immature plants; or

(ii) Designated seed production area(s) that may contain mature plants; and

(E) Designated research and development area(s) that may contain mature plants, if the licensee will be conducting research and development activities that require a plant to flower.

(8) For applicants for a processor license:

(A) Designated processing area(s);

(B) Designated packaging area(s), if the licensee will package and label products onsite;

(C) Designated composting area(s) if the licensee will compost cannabis waste onsite;

(D) Designated secured area(s) for cannabis waste if different from subsection (C) above; and

(E) Designated area(s) for harvested cannabis storage.

(j) If the commercial cannabis business is seeking a Type S license to manufacture cannabis products or registering as a manufacturing Shared-Use Facility, the premises

diagram must also comply with all applicable requirements in sections 15011(b)(13)(D) and 17124-17128.

(k) If a proposed premises is located on only a portion of a property that also includes a residence, the diagram shall clearly show the designated buildings for the premises and the residence.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26051.5, Business and Professions Code.

§15007. Landowner Approval.

(a) If the commercial cannabis business is not the landowner of the real property upon which the premises is located, the commercial cannabis business shall provide to the Department a document from the landowner or the landowner's agent that states that the commercial cannabis business has the right to occupy the property and acknowledges that the commercial cannabis business may use the property for the commercial cannabis activity for which the commercial cannabis business is applying for licensure. An applicant shall also provide a copy of the rental agreement, as applicable.

(b) If the commercial cannabis business is the landowner of the real property upon which the premises is located, the commercial cannabis business shall provide to the Department a copy of the title or deed to the property.

(c) If the landowner is a trust, the landowner approval shall come from the person who holds equitable title in the real property.

Authority: Section 26013, Business and Professions Code. Reference: Section 26051.5, Business and Professions Code.

§15007.1. Electronic Signature.

The Department will accept an electronic signature that complies with Civil Code section 1633.2(h) on any documents required to be submitted to the Department and that are submitted electronically, except documents that are required to be notarized.

Authority: Section 26013, Business and Professions Code. Reference: Section 26013, Business and Professions Code.

§15009. Limited Waiver of Sovereign Immunity.

(a) Any applicant or licensee that may fall within the scope of sovereign immunity that may be asserted by a federally recognized tribe or other sovereign entity must waive any sovereign immunity defense that the applicant or licensee may have, may be asserted on its behalf, or may otherwise be asserted in any state administrative or judicial enforcement actions against the applicant or licensee, regardless of the form of relief sought, whether monetary or otherwise, under the state laws and regulations governing commercial cannabis activity. The applicant or licensee must submit a written waiver of sovereign immunity to the Department with any license application or renewal, which is

valid for the period of the license. The written waiver shall include that the applicant or licensee has the lawful authority to enter into the waiver required by this section, the applicant or licensee hereby waives sovereign immunity, and the applicant or licensee agrees to do all of the following:

- (1) Provide documentation to the Department that establishes that the applicant or licensee has the lawful authority to enter into the waiver required by this section;
 - (2) Conduct all commercial cannabis activity in full compliance with the state laws and regulations governing commercial cannabis activity, including submission to all enforcement provisions thereof;
 - (3) Allow access as required by state statute or regulation by persons or entities charged with duties under the state laws and regulations governing commercial cannabis activity to any licensed premises or property at which the applicant conducts any commercial cannabis activity, including licensed premises or property where records of commercial cannabis activity are maintained by or for the applicant or licensee;
 - (4) Provide any and all records, reports, and other documents as may be required under the state laws and regulations governing commercial cannabis activity;
 - (5) Conduct commercial cannabis activity with other state commercial cannabis licensees only, unless otherwise specified by state law;
 - (6) Meet all of the requirements for licensure under the state laws and regulations governing the conduct of commercial cannabis activity, and provide truthful and accurate documentation and other information of the applicant's qualifications and suitability for licensure as may be requested; and
 - (7) Submit to the personal and subject matter jurisdiction of the California courts to address any matter related to the waiver or the commercial cannabis application, license, or activity, and that all such matters and proceedings shall be governed, construed and enforced in accordance with California substantive and procedural law, including but not limited to the Medicinal and Adult- Use Regulation and Safety Act and the Administrative Procedure Act.
- (b) The Department shall not approve an application for a state license if approval of the license would violate the provisions of any local ordinance or regulation adopted in accordance with Business and Professions Code section 26200 that is issued by the county or, if within a city, the city, within which the licensed premises is to be located.
- (c) Any applicant or licensee must immediately notify the Department of any changes that may materially affect the applicant or licensee's compliance with subsection (a) of this section.
- (d) Any failure by an applicant or licensee to comply with the requirements of subsections (b) or (c) of this section shall be a basis for denial of an application or renewal or discipline of a licensee.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26050 and 26051.5, Business and Professions Code.

§15010. Compliance with the California Environmental Quality Act (CEQA).

(a) CEQA Guidelines” means the Guidelines for Implementation of the California Environmental Quality Act codified at title 14, California Code of Regulations, section 15000 et seq.

(b) An applicant shall provide evidence of compliance with, or exemption from, CEQA (division 13 (commencing with section 21000) of the Public Resources Code). The evidence provided may be any one of the following:

(1) A signed copy of a project-specific Notice of Determination or Notice of Exemption and a copy of the associated CEQA document, or reference to where it may be located electronically, a project description, and any accompanying permitting documentation from the local jurisdiction used for review in determining site-specific environmental compliance. Documentation may include a copy of the administrative record previously certified or adopted by the local jurisdiction that has already reviewed the commercial cannabis business’ proposed commercial cannabis activities. For purposes of this section, the administrative record may include, but is not limited to:

(A) Environmental documentation, including, but not limited to, exemptions, initial studies, negative declarations, mitigated negative declarations, and environmental impact reports;

(B) Staff reports and related documents prepared by the local jurisdiction;

(C) Transcripts or minutes of the proceedings of the local jurisdiction;

(D) Notice(s) issued by the local jurisdiction to comply with CEQA and the CEQA Guidelines;

(E) Proposed decisions or findings considered by the local jurisdiction by its staff or the commercial cannabis business; and

(F) Documentation of the local jurisdiction’s final decision.

(2) If the applicant does not have the evidence specified in subsection (b)(1), or if the Department determines that the evidence submitted is not sufficient to determine compliance or exemption from CEQA, then the applicant shall submit the information on a form to be prescribed by the Department. Such information shall include at least the following:

(A) The project location and surrounding land use, which shall:

(i) Describe the project location, including street address, city, county, Assessor’s Parcel Number, major cross streets, general plan designation, zoning designation, and any other physical description that clearly indicates the project site location.

(ii) Describe the surrounding land uses and zoning designations within a one-half mile radius of the project and list all abutting land uses.

(iii) Include a vicinity map and aerial image to show the project location.

(iv) Include photographs, not larger than 8.5 by 11 inches, of existing visual conditions as observed from publicly accessible vantage point(s).

(B) A project description, which shall:

- (i) Describe the activities included in the project application and identify any other commercial cannabis activity or activities occurring at the proposed premises.
 - (ii) Quantify the project size (total floor area of the project), and the lot size on which the project is located, in square feet.
 - (iii) List and describe any other related public agency permits and approvals, including any entitlements, required for this project, including those required by a planning commission, local air district, or regional water board.
 - (iv) Identify whether the commercial cannabis business is licensed by, or has applied for licensure from, the Department or one of the prior state cannabis licensing authorities (the Bureau of Cannabis Control, the California Department of Food and Agriculture, and the California Department of Public Health) to engage in commercial cannabis activity at the proposed premises.
 - (v) Estimate the number of anticipated employees onsite, occupancy during operating hours, and frequency of deliveries or shipments originating from and/or arriving to the project site.
- (C) The environmental setting, which shall:
- (i) Describe natural characteristics (e.g., topography, vegetation, drainage, soil stability, habitat, etc.) on the project site.
 - (ii) Identify whether there are any watercourses or riparian habitats (e.g., drainage swales, stream courses, springs, ponds, lakes, creeks, tributary of creeks, wetlands) within 150 feet of the proposed premises.
 - (iii) Identify the approximate number of vehicle trips per day to be generated by the project and information regarding the days and times most trips are expected to occur.
 - (iv) Identify whether the property contains natural features of scenic value or rare or unique characteristics (e.g., rock outcroppings, mature trees).
 - (v) Identify whether the property has any historic designations or archeological remains onsite.
 - (vi) Identify whether the property contains habitat(s) for special status species.
 - (vii) Identify the location, type, and quantity of hazardous materials, as defined by Health and Safety Code section 25260, that are stored, used, or disposed of at the project site and a copy of the Hazardous Material Business Plan (HMBP) prepared for the proposed premises, if any.
 - (viii) Discuss whether the project will increase the quantity and type of solid waste, as defined by Public Resources Code section 40191, or hazardous waste, as defined by Health and Safety Code section 25117, that is generated or stored onsite.
 - (ix) Describe the project's anticipated operational energy needs, identify the source of energy supplied for the project and the anticipated amount of energy per day, and explain whether the project will require an increase in energy demand and the need for additional energy resources.
- (c) If the Department determines that a project does not qualify for an exemption and

further environmental review is required pursuant to the CEQA Guidelines, the Department may charge the applicant for the costs of preparation of any supplemental environmental document as well as the Department's costs for procedures to comply with CEQA.

Authority: Section 26013, Business and Professions Code. Reference: Section 26055, Business and Professions Code.

§15011. Additional Information.

(a) A commercial cannabis business applying for a license to cultivate cannabis shall provide the following information:

(1) The hours of operation for each day of the week the commercial cannabis business will have staff on the licensed premises. The applicant must provide a minimum of two (2) hours of operation that are between 8:00am and 5:00pm (Pacific Time) on each day, Monday through Friday.

(2) For commercial cannabis businesses that are a cannabis cooperative as defined by division 10, chapter 22 (commencing with section 26220) of the Business and Professions Code, identification of all members. Identifying information shall include each member's license number for commercial cannabis activity, the licensing authority that issued the license, and the name of the licensed business.

(3) For all cultivator license types except processor, evidence of enrollment in an order or waiver of waste discharge requirements with the State Water Resources Control Board or the appropriate Regional Water Quality Control Board. Acceptable documentation for evidence of enrollment may be a Notice of Applicability letter. Acceptable documentation that enrollment is not necessary may be a Notice of Non-Applicability.

(4) Evidence that the commercial cannabis business has conducted a hazardous materials record search of the EnviroStor database for the proposed premises. If hazardous sites were encountered, the applicant shall provide documentation of protocols implemented to protect employee health and safety.

(5) For indoor and mixed-light license types, identification of all power sources for cultivation activities, including, but not limited to, illumination, heating, cooling, and ventilation.

(6) A proposed cultivation plan that complies with the requirements in section 16309.

(7) Identification of all water sources used for cultivation activities as required in section 16311.

(8) A copy of any final lake or streambed alteration agreement issued by the California Department of Fish and Wildlife, pursuant to sections 1602 or 1617 of the Fish and Game Code, or written verification from the California Department of Fish and Wildlife that a lake and streambed alteration agreement is not required.

(9) An attestation that the applicant entity is an "agricultural employer" as defined by the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975; division 2, part 3.5 (commencing with section 1140) of the Labor Code.

- (10) An attestation that the local fire department has been notified of the cultivation site if the application is for an indoor license type.
- (11) If applicable, the applicant shall provide evidence that the proposed premises is not located in whole or in part in a watershed or other geographic area that the State Water Resources Control Board or the Department of Fish and Wildlife has determined to be significantly adversely impacted by cannabis cultivation pursuant to section 26060(a)(2) of the Business and Professions Code.
- (12) For all cultivator license types except processor, a signed attestation that states the commercial cannabis business shall contact the appropriate County Agricultural Commissioner regarding requirements for legal use of pesticides on cannabis prior to using any of the active ingredients or products included in the pest management plan and shall comply with all pesticide laws.
- (b) A commercial cannabis business applying for a license to manufacture cannabis products shall provide the following information:
- (1) The type(s) of activity that will be conducted at the proposed licensed premises (extraction, infusion, packaging, or labeling).
 - (2) The types of products that will be manufactured, packaged, or labeled at the premises, including a product list.
 - (3) The name, title, email address, and phone number of the onsite individual who manages the operation of the premises.
 - (4) The name, title, email address, and phone number of an alternate contact person for the premises, if applicable.
 - (5) The number of employees at the premises.
 - (6) Upon request by the Department, a description of inventory control procedures sufficient to demonstrate how the commercial cannabis business will comply with the requirements of section 17218, or a copy of the standard operating procedure addressing inventory control.
 - (7) Upon request by the Department, a description of quality control procedures sufficient to demonstrate how the commercial cannabis business will comply with all of the applicable requirements specified in sections 17208 through 17216, or a copy of the standard operating procedure addressing quality control.
 - (8) Upon request by the Department, a description of the transportation process describing how cannabis or cannabis products will be transported into and out of the premises, or a copy of the standard operating procedure addressing transportation.
 - (9) Upon request by the Department, a description of security procedures sufficient to demonstrate how the commercial cannabis business will comply with the applicable security requirements of sections 15042 through 15047, or a copy of the standard operating procedure addressing security procedures.
 - (10) Upon request by the Department, a description of the cannabis waste management procedures sufficient to demonstrate how the commercial cannabis business will comply

with the requirements of section 17223, or a copy of the standard operating procedure addressing cannabis waste management.

(11) A copy of the signed closed-loop system certification and a document evidencing approval of the extraction operation by the local fire code official required pursuant to section 17205 or 17206, if applicable.

(12) Any manufacturer submitting operating procedures and protocols to the Department pursuant to the Act and this division may claim such information as a trade secret or confidential by clearly identifying such information as “confidential” on the document at the time of submission. Any claim of confidentiality by a manufacturer must be based on the manufacturer’s good faith belief that the information marked as confidential constitutes a trade secret as defined in Civil Code section 3426.1(d), or is otherwise exempt from public disclosure under the California Public Records Act, Government Code section 6250 et seq.

(13) Applications for a Type S manufacturing license shall:

(A) Be submitted in accordance with section 15002;

(B) Include the license number and address of the registered shared-use facility at which the commercial cannabis business will conduct manufacturing operations;

(C) Include a copy of the use agreement signed by both the Type S applicant and the primary licensee; and

(D) On the premises diagram submitted pursuant to section 15002(c)(21), indicate the designated area to be used by the Type S commercial cannabis business and detail where the commercial cannabis business will store its cannabis, cannabis concentrates, and cannabis products.

(E) A Type S license shall only be available to commercial cannabis businesses with a gross annual revenue of less than \$1,000,000 as calculated pursuant to section 15014.

(F) A Type S licensee may conduct the following operational activities:

(i) Infusions, as defined in section 15000(ee);

(ii) Packaging and labeling of cannabis products; and

(iii) Extractions with butter or food-grade oils, provided that the resulting extract or concentrate shall be used solely in the manufacture of the Type S licensee’s infused product and shall not be sold to any other licensee.

(c) A commercial cannabis business applying for a license to distribute cannabis and cannabis products shall provide the following information, upon the request of the Department:

(1) The following standard operating procedures:

(A) Transportation Procedures, Form DCC-LIC-015 (Amended 9/21);

(B) Inventory Procedures, Form DCC-LIC-016 (Amended 9/21);

(C) Non-Laboratory Quality Control Procedures, Form DCC-LIC-017 (Amended 9/21);
and

- (D) Security Procedures, Form DCC-LIC-018 (Amended 9/21).
- (2) Proof of compliance with the insurance requirements in section 15308.
- (3) Transport vehicle information required by section 15312.
- (d) A commercial cannabis business applying for a license to sell cannabis and cannabis products at retail shall provide the following information, upon request by the Department:
 - (1) The following standard operating procedures:
 - (A) Inventory Procedures, Form DCC-LIC-016 (Amended 9/21);
 - (B) Non-Laboratory Quality Control Procedures, Form DCC-LIC-017 (Amended 9/21);
 - (C) Security Procedures, Form DCC-LIC-018 (Amended 9/21); and
 - (D) Delivery Procedures, Form DCC-LIC-020 (Amended 9/21).
 - (2) Delivery employee information required by section 15415.
 - (3) Delivery vehicle information required by section 15417.
- (e) A commercial cannabis business applying for a license to operate as a microbusiness shall provide the information required in subsections (a) through (d) as applicable for the activities they will be conducting under the license.
- (f) Applicants for a cannabis event organizer license shall indicate whether the cannabis event organizer plans to hold 0-5 events, 6-10 events, 11-20 events, or more than 20 events during the license period.
- (g) Applicants for a testing laboratory license shall provide the following information:
 - (1) The certificate(s) of accreditation required by sections 15701 and 15702, or the information required for an interim license required by section 15703.
 - (2) Upon the request by the Department, the following standard operating procedures:
 - (A) Transportation Procedures, Form DCC-LIC-015 (Amended 9/21);
 - (B) Inventory Procedures, Form DCC-LIC-016 (Amended 9/21);
 - (C) Non-Laboratory Quality Control Procedures, Form DCC-LIC-017 (Amended 9/21); and
 - (D) Security Procedures, Form DCC-LIC-018 (Amended 9/21).
 - (3) The operating procedures required by chapter 6 of this division.
- (h) The Department may request additional information and documents from the applicant. The Department will provide the applicant with a deadline for submittal of additional information. The Department will consider the complexity of the information requested and the ease with which the information can be obtained and transmitted to the Department by the applicant in determining the deadline.
- (i) Items required by this section may also be requested by the Department at any time following the issuance of a license. Licensees shall maintain the information required by this section and provide it to the Department upon request.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26031, 26050, 26051.5 and 26130, Business and Professions Code.

§15012. Incomplete and Abandoned Applications.

(a) Incomplete applications will not be processed. Applications will only be considered complete if all of the information required under sections 15002 and 15011 is included. The Department shall issue a written notice to the applicant, by mail or through Department's licensing system, informing them that the application is incomplete and identifying the information missing from the application.

(b) If the applicant fails to submit all required information within 180 days from the date of the initial written notice, the application shall be deemed abandoned.

(c) If the applicant fails to submit payment of the license fee within 60 calendar days from the date of the request for payment of the license fee, the application shall be deemed abandoned.

(d) The Department will not refund application fees for an incomplete or abandoned application.

(e) An applicant may reapply at any time following an abandoned application and will be required to submit a new application and application fee.

Authority: Section 26013 and 26130, Business and Professions Code. Reference: Sections 26012, 26050 and 26051.5, Business and Professions Code.

§15013. Withdrawal of Application.

(a) An applicant may withdraw an application at any time prior to the Department issuance of a license or denial of a license.

(b) Requests to withdraw an application must be submitted to the Department by mail in writing, dated, and signed by the applicant, or in writing by electronic mail to licensing@cannabis.ca.gov.

(c) In accordance with Business and Professions Code section 26057, withdrawal of an application shall not, unless the Department has consented in writing to such withdrawal, deprive the Department of its authority to institute or continue a proceeding against the commercial cannabis business for the denial of the license upon any ground provided by law or to enter an order denying the license upon any such ground.

(d) The Department will not refund application fees for a withdrawn application.

(e) An applicant may reapply at any time following the withdrawal of an application and will be required to submit a new application and application fee.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26050 and 26057, Business and Professions Code.

Article 3. Licensing

§15014. Fees.

(a) The application fee for an annual license under section 15002 of this division, a cannabis event organizer license under section 15600 of this division, a temporary cannabis event license under section 15601 of this division for each event, and physical modification of the premises under section 15027 of this division shall be paid by an applicant or licensee as provided by this division. Applicants and licensees shall pay the appropriate fee as outlined in this section.

Application Fee Schedule

License Type	Fee Per Application
Testing Laboratory, Distributor, Retailer, Microbusiness Annual Licenses	\$1,000
Cannabis Event Organizer License	\$1,000
Temporary Cannabis Event License	\$1,000
Physical Modification of Premises for Testing Laboratory, Distributor, Retailer, Microbusiness, and Manufacturing Licenses	\$500
Type 6, 7, N, or P Annual Manufacturing Licenses	\$1,000
Type S Annual Manufacturing License	\$500
Cultivation Annual Licenses	See (f)

(b) The annual licensing fee for each license shall be paid by an applicant after the Department has approved the application. The renewal license fee shall be paid by the licensee as required by section 15020. The Department shall not issue the license until the annual licensing fee has been paid.

(c) To determine the appropriate annual license fee due for testing laboratory, distributor, retailer, and microbusiness license types, the applicant or licensee shall first estimate the gross revenue for the 12-month license period. Based on the license type sought, the applicant or licensee shall identify the appropriate tier category in which their expected gross revenue belongs, as identified in the Annual License Fee Schedule charts found in this section. The license fee associated with the licensing tier category the applicant or licensee has identified using their expected gross revenue shall be the license fee due for the original license or renewal. The following are the annual license fees due for these license types to be paid prior to issuance of a license or renewed license:

Annual License Fee Schedule for Testing Laboratory (Type 8)

Gross Revenue (\$ Max. Per License)	Fee Per License
Less than or equal to \$160,000	\$3,000
More than \$160,000 and less or equal to \$320,000	\$6,000
More than \$320,000 and less or equal to \$480,000	\$8,000
More than \$480,000 and less or equal to \$800,000	\$13,000
More than \$800,000 and less or equal to \$1.2 million	\$20,000
More than \$1.2 million and less or equal to \$2.0 million	\$32,000
More than \$2.0 million and less or equal to \$2.8 million	\$48,000
More than \$2.8 million and less or equal to \$4.4 million	\$72,000
More than \$4.4 million	\$112,000

Annual License Fee Schedule for Distributor (Type 11 or 13), unless only engaging in transport only self-distribution

Gross Revenue (\$ Max. Per License)	Fee Per License
Less than or equal to \$1.0 million	\$1,500
More than \$1.0 million and less or equal to \$2.5 million	\$6,000
More than \$2.5 million and less or equal to \$5.0 million	\$11,250
More than \$5.0 million and less or equal to \$10.0 million	\$22,500
More than \$10.0 million and less or equal to \$20.0 million	\$45,000
More than \$20.0 million and less or equal to \$30.0 million	\$75,000
More than \$30.0 million and less or equal to \$50.0 million	\$120,000
More than \$50.0 million and less or equal to \$70.0 million	\$180,000
More than \$70.0 million	\$240,000

Annual License Fee Schedule for Distributor Transport Only Self-Distribution (Type 13)

Gross Revenue (\$ Max. Per License)	Fee Per License
Less than or equal to \$1,000	\$200
More than \$1,000 and less or equal to \$3,000	\$500
More than \$3,000	\$1,000

Annual License Fee Schedule for Retailer (Type 9 or 10)

Gross Revenue (\$ Max. Per License)	Fee Per License
Less than or equal to \$500,000	\$2,500
More than \$500,000 and less or equal to \$750,000	\$5,500
More than \$750,000 and less or equal to \$1.0 million	\$7,500
More than \$1.0 million and less or equal to \$1.5 million	\$11,000
More than \$1.5 million and less or equal to \$2.0 million	\$14,500
More than \$2.0 million and less or equal to \$3.0 million	\$22,500
More than \$3.0 million and less or equal to \$4.0 million	\$30,500
More than \$4.0 million and less or equal to \$5.0 million	\$38,500
More than \$5.0 million and less or equal to \$6.0 million	\$46,500
More than \$6.0 million and less or equal to \$7.5 million	\$57,000
More than \$7.5 million	\$96,000

Annual License Fee Schedule for Microbusiness (Type 12)

Gross Revenue (\$ Max. Per License)	Fee Per License
Less than or equal to \$1.0 million	\$5,000
More than \$1.0 and less or equal to \$2.0 million	\$12,000
More than \$2.0 and less or equal to \$3.0 million	\$20,000
More than \$3.0 and less or equal to \$4.0 million	\$32,000
More than \$4.0 and less or equal to \$6.0 million	\$45,000
More than \$6.0 and less or equal to \$7.0 million	\$60,000
More than \$7.0 and less or equal to \$10.0 million	\$80,000
More than \$10.0 and less or equal to \$20.0 million	\$100,000
More than \$20.0 and less or equal to \$30.0 million	\$120,000
More than \$30.0 and less or equal to \$40.0 million	\$140,000
More than \$40.0 and less or equal to \$50.0 million	\$160,000
More than \$50.0 and less or equal to \$60.0 million	\$180,000
More than \$60.0 and less than or equal to \$80.0 million	\$220,000
More than \$80 million	\$300,000

(d) The annual license fee for a cannabis event organizer license shall be based on the number of planned operations during the license period as indicated in the chart below.

Annual License Fee Schedule for Cannabis Event Organizers

Planned Operations (Number of Operations)	Fee Per License
0-5 events annually	\$3,000
6-10 events annually	\$5,000
11-20 events annually	\$9,000
Greater than 20 events annually	\$20,000

(e) The annual license fee for a manufacturer license shall be based on gross revenue as indicated in the chart below.

(1) The applicant shall calculate the gross annual revenue for the licensed premises based on the annual gross sales of cannabis products and, if applicable, the annual revenue received from manufacturing, packaging, labeling or otherwise handling cannabis or cannabis products for other licensees, in the 12 months preceding the date of application.

(2) For a new license applicant, the gross annual revenue shall be based on the gross sales and revenue expected during the first 12 months following licensure.

(3) For a manufacturer licensee that is also licensed as a distributor or retailer, and that sells or transfers cannabis products manufactured on the licensed premises in a non-arm's length transaction, the annual gross sales or revenue for such transactions shall be based on the product's fair market value if it were to be sold in an arm's length transaction at wholesale.

(4) For purposes of this section, an "arm's length transaction" means a sale entered into in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction.

Annual License Fee Schedule for Manufacturing (Type 6, 7, N, P, or S)

Gross Revenue (\$ Max. Per License)	Fee Per License
Less than or equal to \$100,000	\$2,000
More than \$100,000 and less or equal to \$500,000	\$7,500
More than \$500,000 and less or equal to \$1.5 million	\$15,000
More than \$1.5 million and less or equal to \$3.0 million	\$25,000
More than \$3.0 million and less or equal to \$5.0 million	\$35,000
More than \$5.0 million and less or equal to \$10 million	\$50,000
More than \$10 million	\$75,000

(f) The following are the application fees due for the specified annual cultivation license types to be paid at the time the complete application is submitted to the Department:

Application Fee Schedule for Cultivation

License Type	Fee Per License
Specialty Cottage Outdoor	\$135
Specialty Cottage Indoor	\$205
Specialty Cottage Mixed-Light Tier 1	\$340
Specialty Cottage Mixed-Light Tier 2	\$580
Specialty Outdoor	\$270
Specialty Indoor	\$2,170
Specialty Mixed Light-Tier 1	\$655
Specialty Mixed Light-Tier 2	\$1,125
Small Outdoor	\$535
Small Indoor	\$3,935
Small Mixed-Light Tier 1	\$1,310
Small Mixed-Light Tier 2	\$2,250
Medium Outdoor	\$1,555
Medium Indoor	\$8,655
Medium Mixed-Light Tier 1	\$2,885
Medium Mixed-Light Tier 2	\$4,945
Nursery	\$520
Processor	\$1,040

(g) The following are the annual license fees due for the specified annual cultivation license types to be paid prior to issuance of a license or renewal of a license:

Annual License Fee Schedule for Cultivation

License Type	Fee Per License
Specialty Cottage Outdoor	\$1,205
Specialty Cottage Indoor	\$1,830
Specialty Cottage Mixed-Light Tier 1	\$3,035
Specialty Cottage Mixed-Light Tier 2	\$5,200
Specialty Outdoor	\$2,410
Specialty Indoor	\$19,540
Specialty Mixed-Light Tier 1	\$5,900
Specialty Mixed-Light Tier 2	\$10,120
Small Outdoor	\$4,820

License Type	Fee Per License
Small Indoor	\$35,410
Small Mixed-Light Tier 1	\$11,800
Small Mixed-Light Tier 2	\$20,235
Medium Outdoor	\$13,990
Medium Indoor	\$77,905
Medium Mixed-Light Tier 1	\$25,970
Medium Mixed-Light Tier 2	\$44,517
Nursery	\$4,685
Processor	\$9,370

(i) All fees are nonrefundable.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26051.5 and 26180, Business and Professions Code.

§15015. Payment of Fees.

(a) Any fee specified in this division shall be paid to the Department of Cannabis Control by cash, check, money order, debit card, or credit card. Check and money order payments may be made out to the Department of Cannabis Control.

(b) If the fee is paid by debit or credit card:

- (1) The payment shall be made through the Department’s online licensing system; and
- (2) The applicant or licensee may be required to pay any associated processing or convenience fees to the third-party vendor processing the payment on behalf of the Department.

(c) Failure to pay the appropriate licensing fee is grounds for discipline. If the Department determines that the licensee paid an amount less than the appropriate licensing fee under section 15014 of this division, the licensee will be required to pay the balance of the appropriate fee and a penalty fee of 50 percent of the appropriate licensing fee. The Department in its discretion may waive the penalty fee.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26051.5 and 26180, Business and Professions Code.

§15017. Substantially Related Offenses and Criteria for Rehabilitation.

(a) When evaluating whether an applicant or licensee has been convicted of a criminal offense, act, or professional misconduct that is substantially related to the qualifications, functions, or duties of the business for which the application is made, the Department shall consider all of the following criteria:

- (1) The nature and gravity of the offense;

- (2) The number of years that have elapsed since the date of the offense; and
- (3) The nature and duties of the particular license in which the applicant seeks licensure or in which the licensee is licensed.

(b) For the purpose of denial, suspension, or revocation of a license, convictions that are substantially related to the qualifications, functions, or duties of the business for which the application is made include, but are not limited to:

- (1) A violent felony conviction, as specified in Penal Code section 667.5(c).
- (2) A serious felony conviction, as specified in Penal Code section 1192.7(c).
- (3) A felony conviction involving fraud, deceit, or embezzlement.
- (4) A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.
- (5) A felony conviction for drug trafficking with enhancements pursuant to Health and Safety Code section 11370.4 or 11379.8.

(c) For the purpose of denial of a license to engage in commercial cannabis manufacturing, a conviction or violation from any jurisdiction that is substantially related to the qualifications, functions, or duties of the business for which the application is made include:

- (1) A violation of section 110620, 110625, 110630, 110760, 110765, 110770, 110775, 111295, 111300, 111305, 111440, 111445, 111450, or 111455 of the Health and Safety Code that resulted in suspension or revocation of a license, administrative penalty, civil proceeding, or criminal conviction;
- (2) A violation of Chapter 4 (sections 111950 through 112130) of Part 6 of Division 104 of the Health and Safety Code that resulted in suspension or revocation of a license, administrative penalty, civil proceeding, or criminal conviction;
- (3) A conviction under section 382 or 383 of the Penal Code; and
- (4) A violation identified in subsections (c)(1) or (c)(2) committed by a business entity in which an owner was an officer or had an ownership interest.

(d) Except as provided in subsections (b)(4) and (b)(5) of this section and notwithstanding Chapter 2 (commencing with Section 480) of Division 1.5 of the Business and Professions Code, a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is not considered substantially related, and shall not be the sole ground for denial of a license. Conviction for any controlled substance felony, subsequent to licensure, shall be grounds for revocation of a license or denial of the renewal of a license.

(e) When evaluating whether an applicant who has been convicted of a criminal offense, act, or professional misconduct that is substantially related to the qualifications,

functions, or duties of the business for which the application is made should be issued a license, the Department shall consider the following criteria of rehabilitation:

- (1) The nature and gravity of the act, professional misconduct, or offense;
 - (2) Whether the person has a felony conviction based on possession or use of cannabis or cannabis products that would not be a felony if the person was convicted of the offense on the date of the person's application;
 - (3) The applicant's criminal record as a whole;
 - (4) Evidence of any act, professional misconduct, or offense committed subsequent to the act, professional misconduct, or offense under consideration that could be considered grounds for denial, suspension, or revocation of a commercial cannabis activity license;
 - (5) The time that has elapsed since commission of the act, professional misconduct, or offense;
 - (6) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant;
 - (7) If applicable, evidence of dismissal under Penal Code sections 1203.4, 1203.4a, 1203.41, 1203.42, or pursuant to another state's similar law;
 - (8) If applicable, evidence the applicant has been granted clemency or a pardon by a state or federal executive;
 - (9) If applicable, a certificate of rehabilitation obtained under Penal Code section 4852.01 or another state's similar law; and
 - (10) Other evidence of rehabilitation submitted by the applicant.
- (f) If an applicant has been denied a license based on a conviction, the applicant may request a hearing pursuant to Business and Professions Code section 26058 to determine if the applicant should be issued a license.
- (g) For the purpose of this section, conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

Authority cited: Section 26013, Business and Professions Code. Reference: Sections 480, 481, 482, 26012 and 26057, Business and Professions Code.

§15018. Additional Grounds for Denial of a License.

In addition to the reasons for denial in Business and Professions Code section 26057, a license may be denied for the following reasons:

- (a) The applicant's proposed premises does not fully comply with standards set in regulation.
- (b) The applicant's proposed or licensed premises is substantially different from the diagram of the proposed premises submitted by the applicant, in that the size, layout, location of common entryways, doorways, or passage ways means of public entry or exit,

or identification of limited- access areas within the licensed premises is not the same.

(c) The applicant denied the Department access to the licensed premises or the property identified in the application as the premises.

(d) The applicant made a material misrepresentation on the application.

(e) The applicant did not correct the deficiencies within the application in accordance with sections 15002 and 15012 of this division.

(f) The applicant has been denied a license, permit, or other authorization to engage in commercial cannabis activity by a state or local licensing authority.

(g) The applicant's proposed premises is not in compliance with Division 13 (commencing with Section 21000) of the Public Resources Code.

(h) The applicant has failed to remit taxes as required under the Revenue and Taxation Code.

(i) The applicant may be denied a license for any violations of law related to the operations of the commercial cannabis business or for any violations of law related to licensure.

(j) The applicant has engaged in conduct that is grounds for disciplinary action specified in section 26030 of the Act.

Authority: Section 26013, Business and Professions Code. Reference: Sections 480, 490, 26012, 26030 and 26050, Business and Professions Code.

§15019. Excessive Concentration.

(a) In determining whether to grant, deny, or renew a license for a retail premises or microbusiness premises authorized to engage in retail sales, the Department shall consider if an excessive concentration exists in the area where the licensee will operate. For the purposes of this section "excessive concentration" applies when either of the following conditions exist:

(1) The ratio of licensees to population within the census tract or census division in which the applicant premises is located exceeds the ratio of licensees to population in the county in which the applicant premises is located, unless denial of the application would unduly limit the development of the legal market so as to perpetuate the illegal market for cannabis goods.

(2) The ratio of retail licenses or microbusiness licenses to the population within the census tract, census division, or jurisdiction exceeds that allowable by local ordinance adopted under Business and Professions Code section 26200.

(b) "Population Within the Census Tract or Census Division" as used in this section means the population as determined by the most recent United States decennial or special census. Such population determination shall not operate to prevent an applicant from establishing that an increase of resident population has occurred within the census tract or census division.

(c) "Population in the County" as used in this section shall be determined by the most recent annual population estimate for California counties published by the Demographic Research Unit, State Department of Finance.

(d) Beginning July 1, 2018, the Department shall calculate the ratios described in subsection (a) of this section once every six months using the most current available data. The Department's consideration of whether to grant, deny, or renew a license shall be based upon the most recent ratio calculated by the Department on the date of the Department's decision.

(e) The existence of an excessive concentration shall not be considered in determining whether to grant, deny, or extend a temporary license under Business and Professions Code section 26050.1.

(f) The applicant may provide reliable evidence establishing, to the satisfaction of the Department, that a denial of a license would unduly limit the development of the legal market so as to perpetuate the illegal market for cannabis goods.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26051, Business and Professions Code.

§15020. Renewal of License.

(a) To timely renew a license, a completed license renewal form and annual license fee pursuant to section 15014 of this division shall be received by the Department from the licensee no earlier than 60 calendar days before the expiration of the license and no later than 5:00 p.m. Pacific Time on the last business day before the expiration of the license if the renewal form is submitted to the Department at its office(s), or no later than 11:59 p.m. on the last business day before the expiration of the license if the renewal form is submitted to the Department through its electronic licensing system. Failure to receive a notice for license renewal does not relieve a licensee of the obligation to renew all licenses as required.

(b) In the event the license is not submitted for renewal prior to the expiration date, the licensee must not sell, transfer, transport, manufacture, test, or distribute any commercial cannabis or cannabis products until the license is renewed.

(c) A licensee may submit a license renewal form up to 30 calendar days after the license expires. Any late renewal form will be subject to a late fee equal to 50 percent of the applicable licensing fee required by subsection (a) of this section. A licensee who does not submit a complete license renewal application, including the late fee, to the Department within 30 calendar days after the expiration of the license shall forfeit their eligibility for a license renewal and be required to submit a new license application.

(d) The license renewal form shall contain the following:

(1) The name of the licensee. For licensees who are individuals, the applicant shall provide both the first and last name of the individual. For licensees who are business entities, the licensee shall provide the legal business name of the commercial cannabis business.

- (2) The license number and expiration date.
 - (3) The licensee's address of record and licensed premises address.
 - (4) Documentation demonstrating the licensee's gross revenue for the current licensed period, such as a copy of the licensee's state tax return filed with the California Department of Tax and Fee Administration. This subsection does not apply to the renewal of cultivation licenses.
 - (5) Documentation of any change to any item listed in the original application under section 15002 of this division that has not been reported to the Department through another process pursuant to the Act or this division.
 - (6) An attestation that all information provided to the Department in the license renewal form and the original application under section 15002 of this division or subsequent notification under sections 15023 and 15024 of this division is accurate and current.
 - (7) If applicable, a limited waiver of sovereign immunity pursuant to section 15009 of this division.
 - (8) For a licensee with more than one employee, the licensee shall attest that it employs, or will employ within one year of renewing the license, one supervisor and one employee who has successfully completed a Cal-OSHA 30-hour general industry outreach course offered by a training provider that is authorized by an OSHA Training Institute Education Center to provide the course.
- (e) A cultivation licensee may request a license designation change from an A-License to an M-License or an M-License to an A-License during the annual license renewal timeframes outlined in subsections (a)-(c) of this section for the annual license for which the license designation change is being requested. License designation changes will be considered only if the annual licensed cultivation premises for which the change is being requested contains only one A-License or only one M-License designation pursuant to section 15002(c)(3).
- (f) Beginning January 1, 2022, an application for renewal of a license to engage in commercial cannabis cultivation shall include the following records, for each power source indicated on the application for licensure for the previous annual licensed period:
- (1) Total electricity supplied by local utility provider, name of local utility provider, and greenhouse gas emission intensity per kilowatt hour reported by the utility provider under section 398.4(c) of the Public Utilities Code for the most recent calendar year available at time of submission;
 - (2) Total electricity supplied by a zero net energy renewable source, as set forth in section 398.4(h)(5) of the Public Utilities Code, that is not part of a net metering or other utility benefit;
 - (3) Total electricity supplied from other unspecified sources, as defined in section 398.2(e) of the Public Utilities Code, and other onsite sources of generation not reported to the local utility provider (e.g., generators, fuel cells) and the greenhouse gas emission intensity from these sources; and

(4) Average weighted greenhouse gas emission intensity considering all electricity use in subsections (f)(1)-(f)(3).

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26050, Business and Professions Code.

§15021. Denial of License.

(a) The Department may deny an application for a new license or a renewal of a license for any reason specified in Business and Professions Code section 26057, and on any additional grounds including grounds for denial under section 15018 of this division, and grounds for discipline under the Act or this division.

(b) Upon denial of an application for a license or renewal of a license, the Department shall notify the applicant in writing of the reasons for denial, and the right to a hearing to contest the denial.

(c) The applicant may request a hearing to contest the denial by submitting a written request to the Department.

(1) The written request for a hearing must be postmarked within 30 calendar days of service of the notification of denial.

(2) If the written request for a hearing is not received within the required timeframe, the applicant's right to a hearing is waived.

(3) Upon timely receipt of the written request for hearing, the Department shall set a date for hearing to be conducted in accordance with chapter 5 (commencing with section 11500) of part 1 of division 3 of title 2 of the Government Code.

(d) If a license application is denied due to an owner's conviction history, the Department shall notify the applicant of the process for the owner to request a copy of their complete conviction history and question the accuracy or completeness of the record pursuant to Penal Code sections 11122 through 11127.

Authority: Section 26013, Business and Professions Code; Reference: Sections 26012, 26057 and 26058, Business and Professions Code.

§15023. Business Modifications.

Business modifications shall be made in accordance with the following:

(a) Changes to standard operating procedures may be made without providing notification to the Department, except as required by the Act or this division. Licensees shall maintain a copy of all current and prior operating procedures as required by section 15037 of this division.

(b) If at the time of licensure, a licensee employed less than 20 employees and later employs 20 or more employees, within 60 days of employing 20 or more employees, the licensee shall provide to the Department a notarized statement that the licensee will enter into a labor peace agreement and will abide by the terms of the agreement.

(c) Licenses are not transferrable or assignable to another person or owner. In the event of the sale or other transfer of the business or operations covered by the licensee, changes in ownership shall be made in accordance with the following:

(1) If one or more of the owners change, the new owners shall submit the information required under section 15002(c)(16) for each new owner to the Department within 14 calendar days of the effective date of the ownership change. The business may continue to operate under the active license while the Department reviews the qualifications of the new owner(s) in accordance with the Act and these regulations to determine whether the change would constitute grounds for denial of the license, if at least one existing owner is not transferring his or her ownership interest and will remain as an owner under the new ownership structure. If all owners will be transferring their ownership interest, the business shall not operate under the new ownership structure until a new license application has been submitted to and approved by the Department, and all application and license fees for the new application have been paid.

(A) A change in ownership occurs when a new person meets the definition of owner in section 15003 of this division.

(B) A change in ownership does not occur when one or more owners leave the business by transferring their ownership interest to the other existing owner(s).

(2) In cases where one or more owners leave the business by transferring their ownership interest to the other existing owner(s), the owner or owners that are transferring their interest shall provide a signed statement to the Department confirming that they have transferred their interest within 14 calendar days of the change.

(d) When there is a change in financial interest holder(s) in the commercial cannabis business who do not meet the requirements for a new license application under this section, the licensee shall submit the information required by section 15002(c)(15) of this division to the Department within 14 calendar days of the change.

(e) When any of the following changes occur, the licensee shall notify the Department within 14 calendar days of the change:

(1) Any change to contact information from the information provided to the Department in the original application.

(2) Any change in name if the licensee is an individual, or any change in legal business name if the licensee is a business entity.

(3) Any change in business trade names, fictitious business names, or doing business as ("DBA").

(4) Any change in the bond required under section 15002(c)(22) of this division.

(f) Licensees for all activities except cultivation may request to add an A-designation or M-designation to their license by sending a notification to the Department signed by at least one owner as defined in section 15003 of this division. A licensee shall not operate under the requested designation until they have received approval from the Department.

(g) Microbusiness licensees may add a commercial cannabis activity to their license or remove a commercial cannabis activity from their license if doing so is consistent with the

requirement set forth in section 15500(a) of this division that licensees engage in at least three (3) commercial cannabis activities. Licensees shall request the modification by completing a request to modify the licensed premises pursuant to section 15027 of this division. A licensee shall not engage in a new commercial cannabis activity until they have paid for the modification and received approval from the Department.

(h) Except as permitted under Business and Professions Code section 26050.2(h), licensees may not be transferred from one premises to another. Licensees shall not operate out of a new premises until they have been issued a new license.

(i) For any business modification or notification under this section, licensees shall use and submit to the Department the Licensee Notification and Request Form, Notifications and Requests to Modify a License, DCC-LIC-027 (Amended 9/21), which is incorporated herein by reference, unless the change relates to contact information and can be made through the Department's online system.

Authority: Section 26013, Business and Professions Code. Reference: Section 26012, Business and Professions Code.

§15024. Death, Incapacity, or Insolvency of a Licensee.

(a) In the event of the death, incapacity, receivership, assignment for the benefit of creditors or other event rendering one or more owners incapable of performing the duties associated with the license, the owner or owners' successor in interest (e.g., appointed guardian, executor, administrator, receiver, trustee, or assignee) shall notify the Department in writing, within 14 calendar days, by submitting the Licensee Notification and Request Form, Notifications and Requests to Modify a License, DCC-LIC-027 (Amended 9/21), which is incorporated herein by reference.

(b) To continue operations or surrender the existing license, the successor in interest shall submit to the Department the following:

(1) The name of the successor in interest.

(2) The name of the owner(s) for which the successor in interest is succeeding and the license number;

(3) The phone number, mailing address, and email address of the successor in interest; and

(4) Documentation demonstrating that the owner(s) is incapable of performing the duties associated with the license such as a death certificate or a court order, and documentation demonstrating that the person making the request is the owner or owners' successor in interest such as a court order appointing guardianship, receivership, or a will or trust agreement.

(c) The Department may give the successor in interest written approval to continue operations on the licensed business premises for a period of time specified by the Department:

(1) If the successor in interest or another person has applied for a license from the Department for the licensed premises and that application is under review;

- (2) If the successor in interest needs additional time to destroy or sell cannabis or cannabis products; or
- (3) At the discretion of the Department.
- (d) The successor in interest is held subject to all terms and conditions under which a state cannabis license is held pursuant to the Act.
- (e) The approval creates no vested right to the issuance of a state cannabis license.

Authority: Section 26013, Business and Professions Code. Reference: Section 26012, Business and Professions Code.

§15024.1. Cannabis and Cannabis Products After Termination of License.

In the event a license is terminated for any reason while cannabis or cannabis products remain on the premises, the following actions may be taken:

- (a) The cannabis or cannabis products may be destroyed by the former licensee; or
- (b) A licensed distributor or licensed microbusiness authorized to engage in distribution may be authorized by the Department to procure and distribute the former licensee's entire inventory stock in accordance with the following:
 - (1) A licensed distributor or licensed microbusiness authorized to engage in distribution shall, within 14 calendar days of the termination of the former licensee's license, submit a written request to the Department, on the Licensee Notification and Request Form, Notifications and Requests Regarding Regulatory Compliance, DCC-LIC-028 (New 9/21), which is incorporated by reference, for authorization to procure the cannabis or cannabis products from the former licensee; and
 - (2) Upon approval from the Department, the licensed distributor or licensed microbusiness authorized to engage in distribution shall transport the cannabis or cannabis products as follows:
 - (A) Cannabis goods shall be transported to a licensed distribution premises where the distributor shall arrange for laboratory testing and perform quality assurance in accordance with chapter 2 of this division. If the cannabis goods have already been tested in accordance with chapter 6 of this division and have a valid certificate of analysis for regulatory compliance testing that is less than 12 months old, the cannabis goods are not required to undergo additional testing.
 - (B) Cannabis that requires further processing as defined in section 15000(e), or further manufacturing as defined in section 15000(pp), shall be transported to a licensee licensed to conduct the additional processing or manufacturing.
 - (C) Cannabis or cannabis products that require packaging and labeling shall be transported to a licensee licensed to conduct packaging and labeling of the cannabis or cannabis products.

(D) Cannabis products that require further manufacturing as defined in section 15000(pp) shall be transported to a licensed manufacturer.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26011.5 and 26013, Business and Professions Code.

§15025. Additional Premises Requirements for Retailers and Microbusinesses Authorized to Engage in Retail.

(a) Licensed retailers and licensed microbusinesses authorized to engage in retail sales shall only serve customers who are within the licensed premises, or at a delivery address that meets the requirements of this division.

(1) The sale and delivery of cannabis goods shall not occur through a pass-out window or a slide-out tray to the exterior of the licensed premises.

(2) Licensed retailers or licensed microbusinesses authorized to engage in retail sales shall not operate as or with a drive-in or drive-through at which cannabis goods are sold to persons within or about a motor vehicle.

(3) No cannabis goods shall be sold and/or delivered by any means or method to any person within a motor vehicle.

(b) Alcoholic beverages as defined in Business and Professions Code section 23004 shall not be stored or consumed on a licensed premises.

(c) Any licensed retailer or microbusiness authorized to conduct retail sales that is adjacent to another premises engaging in manufacturing, cultivation, or distribution shall be separated from those premises by walls, and any doors leading to the cultivation, distribution, or manufacturing premises shall remain closed.

(d) Cannabis goods shall not be dispersed in the air throughout the premises or throughout a portion of the premises by an oil diffuser or any other vaporizing device that is intended to disperse the vapor throughout the premises or throughout a portion of the premises. This section shall not be interpreted to prohibit cannabis goods consumption on the premises of a licensed retailer or licensed microbusiness authorized to engage in retail sales that is conducted in accordance with Business and Professions Code section 26200(g).

(e) Notwithstanding subsection (a), a commercial cannabis business may have a drive-in or drive-through window only if, prior to June 1, 2018:

(1) The commercial cannabis business received a license or permit from the local jurisdiction for a premises including a drive-in or drive-through window which was disclosed on the local application; or

(2) The commercial cannabis business has submitted an application to the local jurisdiction for a license or permit which, at the time of submission of the application, included information that a drive-in or drive-through window was already part of, or proposed to be part of, the premises, and after June 1, 2018, the local jurisdiction approves the premises with a drive-in or drive-through window.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26001, 26012 and 26053, Business and Professions Code.

§15027. Physical Modification of Premises.

(a) A licensee shall not, without the prior written approval of the Department, make a physical change, alteration, or modification of the licensed premises that materially or substantially alters the licensed premises or the use of the licensed premises from the premises diagram originally filed with the license application. A licensee whose licensed premises is to be materially or substantially changed, modified, or altered is responsible for filing a request for premises modification with the Department.

(b) Material or substantial changes, alterations, or modifications requiring approval include, but are not limited to:

(1) The removal, creation, or relocation of a common entryway, doorway, passage, or a means of public entry or exit, when such common entryway, doorway, or passage alters or changes limited-access areas within the licensed premises;

(2) The removal, creation, or relocation of a wall or barrier; and

(3) Changing the activities conducted in or the use of an area identified in the last premises diagram provided to the Department.

(c) Licensees who are engaging in the cultivation of cannabis must obtain approval under this section for the following modifications:

(1) Modification to any area described in the licensee's cultivation plan including, but not limited to, the removal, creation, or relocation of canopy, processing, packaging, composting, harvest storage, and chemical storage areas;

(2) Change in water or power source(s); and

(3) Modifications or upgrades to electrical systems at a licensed premises shall be performed by a licensed electrician. A copy of the electrician's license shall be submitted with any premises modification requests for electrical systems.

(d) Licensees who are engaging in commercial cannabis manufacturing must obtain approval under this section for the following modifications:

(1) The addition of any extraction method subject to the requirements of section 17206;

(2) The addition of any other extraction method that necessitates a substantial or material alteration of the premises;

(3) The addition of infusion operations if no infusion activity is listed in the current license application on file with the Department; and

(4) A substantial or material alteration of the licensed premises from the current premises diagram on file with the Department.

(e) Licensed cultivators shall request approval of a physical change, alteration, or modification through the online licensing system. All other licensees shall request approval of a physical change, alteration, or modification in writing, by submitting the Licensee Notification and Request Form, Notifications and Requests to Modify a License, DCC-LIC-027 (Amended 9/21), which is incorporated herein by reference, and the request shall include:

(1) A new premises diagram that conforms to requirements in section 15006 of this division; and

(2) A fee pursuant to section 15014 of this division for all licensees except licensed cultivators.

(f) A licensee shall provide additional documentation requested by the Department to evaluate the licensee's request to modify the licensed premises.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26055, Business and Professions Code.

§15034. Significant Discrepancy in Inventory.

A determination by a licensed retailer, licensed distributor, or microbusiness authorized to engage in retail or distribution on whether a discrepancy in inventory is significant shall be made in accordance with the following:

(a) A significant discrepancy in inventory means a difference in actual inventory compared to records pertaining to inventory of at least 3 percent of the average monthly sales of the licensee.

(b) For the purposes of this section, average monthly sales shall be calculated by taking a per month average of the total sales for the previous 6 months. If the licensee has not been in operation for at least 6 months, only the months in which the licensee was operating shall be used in determining average monthly sales.

(c) For the purposes of this section, the licensee's acquisition price shall be used to determine the value of cannabis or cannabis products in a licensee's inventory.

Authority: Section 26013, Business and Professions Code. Reference: Section 26070, Business and Professions Code.

§15035. Notification of Criminal Acts, Civil Judgments, Violations of Labor Standards, and Revocation of a Local License, Permit, or Other Authorization After Licensure.

(a) A licensee shall ensure that the Department is notified in writing of a criminal conviction of any owner, either by mail or electronic mail, within 48 hours of the conviction. The written notification to the Department shall include the date of conviction, the court docket number, the name of the court in which the licensee was convicted, and

the specific offense(s) for which the licensee was convicted.

(b) A licensee shall ensure that the Department is notified in writing of a civil penalty or judgment rendered against the licensee or any owner in their individual capacity, either by mail or electronic mail, within 48 hours of delivery of the verdict or entry of judgment, whichever is sooner. The written notification shall include the date of verdict or entry of judgment, the court docket number, the name of the court in which the matter was adjudicated, and a description of the civil penalty or judgment rendered against the licensee.

(c) A licensee shall ensure that the Department is notified in writing of an administrative order or civil judgment for violations of labor standards against the licensee or any owner in their individual capacity, either by mail or electronic mail, within 48 hours of delivery of the order. The written notification shall include the date of the order, the name of the agency issuing the order, and a description of the administrative penalty or judgment rendered against the licensee.

(d) A licensee shall ensure that the Department is notified in writing of the revocation of a local license, permit, or other authorization, either by mail or electronic mail, within 48 hours of receiving notice of the revocation. The written notification shall include the name of the local agency involved, a written explanation of the proceeding or enforcement action, and the specific violation(s) that led to revocation.

(e) For any notification required under this section, licensees shall use and submit to the Department the Licensee Notification and Request Form, Notifications and Requests to Modify a License, DCC-LIC-027 (Amended 9/21), which is incorporated herein by reference.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26030 and 26031, Business and Professions Code.

§15036. Notification of Theft, Loss, and Criminal Activity.

(a) A licensee shall notify the Department and local law enforcement within 24 hours of discovery of any of the following situations:

(1) The licensee discovers a significant discrepancy, as defined in section 15034 of this division, in its inventory.

(2) The licensee discovers diversion, theft, loss, or any other criminal activity pertaining to the operations of the licensee.

(3) The licensee discovers diversion, theft, loss, or any other criminal activity by an agent or employee of the licensee pertaining to the operations of the licensee.

(4) The licensee discovers loss or unauthorized alteration of records related to cannabis or cannabis products, customers, or the licensee's employees or agents.

(5) The licensee discovers any other breach of security.

(b) The notification to the Department pursuant to subsection (a) of this section shall be submitted on the Licensee Notification and Request Form, Notifications and Requests

Regarding Regulatory Compliance, DCC-LIC-028 (New 9/21), which is incorporated herein by reference, and shall include the date and time of occurrence of the theft, loss, or criminal activity, the name of the local law enforcement agency that was notified, and a description of the incident including, where applicable, the item(s) that were taken or lost.

Authority: Section 26013, Business and Professions Code. Reference: Section 26070, Business and Professions Code.

§15037. General Record Retention Requirements.

(a) Licensees must keep and maintain records in connection with the licensed commercial cannabis business. Records must be kept for at least seven years from the date of creation, unless a shorter time is specified. Records include, but are not limited to:

(1) Financial records including, but not limited to, bank statements, sales invoices, receipts, tax records, and all records required by the California Department of Tax and Fee Administration (formerly Board of Equalization) under title 18, California Code of Regulations, sections 1698 and 4901.

(2) Personnel records, including each employee's full name, Social Security number or individual taxpayer identification number, date employment begins, and date of termination of employment, if applicable.

(3) Training records including, but not limited to, the content of the training provided and the names of the employees who received the training.

(4) Contracts regarding commercial cannabis activity.

(5) Permits, licenses, and other local authorizations to conduct the licensee's commercial cannabis activity.

(6) All other documents prepared or executed by an owner or their employees or assignees in connection with the licensed commercial cannabis business.

(7) Records required by the Act or this division.

(b) Records must be kept in a manner that allows the records to be produced for the Department in either hard-copy or electronic form.

(c) Records must be legible and accurate. No person may intentionally misrepresent or falsify records.

(d) Records must be stored in a secured area where the records are protected from debris, moisture, contamination, hazardous waste, and theft.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26160 and 26161, Business and Professions Code.

§ 15037.1. Licensee Authorization to Release Data to Financial Institutions.

(a) A licensee may authorize the Department to provide information to a financial institution for purposes of facilitating the provision of financial services. The authorization

shall be made in writing, through a form prescribed by the Department, which shall include the following information:

- (1) The name of the licensed business for which the licensee is authorizing the release of information;
- (2) The business' license number(s);
- (3) The financial institution authorized to receive information;
- (4) The name, phone number, email address, and signature of the owner submitting the authorization;
- (5) The categories of information specified in subsection (b) that are authorized for release; and
- (6) An acknowledgement that the authorization to release information includes information that is otherwise protected from disclosure, that the licensee is waiving privilege and confidentiality, and that the scope of the release is strictly limited to the purposes of disclosure to the financial institution.

(b) After receipt of the authorization, the Department shall release the following information, as designated by the licensee, when requested by an authorized financial institution pursuant to section 15037.2 of this division:

- (1) The license application(s), including renewal applications, excluding information required to be kept confidential pursuant to Penal Code section 11105 and confidential personal information of individual owners of the licensed business;
- (2) Information captured in the track-and-trace system established pursuant to Business and Professions Code section 26067, including, but not limited to, aggregated sales or transfer information, as applicable; and
- (3) Documents issued to the licensee pursuant to disciplinary or enforcement proceedings.

(c) A licensee may withdraw the authorization to provide information to a financial institution at any time. The withdrawal shall be made in writing, through a form prescribed by the Department, and shall include the following information:

- (1) The name of the licensed business for which the licensee is withdrawing the authorization of the release of information;
- (2) The business' license number(s);
- (3) The financial institution from which authorization to receive information is withdrawn; and
- (4) The name, phone number, email address, and signature of the owner submitting the withdrawal.

Authority: Section 26013, Business and Professions Code. Reference: Section 26260, Business and Professions Code.

§ 15037.2. Financial Institution Request for Licensee Information.

A financial institution, as defined in Business and Professions Code section 26260(c)(3), may request information related to a licensee for purposes of facilitating the provision of financial services for that licensee. The request shall be made in writing, through a form prescribed by the Department, which shall include the following information:

- (a) The name of the financial institution;
- (b) The name, phone number, email, and signature of the representative of the financial institution requesting information;
- (c) The business name and license number of the licensee for which the financial institution is requesting information;
- (d) The type of financial services for which the information is requested (including, but not limited to, establishment or maintenance of bank accounts, extending loans, and providing insurance) and whether the request is for consideration of a new service or maintenance of an existing service;
- (e) The specific information requested as described in section 15037.1(b), if authorized by the licensee; and
- (f) An acknowledgment that use of the information is limited to that information which is necessary for the provision of financial services.

Authority: Section 26013, Business and Professions Code. Reference: Section 26260, Business and Professions Code.

§15038. Disaster Relief.

- (a) If a licensee is unable to comply with any licensing requirements due to a disaster, the licensee may notify the Department of this inability to comply and request relief from the specific licensing requirement.
- (b) The Department may exercise its discretion to provide temporary relief from specific regulatory requirements in this division and from other licensing requirements when allowed by law.
- (c) Temporary relief from specific licensing requirements shall be issued for a reasonable amount of time in order to allow the licensee to recover from the disaster.
- (d) The Department may require that certain conditions be followed in order for a licensee to receive temporary relief from specific licensing requirements.
- (e) A licensee shall not be subject to an enforcement action for a violation of a licensing requirement in which the licensee has received temporary relief.
- (f) For the purposes of this section, “disaster” means condition of extreme peril to the safety of persons and property within the state or a county, city and county, or city caused by such conditions as air pollution, fire, flood, storm, tidal wave, epidemic, riot, drought, terrorism, sudden and severe energy shortage, plant or animal infestation or

disease, Governor's warning of an earthquake or volcanic prediction, or an earthquake, or similar public calamity, other than conditions resulting from a labor controversy, for which the Governor has proclaimed a state of emergency in accordance with Government Code sections 8558 and 8625, or for which a local governing body has proclaimed a local emergency in accordance with Government Code sections 8558 and 8630.

(g) A licensed premises that has been vacated by a licensee due to a disaster shall not be deemed to have been abandoned.

(h) Notwithstanding subsection (a), if a licensee needs to move cannabis or cannabis products stored on the licensed premises to another location immediately to prevent loss, theft, or degradation of the cannabis or cannabis products from the disaster, the licensee may move the cannabis or cannabis products without obtaining prior approval from the Department if the following conditions are met:

(1) The cannabis or cannabis products are moved to a secure location where access to the cannabis or cannabis products can be restricted to the licensee, its employees, and contractors;

(2) The licensee notifies the Department in writing that the cannabis or cannabis products have been moved and that the licensee is requesting relief from complying with specific licensing requirements pursuant to subsection (a) within 24 hours of moving the cannabis or cannabis products;

(3) The licensee agrees to grant the Department access to the location where the cannabis or cannabis products have been moved for inspection; and

(4) The licensee submits a request for temporary relief as described in subsection (i) in writing to the Department within 14 calendar days of moving the cannabis or cannabis products.

(i) Requests for temporary disaster relief shall include the following:

(1) Name of the licensed commercial cannabis business requesting relief.

(2) License number issued by the Department.

(3) Premises address.

(4) Contact information for the owner submitting the request, including name, phone number, and email address.

(5) Date of request.

(6) Specific statutes and regulations from which relief is requested.

(7) Time period for which the relief is requested.

(8) Reason(s) for the request, including a clear explanation of how the relief requested is tied to the specific circumstances of the declared disaster.

Authority: Section 26013, Business and Professions Code. Reference: Section 26012, Business and Professions Code.

Article 4. Posting and Advertising

§15039. License Posting Requirement.

(a) Upon issuance of any license, the licensee shall prominently display the license on the licensed premises where it can be viewed by state and local agencies. If the licensed premises is open to the public, the license shall be displayed in an area that is within plain sight of the public.

(b) Upon issuance of any license, a retailer, whose licensed premises is open to the public, shall prominently display the Quick Response Code (QR Code) Certificate issued by the Department so that it can be viewed and scanned from outside of the licensed premises.

(c) The QR Code Certificate displayed by a licensee, as required by subsection (b), shall be posted in the front window of the licensed premises within three (3) feet of any public entrance to the licensed premises, or in a locked display case mounted on the outside wall of the licensed premises within three (3) feet of any public entrance to the licensed premises. The QR Code Certificate shall be posted in a manner that is clearly visible from outside of the licensed premises to the public and all persons entering the premises.

(d) The QR Code Certificate displayed by the licensee as required by subsection (b) shall comply with the following requirements:

(1) The QR Code Certificate shall be printed on paper, glass, metal, or other material not less than 8 ½ inches by 11 inches.

(2) The QR Code on the Certificate posted, as required by this section, shall not be less than 3.75 inches by 3.75 inches.

(3) The QR Code on the Certificate shall be of sufficient clarity that the code can be read by a smartphone or device capable of reading QR Codes from a distance of at least three (3) feet.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26053, Business and Professions Code.

§15040. Advertising Placement.

(a) Any advertising or marketing, as defined in Business and Professions Code section 26150, that is placed in broadcast, cable, radio, print, and digital communications:

(1) Shall only be displayed after a licensee has obtained reliable up-to-date audience composition data demonstrating that at least 71.6 percent of the audience viewing the advertising or marketing is reasonably expected to be 21 years of age or older;

(2) Shall not use any depictions or images of minors or anyone under 21 years of age;

(3) Shall not use any images that are attractive to children, including, but not limited to:

(A) Cartoons;

(B) Any likeness to images, characters, or phrases that are popularly used to advertise to children;

- (C) Any imitation of candy packaging or labeling; or
- (D) The terms “candy” or “candies” or variants in spelling such as “kandy” or “kandeez.”

(4) Shall not advertise free cannabis goods or cannabis accessories. This includes promotions such as:

- (A) Buy one product, get one product free;
- (B) Free product with any donation; and
- (C) Contests, sweepstakes, or raffles.

(b) In addition to the requirements for advertising and marketing in subsection (a), all outdoor signs, including billboards, shall:

- (1) Be affixed to a building or permanent structure; and
- (2) Comply with the provisions of the Outdoor Advertising Act, commencing with section 5200 of the Business and Professions Code, if applicable.

(c) For the purposes of this section, “reliable up-to-date audience composition data” means data regarding the age and location demographics of the audience viewing a particular advertising or marketing medium. “Reliable up-to-date audience composition data” does not include data from the most recent United States decennial or special census, or the annual population estimate for California counties published by the Demographic Research Unit, State Department of Finance.

(d) Immediately upon request, a licensee shall provide to the Department audience composition data as required in subsection (a) for advertising or marketing placed by the licensee.

(e) If the Department determines that audience composition data for advertising or marketing provided by a licensee does not comply with the requirements of subsection (a) of this section, or the licensee fails to provide audience composition data to the Department upon request, the licensee shall remove the advertising or marketing placement in question.

(f) In construing and enforcing the advertising provisions of the Act and this division, any action, omission, or failure of an advertising agent, representative, or contractor retained by the licensee shall in every case be deemed the act, omission, or failure of the licensee.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26151 and 26152, Business and Professions Code.

§15040.1. Marketing Cannabis Goods as Alcoholic Products.

Distributor and retailer licensees shall not sell or transport cannabis goods that are labeled as beer, wine, liquor, spirits, or any other term that may create a misleading impression that the product is an alcoholic beverage as defined in division 9 of the Business and Professions Code.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26054, 26151 and 26152, Business and Professions Code.

§15041. Age Confirmation in Advertising.

(a) Prior to any advertising or marketing from the licensee involving direct, individualized communication or dialogue, the licensee shall use age affirmation to verify that the recipient is 21 years of age or older.

(b) For the purposes of this section, direct, individualized communication or dialogue may occur through any form of communication, including in-person, telephone, physical mail, or electronic.

(c) A method of age verification is not necessary for a communication if the licensee can verify that the licensee has previously had the intended recipient undergo a method of age affirmation and the licensee is reasonably certain that the communication will only be received by the intended recipient.

(d) A licensee shall use a method of age affirmation before having a potential customer added to a mailing list, subscribe, or otherwise consent to receiving direct, individualized communication or dialogue controlled by a licensee.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26151 and 26152, Business and Professions Code.

§15041.1. Branded Merchandise.

(a) “Branded merchandise” means non-consumable consumer goods utilized by a licensee for advertising and marketing purposes. Examples of branded merchandise include clothing, bags, pens, keychains, mugs, water bottles, lanyards, stickers, pins, and posters. “Branded merchandise” does not include items containing cannabis or any items that are considered food as defined by Health and Safety Code section 109935.

(b) After December 31, 2021, branded merchandise shall identify the licensee responsible for its content by displaying the licensee’s license number in a manner that is permanently affixed to the merchandise, legible, and clearly visible from the outside of the merchandise.

(c) Branded merchandise shall not be designed in any manner that is attractive to children as specified in section 15040(a)(3).

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013 and 26152, Business and Professions Code.

§15041.2. Trade Samples.

(a) For the purposes of this division, “trade sample” means a limited amount of cannabis goods that has been designated by a licensee to be provided to other licensees for the purposes of targeted advertising.

(b) Cannabis goods that have been designated as trade samples may be provided from one licensee to another licensee for the purpose of providing the recipient licensee with product information to aid in making purchasing decisions about new or existing cannabis goods.

(c) Live plants and seeds cannot be designated or provided to licensees as trade samples.

Authority: Sections 26013 and 26153.1, Business and Professions Code. Reference: Section 26153.1 Business and Professions Code.

§15041.3. Designating Trade Samples.

(a) Licensees shall designate cannabis goods as trade samples through the track and trace system.

(b) At the time of designation as a trade sample, cannabis goods must be in the possession of the licensee making the designation.

(c) Once cannabis goods have been designated as a trade sample, the designation cannot be changed.

(d) After laboratory testing, cannabis goods that have been designated as trade samples may be transferred to licensees in accordance with section 15041.4.

Authority: Sections 26013 and 26153.1, Business and Professions Code. Reference: Section 26153.1 Business and Professions Code.

§15041.4. Providing Trade Samples.

(a) Cannabis goods that have been designated as trade samples may be provided to any licensee except licensed cannabis event organizers, distributor transport only licensees, and testing laboratory licensees.

(b) The following licensees may designate and provide trade samples to other licensees:

(1) Cultivators;

(2) Manufacturers;

(3) Distributors; and

(4) Microbusinesses authorized to engage in cultivation, manufacturing, or distribution.

(c) The following licenses shall not designate or provide trade samples to other licensees:

(1) Retailers;

(2) Cannabis event organizers;

(3) Distributor transport only licensees; and

(4) Testing laboratories.

(d) Cannabis goods designated as trade samples may not be provided:

(1) For any payment or consideration;

(2) Without adhering to sales and excise tax requirements, if any;

(3) To employees as compensation;

- (4) To an unlicensed person, including retail customers; or
- (5) For a cost.
- (e) The transfer from one licensee to another of cannabis goods designated as a trade sample must be recorded in the track and trace system.
- (f) A licensee may provide cannabis goods that have been received from another licensee as a trade sample to an employee for that employee's inspection or consumption.
- (g) Cannabis goods provided to employees as trade samples must be properly recorded in the track and trace system. The transaction shall be recorded as a package adjustment when provided to the employee. The adjustment note must include the name or licensee-assigned employee number of the employee and the date and time the cannabis goods were provided to the employee.
- (h) Cannabis goods provided to employees as trade samples shall not be sold, given away, or otherwise transferred by the employee to any person.

Authority: Sections 26013 and 26153.1, Business and Professions Code. Reference: Section 26153.1 Business and Professions Code.

§15041.5. Requirements for Trade Samples.

- (a) In addition to the requirements of section 15041.3(d), cannabis goods provided to another licensee as a trade sample must be packaged and labeled in accordance with the packaging and labeling requirements found in the Act and this division for cannabis goods sold at retail.
- (b) Cannabis goods provided to another licensee as a trade sample must comply with all laboratory testing requirements applicable to cannabis goods sold at retail.
- (c) Cannabis goods must be labeled with the following: "TRADE SAMPLE. NOT FOR RESALE OR DONATION."
- (d) After laboratory testing, cannabis goods designated as trade samples must remain in the packaging until provided to a licensee's employee for inspection or consumption and must not be opened, resealed, or repackaged in any way.
- (e) Transportation of cannabis goods designated as trade samples must be conducted in accordance with the transportation requirements in the Act and this division. Any licensee authorized to engage in distribution activities may transport trade samples.
- (f) Notwithstanding subsection (e), an employee of a licensee authorized to engage in transportation may transport cannabis goods designated as trade samples in a vehicle that is not registered to the licensee and shall not be required to comply with the requirements of section 15311(g). Employees transporting cannabis goods under this subsection shall not transport an amount of cannabis goods that exceeds the possession limits established in section 11357 of the Health and Safety Code.

Authority: Sections 26013 and 26153.1, Business and Professions Code. Reference: Section 26153.1 Business and Professions Code.

§15041.6. Consumption of Trade Samples.

- (a) All consumption of cannabis goods provided as a trade sample must comply with all laws regarding the consumption of cannabis goods.
- (b) Cannabis goods provided to employees as trade samples shall not be consumed by employees who are engaging in the transportation of cannabis goods, delivery of cannabis goods, or any activity that requires the operation of a motor vehicle.
- (c) Cannabis trade samples provided to licensee employees that are not consumed by the employee must be destroyed in accordance with the requirements of the Act and this division.

Authority: Sections 26013 and 26153.1, Business and Professions Code. Reference: Section 26153.1 Business and Professions Code.

§15041.7. Trade Sample Limits.

- (a) A licensee is limited to designating the following aggregate amounts of cannabis goods as trade samples in a calendar month period:
 - (1) For cannabis in the form of dried flower, a total of two pounds; and
 - (2) For manufactured and nonmanufactured cannabis products, a total of 900 individual units.
- (b) Licensees authorized to provide trade samples may provide trade samples to multiple recipient licensees.
- (c) A licensee is limited to providing the following aggregate amounts of cannabis goods as trade samples to each recipient licensee in a calendar month period:
 - (1) For cannabis in the form of dried flower, five (5) grams per strain and no more than six (6) strains to each recipient licensee; and
 - (2) For manufactured and nonmanufactured cannabis products, five (5) individual units, as packaged for retail sale, per cannabis product line and no more than six (6) individual cannabis product lines to each recipient licensee.
- (d) The limits provided in subsection (c) apply to the transfer of cannabis trade samples from one licensee to each recipient licensee and do not limit the total amount of cannabis trade samples that a licensed distributor may transport.

Authority: Sections 26013 and 26153.1, Business and Professions Code. Reference: Section 26153.1 Business and Professions Code.

Article 5. Security Measures

§15042. Premises Access Requirements.

- (a) For a premises that is not open to the public, the licensee shall establish and implement an identification and sign-in/sign-out procedure for all persons accessing the premises, including authorized individuals, suppliers, and visitors.
- (b) Licensees shall ensure that only employees of the licensee and other authorized

individuals access the limited-access areas of the licensed premises.

(c) For the purpose of this section, authorized individuals include outside vendors, contractors, or other individuals conducting business that requires access to the limited-access areas.

(d) An individual who enters the limited-access area and is not employed by the licensee shall be escorted by an employee of the licensee at all times while within the limited-access area.

(e) A licensee shall maintain a record of all authorized individuals who are not employees of the licensee who enter the limited-access areas. The record shall include the name of the individual, the company the individual works for, the reason the individual entered the limited-access area, the date, and the times the individual entered and exited the limited-access area. These records shall be made available to the Department immediately upon request.

(f) A licensee shall not receive consideration or compensation for permitting an individual to enter the limited-access areas.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26160, Business and Professions Code.

§15042.1. Security Plan for Licensed Manufacturers.

A licensed manufacturer shall develop and implement a written security plan. At a minimum, the security plan shall include a description of the security measures to:

(a) Prevent access to the manufacturing premises by unauthorized persons and protect the physical safety of employees. This includes, but is not limited to:

(1) Establishing physical barriers to secure perimeter access and all points of entry into a manufacturing premises (such as locking primary entrances with commercial-grade, non-residential door locks, providing fencing around the grounds and driveway, and securing any secondary entrances including windows, roofs, and ventilation systems);

(2) Installing a security alarm system to notify and record incident(s) where physical barriers have been breached;

(3) Establishing an identification and sign-in/sign-out procedure for authorized personnel, individuals, suppliers, and visitors;

(4) Maintaining the premises such that visibility and security monitoring of the premises is possible; and

(5) Establishing procedures for the investigation of suspicious activities.

(b) Deterring theft or loss of cannabis and cannabis products. This includes, but is not limited to:

(1) Establishing an inventory system to track cannabis and cannabis products and the personnel responsible for processing it throughout the manufacturing process;

(2) Limiting access of personnel within the premises to those areas necessary to

complete job duties, and to those timeframes specifically scheduled for completion of job duties, including access by outside vendors, suppliers, contractors or other individuals conducting business with the licensee that requires access to the premises;

(3) Supervising tasks or processes with high potential for diversion, including the loading and unloading of cannabis and cannabis products from transportation vehicles; and

(4) Providing areas in which personnel may store and access personal items that are separate from the manufacturing areas.

(c) Securing and backing up electronic records in a manner that prevents unauthorized access and ensures that the integrity of the records is maintained.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26051.5, Business and Professions Code.

§15043. Licensee Employee Badge Requirement.

All agents, officers, or other persons acting for or employed by a licensee conducting retail sales or participating in a temporary cannabis event shall display a laminated or plastic-coated identification badge issued by the licensee at all times while engaging in commercial cannabis activity. The identification badge shall, at a minimum, include the licensee's "doing business as" name and license number, the employee's first name, an employee number exclusively assigned to that employee for identification purposes, and a color photograph of the employee that clearly shows the full front of the employee's face and that is at least 1 inch in width and 1.5 inches in height.

Authority: Section 26013, Business and Professions Code. Reference: Section 26070, Business and Professions Code.

§15044. Video Surveillance System.

(a) Each licensed premises shall have a digital video surveillance system with a minimum camera resolution of 1280 × 720 pixels on the licensed premises. This requirement does not apply to a licensed premises authorized exclusively for cultivation activities or the cultivation area of a licensed microbusiness premises.

(b) The video surveillance system shall at all times be able to effectively and clearly record images of the area under surveillance.

(c) Each camera shall be permanently mounted and in a fixed location. Each camera shall be placed in a location that allows the camera to clearly record activity occurring within 20 feet of all points of entry and exit on the licensed premises, and allows for the clear and certain identification of any person and activities in all areas required to be filmed under subsection (d) of this section.

(d) Areas that shall be recorded on the video surveillance system include the following:

(1) Areas where cannabis or cannabis products are weighed, packed, stored, loaded, and unloaded for transportation, prepared, or moved within the licensed premises;

(2) Limited-access areas;

- (3) Security rooms;
 - (4) Areas storing a surveillance-system storage device with at least one camera recording the access points to the secured surveillance recording area; and
 - (5) Entrances and exits to the licensed premises, which shall be recorded from both indoor and outdoor vantage points.
- (e) Licensed retailers and licensed microbusinesses authorized to engage in retail sales shall also record point-of-sale areas and areas where cannabis goods are displayed for sale on the video surveillance system. At each point-of-sale location, camera placement must allow for the recording of the facial features of any person purchasing or selling cannabis goods, or any person in the retail area, with sufficient clarity to determine identity.
- (f) Cameras shall record continuously 24 hours per day and at a minimum of 15 frames per second (FPS).
- (g) The physical media or storage device on which surveillance recordings are stored shall be secured in a manner to protect the recording from tampering or theft.
- (h) Surveillance recordings shall be kept for a minimum of 90 calendar days.
- (i) Surveillance recordings are subject to inspection by the Department and shall be kept in a manner that allows the Department to view and obtain copies of the recordings at the licensed premises immediately upon request. The licensee shall also send or otherwise provide copies of the recordings to the Department upon request within the time specified by the Department.
- (j) Recorded images shall clearly and accurately display the time and date. Time is to be measured in accordance with the standards issued by the United States National Institute of Standards and Technology. The displayed date and time shall not significantly obstruct the view of recorded images.
- (k) The video surveillance system shall be equipped with a failure notification system that provides notification to the licensee of any interruption or failure of the video surveillance system or video surveillance-system storage device.
- (l) If multiple licensed premises are contained within the same building, a single video surveillance system covering the entire building may be used by all of the licensees under the following conditions:
- (1) All licensees shall have immediate access to the surveillance recordings to produce them pursuant to subsection (i).
 - (2) All licensees shall be held responsible and subject to discipline for any violations of the video surveillance requirements.

(m) Notwithstanding subsection (a), a licensed distributor transport only licensee engaged in self-distribution whose premises is on the same parcel of land as their licensed cultivation premises shall not be required to comply with the provisions of this section.

Authority: Section 26013, Business and Professions Code. Reference: Section 26070, Business and Professions Code.

§15045. Security Personnel.

(a) A licensed retailer or licensed microbusiness authorized to engage in retail sales shall hire or contract for security personnel who are at least 21 years of age to provide onsite security services for the licensed retail premises during the hours of operation. All security personnel hired or contracted for by the licensee shall be licensed by the Bureau of Security and Investigative Services and shall comply with chapters 11.4 and 11.5 of division 3 of the Business and Professions Code.

(b) Notwithstanding subsection (a), a licensed non-storefront retailer or licensed microbusiness who is not engaged in storefront retail sale is not required to hire or contract for security personnel.

(c) If multiple licensed premises are contained within the same building, security personnel may be shared by all of the licensees to cover the entire building. However, all licensees shall be held responsible and subject to discipline for any violations of the security personnel requirements.

Authority: Section 26013, Business and Professions Code. Reference: Section 26070, Business and Professions Code.

§15046. Locks.

A licensee shall ensure that all limited-access areas can be securely locked using commercial-grade, nonresidential door locks. A licensee shall also use commercial-grade, nonresidential door locks on all points of entry and exit to the licensed premises. This requirement does not apply to a licensed premises authorized exclusively for cultivation activities or the cultivation area of a licensed microbusiness premises.

Authority: Section 26013, Business and Professions Code. Reference: Section 26070, Business and Professions Code.

§15047. Alarm System.

(a) A licensee shall maintain an alarm system as defined in Business and Professions Code section 7590.1(c) at the licensed premises. This requirement does not apply to a licensed premises authorized exclusively for cultivation activities or the cultivation area of a licensed microbusiness premises.

(b) A licensee shall ensure a licensed alarm company operator or one or more of its registered alarm agents installs, maintains, monitors, and responds to the alarm system.

(c) Upon request, a licensee shall make available to the Department all information related to the alarm system, monitoring, and alarm activity.

(d) If multiple licensed premises are contained within the same building, a single alarm system covering the entire building may be used by all of the licensees under the following conditions:

(1) All licensees shall have access to and be able to provide the information under subsection (c).

(2) All licensees shall be held responsible and subject to discipline for any violations of the alarm system requirements.

Authority: Section 26013, Business and Professions Code. Reference: Section 26070, Business and Professions Code.

Article 6. Track and Trace Requirements

§15047.1. Definitions.

(a) “Plant tag” means the RFID-enabled tag that is labeled with a UID number and provided by the Department or the Department’s designee for attaching to a cannabis plant.

(b) “Package tag” means the RFID-enabled tag that is labeled with a UID number and provided by the Department or the Department’s designee for attaching to batches of cannabis or cannabis products.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26067, 26070, 26160 and 26161, Business and Professions Code.

§15047.2. General Requirements.

(a) A licensee shall create and maintain an account within the track and trace system prior to engaging in any commercial cannabis activity.

(b) All commercial cannabis activity shall be accurately recorded in the track and trace system.

(c) A licensee is responsible for the accuracy and completeness of all data and information entered into the track and trace system. The licensee is responsible for all actions taken by the designated account manager or other account users while performing track and trace activities.

(d) A person shall not intentionally misrepresent or falsify information entered into the track and trace system.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26067, 26070, 26160, and 26161, Business and Professions Code.

§15048. Training and Credentialing.

(a) Each applicant or licensee shall identify an owner of the commercial cannabis business as the track and trace system account manager. A licensee may change the account manager by submitting a written request to the Department.

(b) No later than 10 calendar days after license issuance, the designated account manager shall:

- (1) Complete new user system training provided by the Department.
 - (2) Email support@metrc.com from the designated account manager's email address to request access to the track and trace system.
 - (3) Complete the credentialing process to establish a login.
- (c) The account manager and each user shall utilize a unique login, consisting of a username and password. The account manager and each user shall only access the track and trace system under their assigned login. No account manager or user shall share their login, username, or password, with any other individual for any reason.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26067, 26070, 26160 and 26161, Business and Professions Code.

§15048.1. Responsibilities of the Designated Account Manager.

(a) A licensee and their designated account manager(s) shall:

- (1) Designate track and trace system users, as needed, and require the system users to be trained in the proper and lawful use of the track and trace system before the users are permitted to access the track and trace system;
- (2) Maintain an accurate and complete list of all of the licensee's track and trace system users, including full names and usernames, and update the list immediately when changes occur;
- (3) Remove a user from the licensee's track and trace system account when that individual is no longer authorized to represent the licensee;
- (4) Correct any data entry errors within three (3) calendar days of discovery of the error;
- (5) Tag and enter all inventory in the track and trace system as required by section 15049;
- (6) Monitor all system notifications and resolve all issues identified. The notification shall not be dismissed by an account manager before resolution of the issue(s) identified in the notification;
- (7) Notify the Department of any loss of access to the track and trace system that exceeds 72 hours; and

(8) Reconcile the inventory of cannabis and cannabis products on the licensed premises with the track and trace system database at least once every thirty (30) calendar days.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26067, 26070 and 26160, Business and Professions Code.

§15048.2. General Tag Requirements.

(a) A licensee shall only use plant and package tags provided and distributed by the Department or the Department's designee.

(b) A licensee shall only use plant and package tags assigned in the track and trace system to that licensee and shall not transfer unused tags to any other licensee.

(c) A licensee shall maintain a sufficient supply of tags to support tagging in accordance with this chapter.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26050.1, 26067, 26070, 26160 and 26161, Business and Professions Code.

§15048.3. Ordering Tags.

(a) For licensees conducting cultivation, manufacturing, distribution, or testing:

(1) A licensee's account manager shall place the initial order of plant or package tags within ten (10) calendar days of initial credentialing into the track and trace system and shall reorder plant or package tags as needed.

(2) The receipt of plant or package tags shall be recorded in the track and trace system within three (3) calendar days of receipt. If ordered plant or package tags are not received by the licensee, the licensee shall notify the Department.

(3) For cultivation licensees, if the Department approves a request for a license designation change pursuant to section 15020(e), the licensee is required to order, apply, and report applicable plant and package tags in accordance with this article.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26067, 26069 and 26160, Business and Professions Code.

§15048.4. Tagging of Cannabis Plants.

(a) Immature cannabis plants shall be tagged as follows:

(1) Each established lot of immature plants shall be assigned a plant tag. Each lot of immature plants under a single plant tag shall be uniform in strain or cultivar and contain no more than 100 individual immature plants at any one time. The lot plant tag shall be visible and within clear view of an individual standing next to the immature lot and kept free from dirt and debris. Each lot shall either:

(A) Have each immature plant in the lot labeled with the UID number and placed contiguous to one another to facilitate identification by the Department; or

(B) Be fully separated from other lots of immature or mature plants by a physical barrier. In such cases, each individual plant does not need to be labeled with the corresponding UID number.

(2) Immature plants transferred from a licensed nursery for retail sale shall each be labeled with the UID number that corresponds to the UID number of the immature lot. The receiving licensee shall remove the licensed nursery's package tag and assign a plant or package tag, as applicable, belonging to the receiving licensee within three (3) calendar days of receiving the immature plants.

(3) A plant tag shall be applied to each individual plant in accordance with subsection (b) at the time the plant is moved to the designated canopy area or begins flowering.

(b) Mature cannabis plants shall be tagged as follows:

(1) Each mature plant shall be tagged with a plant tag. A plant tag shall be attached to the main stem at the base of each plant, placed in a position so it is visible and within clear view of an individual standing next to the mature plant, and kept free from dirt and debris.

(2) Licensees are prohibited from removing the plant tag from the mature plant to which it was attached and assigned until the plant is harvested, destroyed, or disposed of.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26067 and 26069, Business and Professions Code.

§15048.5. Use of Harvest Batch Name and Package Tags.

(a) Harvested plants that are hanging, drying, or curing shall be assigned a unique harvest batch name, which shall be recorded in the track and trace system and placed within clear view of an individual standing next to the batch. The assigned harvest batch name shall match what is in the track and trace system and the harvest batch name next to the batch shall be the same.

(b) Each harvest batch and manufactured cannabis batch shall be assigned a package tag and recorded in the track and trace system. For batches held in containers, the package tag shall be affixed to the container holding the batch. If a batch of cannabis or cannabis products is held in multiple containers, the package tag shall be affixed to one of the containers and the other containers shall be labeled with the applicable UID number. Each unit within the container shall be labeled with the applicable UID number. All containers with the same UID number shall be placed contiguous to one another to facilitate identification by the Department.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26067, 26070, 26160 and 26161, Business and Professions Code.

§15049. Track and Trace Reporting.

(a) All cannabis and cannabis products on the licensed premises shall be assigned a plant or package tag, except for harvested plants that are being dried, cured, graded, or trimmed, as specified in this division, and recorded in the track and trace system.

(b) Each of the following activities shall be recorded in the track and trace system within 24 hours of occurrence:

- (1) Receipt of cannabis or cannabis products.
- (2) Rejection of transferred cannabis or cannabis products.
- (3) Manufacturing of cannabis or cannabis products.
- (4) Use of cannabis or cannabis product for internal quality control testing or product research and development.
- (5) Destruction or disposal of cannabis or cannabis products.
- (6) Packaging or repackaging of cannabis or cannabis products, except that cultivation licensees shall comply with section 15049.1(b)(5).
- (7) Laboratory testing, including testing results.
- (8) Sale or donation of cannabis or cannabis products.

(c) The following information shall be recorded in the track and trace system for each activity entered pursuant to subsection (b):

- (1) The type of cannabis or cannabis products.
- (2) The weight, volume, or count of the cannabis or cannabis products.
- (3) The date of activity.
- (4) The UID assigned to the cannabis or cannabis products.
- (5) If cannabis or cannabis products are being destroyed or disposed of, the licensee shall record the following information in the notes section:
 - (A) The name of the employee performing the destruction or disposal;
 - (B) The reason for destruction or disposal; and
 - (C) The method of disposal.
- (d) If a package adjustment is used to adjust the quantity of cannabis or cannabis products in the track and trace system, the licensee shall include a description explaining the reason for adjustment.

(e) If a licensee rejects a partial shipment of cannabis goods pursuant to section 15052.1(b), the licensee shall record the partial rejection in the track and trace system.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26067 and 26169, Business and Professions Code.

§15049.1. Additional Requirements for Recording Cultivation Activities.

(a) The licensee shall record the following cultivation activities in the track and trace system within three (3) calendar days of occurrence:

- (1) Planting of an immature lot;

(2) Moving immature plants to a designated canopy area, flowering of an individual plant, or application of a plant tag to an immature plant, in accordance with section 15048.4;

(3) Destruction or disposal of an immature or mature plant; and

(4) Harvesting of a mature plant, or portion thereof.

(b) The following information shall be reported in the track and trace system for each harvested plant or portion thereof, or harvest batch:

(1) The wet weight of each harvested plant or portion thereof, which shall be obtained by the licensee immediately after harvest;

(2) The weight of cannabis waste associated with each harvest batch;

(3) The unique name of the harvest batch;

(4) The initiating date of the harvest. For purposes of this section, the initiating date of the harvest is the month, day, and year the first mature cannabis plants in the harvest batch were cut, picked, or removed from the soil or other growing media; and

(5) Packaging and repackaging of cannabis or nonmanufactured cannabis.

(c) After the entire harvest batch has been dried, trimmed, cured, and packaged, the licensee shall indicate in the track and trace system that the harvest is finished.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26067 and 26069, Business and Professions Code.

§15049.2. Recording Transfers of Cannabis and Cannabis Products.

(a) A licensee shall prepare a shipping manifest through the track and trace system prior to transferring cannabis and cannabis products off of a licensed premises. The following information shall be recorded on the shipping manifest by the licensee initiating the transfer:

(1) The name, license number, and premises address of the originating licensee;

(2) The name and license number of the distributor transporting the cannabis and cannabis products;

(3) The name, license number, and premises address of the licensee receiving the cannabis or cannabis products into inventory or storage;

(4) The UID numbers for all items being transferred;

(5) The item name, item category and weight or count of cannabis or cannabis products associated with each package tag;

(6) The estimated date and time of departure from the licensed premises;

(7) The estimated date and time of arrival at each licensed premises; and

(8) The driver's license number of the personnel transporting the cannabis and cannabis products, and the make, model, and license plate number of the vehicle used for transport.

(b) The distributor who transports the cannabis or cannabis product shall record the following additional information on the shipping manifest:

(1) The actual date and time of departure from the licensed premises; and

(2) The actual date and time of arrival at each licensed premises.

(c) Upon pick-up or receipt of cannabis and cannabis products for transport, storage, or inventory, a licensee shall ensure that the cannabis or cannabis products received are as described in the shipping manifest. The licensee shall record acceptance or receipt, and acknowledgment of the cannabis or cannabis products in the track and trace system.

(d) If there are any discrepancies between type or quantity of cannabis or cannabis products specified in the shipping manifest and the type or quantity received by the licensee, the licensee shall reject the shipment.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26067, 26070, 26160 and 26161, Business and Professions Code.

§15050. Loss of Access.

(a) If at any point a licensee loses access to the track and trace system for any reason, the licensee shall prepare and maintain comprehensive records detailing all commercial cannabis activities that were conducted during the loss of access.

(b) The licensee shall not initiate transport for, receive, or deliver any cannabis or cannabis products until such time as access is restored.

(c) Once access has been restored, the licensee shall:

(1) Within three calendar days, enter all commercial cannabis activity that occurred during the loss of access into the track and trace system.

(2) Document the cause for loss of access, and the dates and times for when access to the track and trace system was lost and when it was restored.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26067, 26070 and 26160, Business and Professions Code.

§15051. Track and Trace System Reconciliation.

(a) The license shall review the information recorded in the track and trace system at least once every 30 calendar days to ensure its accuracy, including, at a minimum:

(1) Reconciling on-hand inventory of cannabis and cannabis product with the records in the track and trace system; and

(2) Reviewing the licensee's authorized users and removing any users who are no longer authorized to enter information into the track and trace system.

(b) If a licensee finds a discrepancy between the on-hand inventory and the track and trace system, the licensee shall conduct an audit.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26067, 26070 and 26160, Business and Professions Code.

Article 7. Acceptance or Rejection of Shipments

§15052.1. Acceptance or Rejection of Shipments.

(a) Licensees shall accept or reject, in whole, shipments of cannabis or cannabis products.

(b) Notwithstanding subsection (a), partial shipments of cannabis or cannabis products shall be rejected in the following circumstances:

(1) If a licensee receives a shipment containing cannabis or cannabis products that differ from those listed on the sales invoice or receipt, the licensee shall reject the portion of the shipment that is not accurately reflected on the sales invoice or receipt.

(2) If a licensee receives a shipment containing any cannabis or cannabis products that were damaged during transportation, the licensee shall reject that portion of the shipment that was damaged.

(3) If a licensee receives a shipment containing cannabis or cannabis products that is non-compliant with labeling requirements or exceeds its provided expiration date, the licensee shall reject the portion of the shipment that is non-compliant with labeling requirements or expired.

(c) The licensee rejecting a shipment of cannabis or cannabis products, whether in whole or in part, shall record in the track and trace system and indicate on any relevant manifest, invoice, or sales receipt the specific reason for rejection.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26067, 26070 and 26161, Business and Professions Code.

Chapter 2. Distributors

§15300. Distribution Activities.

A licensed distributor shall distribute only cannabis and cannabis products, cannabis accessories, and licensees' branded merchandise or promotional materials.

Authority: Sections 26013, Business and Professions Code. Reference: Section 26070, Business and Professions Code.

§15301. Storage Services.

(a) A licensed distributor may provide storage services, including storage-only services that are unrelated to the quality assurance and laboratory testing processes, to a licensed cultivator, licensed manufacturer, licensed microbusiness, licensed retailer, or another licensed distributor.

(b) A licensed distributor may provide storage services to other licensees for cannabis goods packaged as they will be sold at retail, cannabis accessories, and licensees' branded merchandise or promotional materials only.

(c) A licensed distributor shall ensure that each batch of cannabis goods that are stored for another licensee are stored in accordance with section 15302 of this division.

(d) Notwithstanding subsection (b) of this section, a licensed distributor shall not store live plants, except for seeds, on the licensed premises.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26110, Business and Professions Code.

§15302. Storage of Batches for Testing.

(a) A licensed distributor shall ensure that all batches of cannabis or cannabis products are stored separately and distinctly from other batches of cannabis or cannabis products on the licensed distributor's premises.

(b) A licensed distributor shall ensure a label with the following information is physically attached to each container of each batch:

(1) The name, license number, and licensed premises address of the licensee who provided the batch;

(2) The date of entry into the licensed distributor's storage area;

(3) The unique identifiers and batch number, if any, associated with the batch;

(4) A description of the cannabis or cannabis products with enough detail to easily identify the batch;

(5) The weight of or quantity of units in the batch; and

(6) The best-by, sell-by, or expiration date of the batch, if any.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26110 and 26120, Business and Professions Code.

§15303. Packaging, Labeling, and Rolling.

(a) A licensed distributor may package, re-package, label, and re-label cannabis in the form of dried flower, including pre-rolls, for retail sale. All packages of cannabis in the form of dried flower, including pre-rolls, shall comply with the requirements in chapter 11 of this division.

(b) A licensed distributor shall not process cannabis, but may roll pre-rolls that consist exclusively of any combination of flower, shake, leaf, or kief. Pre-rolls shall be rolled prior to regulatory compliance testing.

(c) Licensed distributors may label and re-label a package containing manufactured cannabis or cannabis products with the amount of cannabinoids and terpenoids based on regulatory compliance testing results.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013 and 26120, Business and Professions Code.

§15303.1. Net Weight of Dried Flower.

For purposes of this division, the net weight on any package of dried flower shall not be considered inaccurate if the actual weight is within plus or minus 3% of the labeled weight.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26120 and 26152, Business and Professions Code.

§15304. Testing Arrangements.

After taking physical possession of a batch of cannabis or cannabis products, the licensed distributor shall contact a licensed testing laboratory and arrange for a laboratory employee to come to the licensed distributor's licensed premises to select a representative sample for laboratory testing.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26104 and 26110, Business and Professions Code.

§15305. Testing Sample.

(a) The licensed distributor shall ensure that the batch size from which the sample is taken meets the requirements of this division.

(b) A licensed distributor or an employee of the licensed distributor shall be physically present to observe the laboratory employee obtain the sample of cannabis or cannabis products for testing and shall ensure that the increments are taken from throughout the batch.

(c) The sampling shall be video-recorded with the batch number stated verbally or in writing on the video at the beginning of the video and a visible time and date indication on the video recording footage. The video recordings shall be maintained for 90 calendar days by the licensed distributor.

(d) After the sample has been selected, both the licensed distributor and the laboratory employee shall sign and date the chain of custody form pursuant to section 15706, attesting to the sample selection having occurred.

(e) A licensed distributor shall not assist the laboratory employee nor touch the cannabis or cannabis products or the sampling equipment while the laboratory employee is obtaining the sample.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26104 and 26110, Business and Professions Code.

§15305.1. Re-sampling.

Once a sample has been obtained from a batch for regulatory compliance testing, a licensed distributor may not arrange for or allow another licensed testing laboratory to sample or re-sample the same batch for regulatory compliance testing, unless all of the requirements of section 15705 subsection (g) of this division are met.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15306. Laboratory Testing Results.

(a) A sample batch “passes” a laboratory test when the sample meets specifications in chapter 6 of this division.

(b) When a batch from a manufactured or harvest batch passes, the cannabis or cannabis products may be transported to one or more licensed retailers, licensed distributors, or licensed microbusinesses. A printed copy of the certificate of analysis for regulatory compliance testing shall accompany the batch and be provided to the licensee receiving the cannabis or cannabis products.

(c) A batch “fails” a laboratory test when the sample does not meet specifications in chapter 6 of this division.

(d) If a failed batch may be remediated pursuant to section 15727, a licensed distributor may transport or arrange for the transportation of the batch to a licensed manufacturer for remediation in accordance with the following:

(1) The licensed distributor shall ensure that a corrective action plan is submitted by a licensed manufacturer to the Department, or by a licensed microbusiness authorized to engage in manufacturing to the Department, within 30 calendar days of issuance of the certificate of analysis for regulatory compliance testing by the licensed testing laboratory.

(2) The licensed distributor shall ensure that the licensed manufacturer or licensed microbusiness authorized to engage in manufacturing begins remediating the cannabis or cannabis products within 30 calendar days of receiving approval from the Department to remediate the cannabis or cannabis products.

(3) If the licensed distributor is unable to arrange for a licensed manufacturer or licensed microbusiness authorized to engage in manufacturing to remediate the cannabis or cannabis products within 30 calendar days of issuance of the certificate of analysis for regulatory compliance testing by the licensed testing laboratory, the licensed distributor shall destroy the cannabis or cannabis products immediately.

(e) A licensed distributor shall destroy a batch that failed laboratory testing and cannot be remediated pursuant to section 15727 within 30 calendar days of issuance of the certificate of analysis for regulatory compliance testing by the licensed testing laboratory.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070, 26100, 26104 and 26110, Business and Professions Code.

§15307. Quality-Assurance Review.

When a licensed distributor receives a certificate of analysis for regulatory compliance testing from the licensed testing laboratory or upon transfer from another licensed distributor stating that the batch meets specifications required by law, the licensed distributor shall ensure the following before transporting the cannabis goods to one or more licensed retailers or licensed microbusinesses authorized to engage in retail sales:

(a) The certificate of analysis for regulatory compliance testing that the licensed distributor received from the licensed testing laboratory or another licensed distributor is the certificate of analysis that corresponds to the batch;

(b) The date on the certificate of analysis for the regulatory compliance testing is less than 12 months old;

(c) The label on the cannabis goods is consistent with the certificate of analysis for regulatory compliance testing regarding cannabinoid content required to be listed by law as follows:

(1) If the cannabis goods are labeled with the content for cannabinoids, terpenoids, Total THC, and/or Total CBD prior to receiving the certificate of analysis for regulatory compliance testing, the licensed distributor shall ensure that the labeled amounts are accurate in accordance with section 15307.1, and

(2) If the cannabis goods are not labeled with the content for cannabinoids, terpenoids, Total THC, and/or Total CBD prior to receiving the certificate of analysis for regulatory compliance testing, the licensed distributor shall label the cannabis goods with the amounts listed on the certificate of analysis pursuant to section 15303;

(d) The packaging and labeling of the cannabis goods complies with Business and Professions Code section 26120 and this division, except cannabis goods are not required to be labeled or otherwise identified as medicinal products prior to retail sale unless the cannabis goods must be labeled as such pursuant to this division;

(e) The cannabis goods have not exceeded their expiration or sell-by date if one is provided;

(f) The weight or count of the batch comports with that in the track and trace system. A licensed distributor shall use scales as required by this division; and

(g) All events prior to receipt of the certificate of analysis for regulatory compliance testing have been entered into the track and trace system.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070, 26110 and 26120, Business and Professions Code.

§15307.1. Quality-Assurance Review for Labeling Cannabinoids and Terpenoids.

(a) For purposes of this division, any one cannabinoid, Total THC, and/or Total CBD claimed to be present on a label shall not be considered inaccurate if the difference in percentage on the certificate of analysis is plus or minus 10.0%.

(b) For purposes of this division, the terpenoid testing results on the label of any one terpenoid claimed to be present shall not be considered inaccurate if the difference in percentage on the certificate of analysis is plus or minus 10.0%.

(c) For purposes of this section, the difference in percent shall be calculated using the following equation:

$$\text{Difference in percent} = \left| \frac{\text{laboratory measurement} - \text{label claim}}{\text{label claim}} \right| \times 100\%$$

For purposes of this section, Total THC and Total CBD shall have the same meaning as defined in Chapter 6 of this division.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100 and 26110, Business and Professions Code.

§15307.2. Licensed Distributor to Licensed Distributor Transfers.

Cannabis goods, packaged as they will be sold at retail, that have undergone and passed regulatory compliance testing and have an accompanying certificate of analysis may be transferred to one or more licensed distributors. However, cannabis goods that have not been transported to retail within 12 months of the date on the certificate of analysis must be destroyed or retested by the licensed distributor in possession of the cannabis goods.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26110, Business and Professions Code.

§15308. Insurance Requirements.

(a) A distributor licensee shall at all times carry and maintain commercial general liability insurance in the aggregate in an amount no less than \$2,000,000 and in an amount no less than \$1,000,000 for each loss.

(b) A distributor licensee shall maintain the insurance required in subsection (a) from an insurance company that is:

(1) A non-admitted insurer that meets the requirements of Insurance Code section 1765.1 or 1765.2, and the insurance is placed pursuant to Insurance Code section 1763 and through a surplus line broker licensed under Insurance Code section 1765;

(2) An insurer qualified to do business in California by the Secretary of State and authorized by the Insurance Commissioner to write the liability and property classes of insurance as defined by Insurance Code sections 102, 103, 107, 108, 114, and 120; or

(3) A registered risk retention group compliant with the California Risk Retention Act of 1991. (See Insurance Code sections 125-140.)

(c) Admitted insurers and risk retention groups must show proof of capitalization in the amount of at least \$10,000,000.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26051.5 and 26070, Business and Professions Code.

§15309. Inventory Accounting.

(a) A licensed distributor shall be able to account for all inventory and provide that information to the Department upon request.

(b) To account for inventory, a licensed distributor shall ensure all batches of cannabis or cannabis products are stored in accordance with section 15302 and shall be able to provide the Department with the status of the batch as follows:

- (1) The batch is being held in storage for another licensee;
- (2) The batch is awaiting sampling for regulatory compliance testing;
- (3) The batch has been sampled and is awaiting testing results;
- (4) The batch has passed testing;
- (5) The batch has failed testing and is awaiting approval for remediation;
- (6) The batch has failed testing and is awaiting destruction; and
- (7) The batch is being stored or held for any other lawful purpose under the Act or this division.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26160, Business and Professions Code.

§ 15311. Requirements for the Transportation of Cannabis Goods.

The following requirements apply when transporting cannabis goods between licensees or licensed premises:

(a) Transportation shall only be conducted by persons holding a distributor license under the Act, or employees of those persons. All vehicles and trailers used for transportation shall be owned or leased, in accordance with the Vehicle Code, by the licensee.

(b) Prior to transporting any cannabis goods, the licensed distributor shall have a completed sales invoice or receipt that meets the requirements of Business and Professions Code section 26161. The licensed distributor shall only transport cannabis goods listed on the sales invoice or receipt. The sales invoice or receipt may not be altered or changed once transport begins.

(c) A licensed distributor employee shall always carry a copy of the distributor's license and a copy of the QR Code Certificate issued by the Department while engaging in the transportation of cannabis goods. The QR Code Certificate shall comply with the requirements of section 15039, subsection (d) of this division.

(d) All vehicles transporting cannabis goods for hire shall be required to have a motor

carrier permit pursuant to Chapter 2 (commencing with Section 34620) of Division 14.85 of the Vehicle Code.

(e) Transportation by means of aircraft, watercraft, drone, rail, human powered vehicle, or unmanned vehicle is prohibited.

(f) Cannabis goods shall only be transported inside of a vehicle or trailer and shall not be visible or identifiable from outside of the vehicle or trailer.

(g) Cannabis goods shall be locked in a fully enclosed box, container, or cage that is secured to the inside of the vehicle or trailer. No portion of the enclosed box, container, or cage shall be comprised of any part of the body of the vehicle or trailer. For the purposes of this section, the inside of the vehicle includes the trunk.

(h) While left unattended, vehicles and trailers shall be locked and secured.

(i) A licensed distributor shall not leave a vehicle or trailer containing cannabis goods unattended in a residential area or parked overnight in a residential area.

(j) At a minimum, a licensed distributor shall have a vehicle alarm system on all transport vehicles and trailers. Motion detectors, pressure switches, duress, panic, and hold-up alarms may also be used.

(k) Packages or containers holding cannabis goods shall not be tampered with, or opened, during transport.

(l) A licensed distributor transporting cannabis goods shall only travel between licensees shipping or receiving cannabis goods and its own licensed premises when engaged in the transportation of cannabis goods. The licensed distributor may transport multiple shipments of cannabis goods at once in accordance with applicable laws. A licensed distributor shall not deviate from the travel requirements described in this section, except for necessary rest, fuel, or vehicle repair stops.

(m) Under no circumstances may non-cannabis goods, except for cannabis accessories and licensees' branded merchandise or promotional materials, be transported with cannabis goods.

(n) Vehicles and trailers transporting cannabis goods are subject to inspection by the Department at any licensed premises or during transport at any time.

(o) Notwithstanding subsections (e) through (g) of this section, if it is not operationally feasible to transport cannabis goods inside of a vehicle or trailer because the licensed premises that the cannabis goods will be transported from and the licensed premises that will be receiving the cannabis goods are located within the same building or on the same parcel of land, the cannabis goods may be transported by foot, hand truck, fork lift, or other similar means. A shipping manifest that complies with this division is required when transporting cannabis goods pursuant to this subsection.

(p) Notwithstanding subsection (e) of this section, transportation of cannabis goods may be conducted via waterway to licensees located on Catalina Island. The provisions of this section and other sections regarding vehicle requirements also apply to vessels used to transport cannabis goods via waterway pursuant to this section.

Authority: Section 26013, Business and Professions Code. Reference: Section 26070, Business and Professions Code.

§15312. Required Transport Vehicle Information.

(a) Upon request, the licensed distributor shall provide the Department with a copy of the certificate of ownership or registration card issued by the California Department of Motor Vehicles, the year, make, model, license plate number, and Vehicle Identification Number in writing, and proof of insurance for any vehicle or trailer used to transport cannabis or cannabis products.

Authority: Section 26013, Business and Professions Code. Reference: Section 26070, Business and Professions Code.

§15313. Transport Personnel Requirements.

(a) No person under the age of 21 years old shall be in a commercial vehicle or trailer transporting cannabis or cannabis products; and

(b) Only a licensee, an employee of the licensed distributor, or security personnel who meets the requirements of section 15045 of this division shall be in a vehicle while transporting cannabis or cannabis products.

Authority: Section 26013, Business and Professions Code. Reference: Section 26070, Business and Professions Code.

§15314. Shipping Manifest.

(a) Prior to transporting cannabis or cannabis products, a licensed distributor shall generate a shipping manifest through the track and trace system for the following activities:

- (1) Testing and sampling;
- (2) Sale of cannabis or cannabis products to a licensee;
- (3) Destruction or disposal of cannabis or cannabis products; and
- (4) Any other activity, as required pursuant to this division, or by the Department.

(b) The licensed distributor shall transmit the shipping manifest to the Department and the licensee that will receive the cannabis or cannabis products prior to transporting the cannabis or cannabis products.

(c) The licensed distributor shall ensure and verify that the cannabis or cannabis products being taken into possession for transport at the originating licensed premises are as described and accurately reflected in the shipping manifest. For purposes of this

section, the licensed distributor may verify that the cannabis or cannabis products are accurately reflected in the shipping manifest by confirming that the number of boxes of cannabis or cannabis products, type of cannabis or cannabis products, weight and/or units of cannabis or cannabis products matches the label on the boxes containing the cannabis or cannabis products.

(1) The licensed distributor shall not take into possession or transport:

(A) Any cannabis or cannabis products that are not on the shipping manifest; or

(B) Any cannabis or cannabis products that are less than or greater than the amount reflected on the shipping manifest.

(2) The licensed distributor is responsible for any discrepancies between the shipping manifest and the cannabis or cannabis products in its possession during transport, and subject to any enforcement or disciplinary action related to such discrepancy.

(3) A licensed distributor shall not void or change a shipping manifest after departing from the originating licensed premises.

(d) A shipping manifest shall accompany every transport of cannabis or cannabis products.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26067 and 26070, Business and Professions Code.

§15315. Distributor Transport Only License.

(a) A licensed distributor transport only licensee may transport cannabis or cannabis products between licensees; however, they shall not transport any cannabis or cannabis products except for immature cannabis plants, seeds, and trade samples to a licensed retailer or licensed microbusiness authorized to engage in retail sales.

(b) A complete application for a distributor transport only license shall include all the information required in an application for a distributor license.

(c) The licensing fee for a distributor transport only license will be based in part upon whether the licensee intends to transport only cannabis or cannabis products that the licensee has cultivated or manufactured (self-distribution), or whether the licensee intends to transport cannabis or cannabis products cultivated or manufactured by other licensees.

(d) A distributor transport only licensee shall comply with all of the requirements for a holder of a distributor license, except for those related to quality assurance and testing.

(e) A distributor transport only licensee shall not hold title to any cannabis or cannabis products unless the licensee also holds a Department-issued cultivation, manufacturing, retailer, or microbusiness license.

(f) Holding a distributor transport only license shall not authorize a licensee to:

(1) Engage in the delivery of cannabis or cannabis products as defined in Business and Professions Code section 26001(o);

(2) Engage in the wholesale, destruction, packaging, labeling, or storing of cannabis or cannabis products; or

(3) Arrange for the testing of cannabis or cannabis products by a testing laboratory.

(g) A distributor transport only licensee who is licensed to engage in self-distribution and whose licensed premises will be on the same property as their licensed cultivation or licensed manufacturing premises shall comply with the security provisions contained in chapter 1, article 5 of this division that are applicable to their licensed cultivation or licensed manufacturing premises.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26070, Business and Professions Code.

Chapter 3. Retailers

§15400. Access to Retailer Premises.

(a) Access to the licensed premises of a retailer with only an A-designation shall be limited to individuals who are at least 21 years of age.

(b) Access to the licensed premises of a retailer with only an M-designation shall be limited to individuals who are at least 18 years of age and have a valid physician's recommendation for medicinal cannabis, and individuals who are at least 21 years of age.

(c) Access to the licensed premises of a retailer with both an A- designation and an M-designation may include persons identified in subsections (a) and (b) of this section.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26140, Business and Professions Code.

§15402. Customer Access to the Retail Area.

(a) Individuals shall be granted access to the retail area to purchase cannabis goods only after the retailer or an employee of the retailer has confirmed the individual's age and identity pursuant to section 15404 of this division.

(b) The licensed retailer or at least one employee shall be physically present in the retail area at all times when individuals who are not employees of the licensed retailer are in the retail area.

(c) All sales of cannabis goods must take place within the retail area of the retailer's licensed premises, except for cannabis goods sold through delivery, or a drive-in or drive-through window as authorized by section 15025(e) of this division.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26140, Business and Professions Code.

§15403. Hours of Operation.

A licensed retailer shall sell and deliver cannabis goods only between the hours of 6:00 a.m. Pacific Time and 10:00 p.m. Pacific Time.

Authority: Section 26013, Business and Professions Code. Reference: Section 26070, Business and Professions Code.

§15403.1. Requirements While Not Open for Business.

At any time the licensed premises is not open for retail sales, a licensed retailer shall ensure that:

- (a) The licensed premises is securely locked with commercial-grade, nonresidential door locks as required in section 15046 of this division;
- (b) The licensed premises is equipped with an active alarm system pursuant to section 15047 of this division, which shall be activated when the licensed retailer or its employees are not on the licensed premises; and
- (c) Only employees of the licensee and other authorized individuals are allowed access to the licensed premises. For the purposes of this section, authorized individuals include individuals employed by the licensee as well as any outside vendors, contractors, or other individuals conducting business that requires access to the licensed premises.

Authority: Section 26013, Business and Professions Code. Reference: Section 26070, Business and Professions Code.

§15404. Retail Customers.

(a) A licensed retailer shall only sell adult-use cannabis goods to individuals who are at least 21 years of age after confirming the customer's age and identity by inspecting a valid form of identification provided by the customer as required by subsection (c) of this section.

(b) A licensed retailer shall only sell medicinal cannabis goods to individuals who are at least 18 years of age and possesses a valid physician's recommendation after confirming the customer's age, identity, and physician's recommendation as required by subsection (c) of this section.

(c) Acceptable forms of identification include the following:

- (1) A document issued by a federal, state, county, or municipal government, or a political subdivision or agency thereof, including, but not limited to, a valid motor vehicle operator's license, that contains the name, date of birth, height, gender, and photo of the person;
- (2) A valid identification card issued to a member of the Armed Forces that includes the person's name, date of birth, and photo; or

(3) A valid passport issued by the United States or by a foreign government.

Authority: Section 26013, Business and Professions Code. Reference: Section 26140, Business and Professions Code.

§15405. Cannabis Goods Display.

- (a) Cannabis goods for inspection and sale shall only be displayed in the retail area.
- (b) Cannabis goods may be removed from their packaging and placed in containers to allow for customer inspection. The containers shall not be readily accessible to customers without assistance of retailer personnel. A container must be provided to the customer by the licensed retailer or its employees, who shall remain with the customer at all times that the container is being inspected by the customer.
- (c) Cannabis goods removed from their packaging for display shall not be sold or consumed when the cannabis goods are no longer used for display.

Authority: Section 26013, Business and Professions Code. Reference: Section 26070, Business and Professions Code.

§15406. Cannabis Goods for Sale.

A licensed retailer shall not make any cannabis goods available for sale or delivery to a customer unless:

- (a) The cannabis goods were received by the licensed retailer from a licensed distributor or licensed microbusiness authorized to engage in distribution;
- (b) The licensed retailer has verified that the cannabis goods have not exceeded their best-by, sell-by, or expiration date if one is provided;
- (c) In the case of manufactured cannabis products, the product complies with all requirements of Business and Professions Code section 26130;
- (d) The cannabis goods have undergone laboratory testing as required by the Act and chapter 6 of this division;
- (e) The batch number, if any, is labeled on the package of cannabis goods and matches the batch number on the corresponding certificate of analysis for regulatory compliance testing;
- (f) The packaging and labeling of the cannabis goods complies with Business and Professions Code section 26120 and this division; and
- (g) The cannabis goods comply with all applicable requirements found in the Act and this division.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26120, Business and Professions Code.

§15407. Sale of Non-Cannabis Goods.

In addition to cannabis goods, a licensed retailer may sell only cannabis accessories and the branded merchandise of any licensee. Licensed retailers may provide customers with promotional materials.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070, 26151 and 26152, Business and Professions Code.

§15408. Sale of Live Plants and Seeds.

(a) A licensed retailer shall only sell live, immature cannabis plants and cannabis seeds if all of the following requirements are met:

- (1) The plant is not flowering and is shorter and narrower than 18 inches; and
- (2) The plant or seed originated from a licensed nursery that holds a valid license from the Department or a licensed microbusiness authorized to engage in cultivation.

(b) A licensed retailer shall not apply or use any pesticide on live plants. A licensed retailer shall not cause any pesticide to be applied or used on live plants.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26100, Business and Professions Code.

§15409. Daily Limits.

(a) A licensed retailer shall not sell more than the following amounts to a single adult-use cannabis customer in a single day:

- (1) 28.5 grams of non-concentrated cannabis.
- (2) 8 grams of cannabis concentrate as defined in Business and Professions Code section 26001, including cannabis concentrate contained in cannabis products.
- (3) 6 immature cannabis plants.

(b) A licensed retailer shall not sell more than the following amounts to a single medicinal cannabis patient, or to a patient's primary caregiver purchasing medicinal cannabis on behalf of the patient, in a single day:

- (1) 8 ounces of medicinal cannabis in the form of dried mature flowers or the plant conversion as provided in Health and Safety Code section 11362.77.
- (2) 12 immature cannabis plants.

(c) Notwithstanding subsection (b) of this section, if a medicinal cannabis patient's valid physician's recommendation contains a different amount than the limits listed in this section, the medicinal cannabis patient may purchase an amount of medicinal cannabis consistent with the patient's needs as recommended by a physician and documented in the physician's recommendation.

(d) The limits provided in subsection (a) and subsection (b) of this section shall not be combined to allow a customer to purchase cannabis goods in excess of any of the limits

provided in this section.

(e) For the purposes of this section, a licensed retailer shall be responsible for determining that the amount of cannabis concentrates found in manufactured cannabis products sold to customers comply with the requirements of this section.

Authority: Section 26013, Business and Professions Code. Reference: Section 26012, Business and Professions Code; and Sections 11362.1 and 11362.77, Health and Safety Code.

§15410. Customer Return of Cannabis Goods.

(a) For the purposes of this section, “customer return” means a customer’s return of cannabis goods that were purchased from a licensed retailer, back to the licensed retailer from whom the cannabis goods were purchased.

(b) A licensed retailer may accept customer returns of cannabis goods that were previously sold to a customer.

(c) A licensed retailer shall not resell cannabis goods that have been returned.

(d) A licensed retailer shall treat any cannabis goods abandoned on the licensed retailer premises as a customer return.

(e) Defective manufactured cannabis products returned by customers to a licensed retailer may be destroyed or returned to the licensed distributor from whom the cannabis goods were obtained.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26011.5, 26012 and 26070, Business and Professions Code.

§15411. Free Cannabis Goods.

(a) A licensed retailer shall not provide free cannabis goods to any person. A licensed retailer shall not allow individuals who are not employed by the licensed retailer to provide free cannabis goods to any person on the licensed premises.

(b) Notwithstanding subsection (a), in order to provide access to medicinal cannabis patients who have difficulty accessing medicinal cannabis goods, a licensee who holds an M-Retailer license, an M-Retailer Non-storefront license, or an M-Microbusiness license that is authorized for retail sales may provide free medicinal cannabis goods if the following criteria are met:

(1) Free cannabis goods are provided only to a medicinal cannabis patient or primary caregiver for the patient in possession of an identification card issued under section 11362.71 of the Health and Safety Code.

(2) The cannabis goods comply with all applicable laboratory testing requirements under this division.

(3) Prior to being provided to the patient or primary caregiver, the cannabis goods have been properly recorded in the track and trace system as belonging to the licensed

retailer.

(4) The cannabis goods shall not leave the licensed premises unless placed in an opaque package as required for purchased cannabis goods under Business and Professions Code section 26070.1. The cannabis goods must comply with all packaging and labeling requirements in this division applicable to cannabis goods for sale by a licensed retailer.

(5) The cannabis goods shall be applied toward the daily purchase limit for a medicinal cannabis customer pursuant to section 15409.

(6) The event shall be properly recorded in the licensed retailer's inventory records and the track and trace system.

(c) In addition to the provision of free cannabis goods in subsection (b), a licensee may donate cannabis goods and the use of equipment in compliance with any compassionate use, equity, or other similar program administered by a local jurisdiction. The licensee shall ensure that all cannabis goods provided pursuant to this subsection comply with subsections (b)(2) and (b)(6).

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26153 and 26160, Business and Professions Code.

§15412. Prohibition on Packaging and Labeling by a Retailer.

(a) A licensed retailer shall not accept, possess, or sell cannabis goods that are not packaged as they will be sold at final sale, in compliance with this division.

(b) A licensed retailer shall not package or label cannabis goods.

(c) Notwithstanding subsection (b) of this section, a licensed retailer may place a barcode or similar sticker on the packaging of cannabis goods to be used in inventory tracking. A barcode or similar sticker placed on the packaging of a cannabis goods shall not obscure any labels required by the Act or this division.

Authority: Section 26013, Business and Professions Code. Reference: Section 26120, Business and Professions Code.

§15413. Cannabis Goods Packaging and Exit Packaging.

(a) All cannabis goods sold by a licensed retailer shall be in compliance with the packaging requirements in chapter 11 of this division.

(b) A package containing cannabis goods shall be tamper-evident and child-resistant. If the package contains multiple servings, the package must also be resealable.

(c) All cannabis goods purchased by a customer shall not leave the licensed retailer's premises unless the goods are placed in an opaque exit package.

(d) Immature plants and seeds sold by a licensed retailer are not required to be placed in resealable, tamper-evident, child-resistant packaging.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070.1 and 26120, Business and Professions Code.

§15414. Non-Storefront Retailer.

(a) A non-storefront retailer licensee shall be authorized to conduct retail sales exclusively by delivery as defined in Business and Professions Code section 26001(o).

(b) A complete application for a non-storefront retailer license shall include all the information required in an application for a retailer license.

(c) A non-storefront retailer licensee shall comply with all the requirements applicable to retailer licensees, except for those provisions related to public access to the licensed premises and the retail area.

(d) The licensed premises of a non-storefront retailer licensee shall be closed to the public.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26070, Business and Professions Code.

§ 15415. Delivery Employees.

(a) All deliveries of cannabis goods shall be performed by a delivery employee who is directly employed by a licensed retailer.

(b) Each delivery employee of a licensed retailer shall be at least 21 years of age.

(c) All deliveries of cannabis goods shall be made in person. A delivery of cannabis goods shall not be made through the use of an unmanned vehicle.

(d) The process of delivery begins when the delivery employee leaves the retailer's licensed premises with the cannabis goods for delivery. The process of delivering ends when the delivery employee returns to the retailer's licensed premises after delivering the cannabis goods, or attempting to deliver cannabis goods, to the customer(s). During the process of delivery, the licensed retailer's delivery employee may not engage in any activities except for cannabis goods delivery and necessary rest, fuel, or vehicle repair stops.

(e) A delivery employee of a licensed retailer shall, during deliveries, carry a copy of the retailer's current license, a copy of the QR Code Certificate issued by the Department, which complies with section 15039, subsection (d) of this division, the employee's government-issued identification, and an identification badge provided by the employer pursuant to section 15043 of this division. A delivery employee shall provide a copy of the retail license, a copy of the QR Code Certificate, and their employee identification badge to a delivery customer upon request.

(f) Prior to providing cannabis goods to a delivery customer, a delivery employee shall confirm the identity and age of the delivery customer as required by section 15404 of this

division and ensure that all cannabis goods sold comply with requirements of section 15413 of this division.

(g) A licensed retailer shall maintain an accurate list of the retailer's delivery employees and shall provide the list to the Department upon request.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26090, Business and Professions Code.

§15415.1. Deliveries Facilitated by Technology Platforms.

(a) A licensed retailer or licensed microbusiness shall not sell or otherwise transfer any cannabis goods to a customer through the use of an unlicensed third party, intermediary business, broker, or any other business or entity.

(b) Notwithstanding subsection (a) of this section, a licensed retailer or licensed microbusiness may contract with a service that provides a technology platform to facilitate the sale and delivery of cannabis goods, in accordance with all of the following:

(1) The licensed retailer or licensed microbusiness does not allow for delivery of cannabis goods by the technology platform service provider.

(2) The licensed retailer or licensed microbusiness does not share in the profits of the sale of cannabis goods with the technology platform service provider, or otherwise provide for a percentage or portion of the cannabis goods sales to the technology platform service provider.

(3) The licensed retailer or licensed microbusiness shall not advertise or market cannabis goods in conjunction with the technology platform service provider, outside of the technology platform, and shall ensure that the technology platform service provider does not use the licensed retailer's or licensed microbusiness's license number or legal business name on any advertisement or marketing that primarily promotes the services of the technology platform.

(4) The licensed retailer or licensed microbusiness shall ensure the following information is provided to customers:

(A) Any cannabis goods advertised or offered for sale on or through the technology platform shall disclose, at a minimum, the licensed retailer's or licensed microbusiness's legal business name and license number.

(B) Customers placing an order for cannabis goods through the technology platform shall be able to easily identify the licensed retailer or licensed microbusiness that each cannabis good is being ordered or purchased from. This information shall be available to the customer prior to the customer placing an order or purchasing the cannabis goods.

(5) All required sales invoices and receipts, including any receipts provided to the customer, shall disclose, at a minimum, the licensed retailer's or licensed microbusiness's legal business name and license number.

(6) All other delivery, marketing, and advertising requirements under this division are complied with.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26001, 26070, 26090, 26151 and 26152, Business and Professions Code.

§15416. Delivery to a Physical Address.

- (a) A delivery employee may only deliver cannabis goods to a physical address in California.
- (b) A delivery employee shall not leave the State of California while possessing cannabis goods.
- (c) A delivery employee shall not deliver cannabis goods to an address located on publicly owned land or any address on land or in a building leased by a public agency. This prohibition applies to land held in trust by the United States for a tribe or an individual tribal member unless the delivery is authorized by and consistent with applicable tribal law.
- (d) A delivery employee may deliver to any jurisdiction within the State of California provided that such delivery is conducted in compliance with all delivery provisions of this division.
- (e) A delivery employee shall not deliver cannabis goods to a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26090, Business and Professions Code.

§15417. Delivery Vehicle Requirements.

- (a) A licensed retailer's delivery employee, carrying cannabis goods for delivery, shall only travel in an enclosed motor vehicle. Any vehicle used in the delivery of cannabis goods shall be operated by a delivery employee of the licensee. A vehicle used in the delivery of cannabis goods shall not have any marking or other indications on the exterior of the vehicle that may indicate that the delivery employee is carrying cannabis goods for delivery. Only the licensee or an employee of the retailer licensee for whom delivery is being performed shall be in the delivery vehicle.
- (b) While carrying cannabis goods for delivery, a licensed retailer's delivery employee shall ensure the cannabis goods are not visible to the public. Cannabis goods shall be locked in a fully enclosed box, container, or cage that is secured on the inside of the vehicle. No portion of the enclosed box, container, or cage shall be comprised of any part of the body of the vehicle or trailer. For purposes of this section, the inside of the vehicle includes the trunk.
- (c) A licensed retailer's delivery employee shall not leave cannabis goods in an unattended motor vehicle unless the motor vehicle is locked and equipped with an active vehicle alarm system. Any cannabis goods left in an unattended vehicle must be stored

in a container as required in subsection (b) of this section.

(d) A vehicle used for the delivery of cannabis goods shall be outfitted with a dedicated Global Positioning System (GPS) device for identifying the geographic location of the delivery vehicle and recording a history of all locations traveled to by the delivery employee while engaged in delivery. A dedicated GPS device must be owned by the licensee and used for delivery only. The device shall be either permanently or temporarily affixed to the delivery vehicle and shall remain active and inside of the delivery vehicle at all times during delivery. At all times, the licensed retailer shall be able to identify the geographic location of all delivery vehicles that are making deliveries for the licensed retailer and document the history of all locations traveled to by a delivery employee while engaged in delivery. A licensed retailer shall provide this information to the Department upon request. The history of all locations traveled to by a delivery employee while engaging in delivery shall be maintained by the licensee for a minimum of 90 days.

(e) Upon request, a licensed retailer shall provide the Department with information regarding any motor vehicle used for the delivery of cannabis goods, including the vehicle's make, model, color, Vehicle Identification Number, license plate number and Department of Motor Vehicles registration information.

(f) Any motor vehicle used by a licensed retailer to deliver cannabis goods is subject to inspection by the Department. Vehicles used to deliver cannabis goods may be stopped and inspected by the Department at any licensed premises or during delivery.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26090, Business and Professions Code.

§15418. Cannabis Goods Carried During Delivery.

(a) A licensed retailer's delivery employee shall not carry cannabis goods in the delivery vehicle with a value in excess of \$5,000 at any time. The value of cannabis goods carried in the delivery vehicle for which a delivery order was not received and processed by the licensed retailer prior to the delivery employee departing from the licensed premises may not exceed \$3,000.

(b) For the purposes of this section, the value of cannabis goods shall be determined using the current retail price of all cannabis goods carried by, or within the delivery vehicle of, the licensed retailer's delivery employee.

(c) A delivery employee may only carry cannabis goods, cannabis accessories, branded merchandise of any licensee, or promotional materials in the delivery vehicle and may only perform deliveries for one licensed retailer at a time. A delivery employee must depart and return to the same licensed premises before taking possession of any cannabis goods from another licensee to perform deliveries.

(d) A licensed retailer's delivery employee shall not leave the licensed premises with cannabis goods without at least one delivery order that has already been received and processed by the licensed retailer.

(e) Before leaving the licensed premises, the licensed retailer's delivery driver must have

a delivery inventory ledger of all cannabis goods provided to the licensed retailer's delivery driver. For each cannabis good, the delivery inventory ledger shall include the type of good, the brand, the retail value, the track and trace identifier, and the weight, volume or other accurate measure of the cannabis good. All cannabis goods prepared for an order that was received and processed by the licensed retailer prior to the delivery driver's departure from the licensed premises must be clearly identified on the inventory ledger. After each customer delivery, the delivery inventory ledger must be updated to reflect the current inventory in possession of the licensed retailer's delivery driver. Delivery inventory ledgers may be maintained electronically.

(f) The licensed retailer's delivery driver shall maintain a log that includes all stops from the time the licensed retailer's delivery driver leaves the licensed premises to the time that the licensed retailer's delivery driver returns to the licensed premises, and the reason for each stop. The log shall be turned in to the licensed retailer when the licensed retailer's delivery driver returns to the licensed premises. The licensed retailer must maintain the log as a commercial cannabis activity record as required by this division. The log may be maintained electronically.

(g) Prior to arrival at any delivery location, the licensed retailer must have received a delivery request from the customer and provided the delivery request receipt to the licensed retailer's delivery driver electronically or in hard copy. The delivery request receipt provided to the licensed retailer's delivery driver shall contain all of the information required in section 15420, except for the date and time the delivery was made, and the signature of the customer.

(h) Immediately upon request by the Department or any law enforcement officer, the licensed retailer's delivery driver shall provide:

(1) All delivery inventory ledgers from the time the licensed retailer's delivery driver left the licensed premises up to the time of the request;

(2) All delivery request receipts for cannabis goods carried by the driver, in the delivery vehicle, or any deliveries that have already been made to customers; and

(3) The log of all stops from the time the licensed retailer's delivery driver left the licensed premises up to the time of the request.

(i) If a licensed retailer's delivery driver does not have any delivery requests to be performed for a 30-minute period, the licensed retailer's delivery driver shall not make any additional deliveries and shall return to the licensed premises. Required meal breaks shall not count toward the 30-minute period.

(j) Upon returning to the licensed premises, all undelivered cannabis goods shall be returned to inventory and all necessary inventory and track and trace records shall be updated as appropriate that same day.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070, 26090 and 26160, Business and Professions Code.

§15419. Cannabis Consumption During Delivery.

A licensed retailer's delivery employees shall not consume cannabis goods while delivering cannabis goods to customers.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26090, Business and Professions Code.

§15420. Delivery Request Receipt.

A licensed retailer shall prepare a hard copy or electronic delivery request receipt for each delivery of cannabis goods.

(a) The delivery request receipt shall contain the following:

- (1) The legal business name and license number of the licensed retailer;
- (2) The first name and employee number of the licensed retailer's delivery employee who delivered the order;
- (3) The first name and employee number of the licensed retailer's employee who prepared the order for delivery;
- (4) The first name of the customer and a licensed retailer-assigned customer number for the person who requested the delivery;
- (5) The date and time the delivery request was made;
- (6) The delivery address;
- (7) A detailed description of all cannabis goods requested for delivery. The description shall include the weight, volume, or any other accurate measure of the amount of all cannabis goods requested;
- (8) The total amount paid for the delivery, including any taxes or fees, the cost of the cannabis goods, and any other charges related to the delivery; and
- (9) Upon delivery, the date and time the delivery was made, and the handwritten or electronic signature of the customer who received the delivery.

(b) At the time of the delivery, the delivery employee of the retailer shall provide the customer who placed the order with a hard or electronic copy of the delivery request receipt. The delivery employee shall retain a hard or electronic copy of the signed delivery request receipt for the licensed retailer's records.

(c) For the purposes of this section, an employee number is a distinct number assigned by a licensed retailer to an employee that would allow the licensed retailer to identify the employee in documents or records using the employee number rather than the employee's full name. A licensed retailer shall be able to identify the employee associated with each employee number upon request from the Department.

(d) For the purposes of this section, a customer number is a distinct number assigned by a licensed retailer to a customer that would allow the licensed retailer to identify the customer in documents or records using the customer number rather than the customer's full name. A licensed retailer shall be able to identify the customer associated with each customer number upon request from the Department.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070, 26090 and 26160, Business and Professions Code.

§15421. Delivery Route.

While making deliveries of cannabis goods, a licensed retailer's delivery employee shall only travel from the retailer's licensed premises to the delivery address; from one delivery address to another delivery address; or from a delivery address back to the retailer's licensed premises. A delivery employee of a licensed retailer shall not deviate from the delivery path described in this section, except for necessary rest, fuel, or vehicle repair stops, or because road conditions make continued use of the route unsafe, impossible, or impracticable.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26090, Business and Professions Code.

§15422. Receiving Shipments of Inventory.

(a) A licensed retailer shall receive a shipment of cannabis goods only from a licensed distributor or licensed microbusiness authorized to engage in distribution.

(b) A licensed retailer shall accept shipments of cannabis goods only between the hours of 6:00 a.m. Pacific Time and 10:00 p.m. Pacific Time.

(c) During business hours, shipments of cannabis goods shall not enter the licensed premises through an entrance or exit that is available for use by the public.

(d) A licensed retailer whose licensed premises only has one entryway may be exempt from the requirements of subsection (c) of this section if the licensed retailer obtains authorization from the local jurisdiction explicitly authorizing this activity. The licensed retailer shall be required to provide this authorization to the Department upon request. For this section to apply, the licensed premises must physically have only one entryway and cannot have any other entryways.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26070, Business and Professions Code.

§15423. Inventory Documentation.

A licensed retailer shall maintain an accurate record of its inventory. A licensed retailer shall provide the Department with the record of inventory immediately upon request. A licensed retailer shall keep a record of the following information for all cannabis goods the licensed retailer has in its inventory:

- (a) A description of each item such that the cannabis goods can easily be identified;
- (b) An accurate measurement of the quantity of the item;
- (c) The date and time the cannabis goods were received by the licensed retailer;
- (d) The sell-by or expiration date provided on the package of cannabis goods, if any;
- (e) The name and license number of the licensed distributor or licensed microbusiness that transported the cannabis goods to the licensed retailer; and
- (f) The price the licensed retailer paid for the cannabis goods, including taxes, delivery costs, and any other costs.

Authority: Section 26013, Business and Professions Code. Reference: Section 26160, Business and Professions Code.

§15424. Inventory Reconciliation.

- (a) A licensed retailer shall be able to account for all of its inventory.
- (b) In conducting an inventory reconciliation, a licensed retailer shall verify that the licensed retailer's physical inventory is consistent with the licensed retailer's records pertaining to inventory.
- (c) The result of inventory reconciliation shall be retained in the licensed retailer's records and shall be made available to the Department upon request.
- (d) If a licensed retailer identifies any evidence of theft, diversion, or loss, the licensed retailer shall notify the Department and law enforcement pursuant to section 15036 of this division.
- (e) If a significant discrepancy as defined in section 15034 of this division is discovered between a licensed retailer's physical inventory and the licensed retailer's inventory records, the licensed retailer shall notify the Department and law enforcement pursuant to section 15036 of this division.

Authority: Section 26013, Business and Professions Code. Reference: Section 26160, Business and Professions Code.

§15427. Retailer Premises-to-Retailer Premises Transfer.

- (a) A licensee who holds multiple retail licenses may arrange for the transfer of cannabis goods from one licensed retail premises to another licensed retail premises if both retail licenses are held by the same sole proprietor or business entity.
- (b) Cannabis goods transferred to a licensed retail premises under subsection (a) of this section may be sold by the licensed retailer receiving the cannabis goods only if the cannabis goods comply with all requirements found in the Act and this division.
- (c) The transportation of cannabis goods under this section must comply with all requirements found within the Act and this division.

(d) Any movement of cannabis goods under this section shall be properly entered into the track and trace system.

Authority: Section 26013, Business and Professions Code. Reference: Section 26070, Business and Professions Code.

Chapter 4. Microbusiness

§15500. Microbusiness.

(a) In order to hold a microbusiness license, a licensee must engage in at least three (3) of the following commercial cannabis activities: cultivation, manufacturing, distribution, and retail sale. License types created by the Department in regulation shall not be considered qualifying commercial cannabis activities for purposes of obtaining a microbusiness license, except for the Type N manufacturing license and the distributor transport only license.

(b) An applicant for a microbusiness license shall indicate on the application for licensure all commercial cannabis activities in which the applicant intends to engage.

(c) All cultivation, manufacturing, distribution, and retail activities performed by a licensee under a microbusiness license shall occur on the same licensed premises.

(d) A holder of a microbusiness license engaged in cultivation shall comply with all the rules and requirements applicable to the cultivation license type suitable for the cultivation activities of the licensee.

(e) A holder of a microbusiness license engaged in manufacturing shall comply with all the rules and requirements applicable to a Manufacturer 1 license in this division.

(f) A holder of a microbusiness license engaged in distribution shall comply with all the rules and requirements applicable to a distributor license in this division.

(g) A holder of a microbusiness license engaged in retail sale shall comply with all the rules and requirements applicable to a retailer license, or a non-storefront retailer license if retail sales are conducted by delivery only, in this division.

(h) A holder of a microbusiness license may only engage in the commercial cannabis activity requested in the license application and approved by the Department at the time the license is issued. If the holder of a microbusiness license wants to engage in an additional commercial cannabis activity after the license is issued, the licensee shall submit a request for a modification of the licensed premises pursuant to section 15027.

(i) A holder of a microbusiness license shall comply with all the security rules and requirements applicable to the corresponding license type suitable for the activities of the licensee.

(j) Areas of the licensed premises for manufacturing, cultivation, and distribution shall be separated from the retail areas by a wall and all doors between the areas shall remain closed when not in use.

(k) A suspension or revocation of a microbusiness licensee shall affect all commercial cannabis activities allowed pursuant to that license.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26050, 26051.5 and 26070, Business and Professions Code.

Chapter 5. Cannabis Events

§15600. Cannabis Event Organizer License.

(a) To obtain a temporary cannabis event license, the event organizer must first apply for and obtain a cannabis event organizer license.

(b) A cannabis event organizer licensed under this section shall comply with chapter 1 of this division except for sections 15006, 15007, 15010, 15019, 15025, 15027, 15034, 15038, 15042, 15044, and 15046-15052.1.

(c) A cannabis event organizer licensee is not authorized or licensed to cultivate, distribute, manufacture, or retail cannabis or cannabis products without first obtaining the appropriate licenses or authorizations to engage in such commercial cannabis activities.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26200, Business and Professions Code.

§15601. Temporary Cannabis Event Requirements.

(a) A temporary cannabis event license authorizes a licensed cannabis event organizer to hold a temporary cannabis event where the onsite sale and consumption of cannabis goods is authorized at the location indicated on the license during the dates indicated on the license.

(b) Violations of the requirements applicable to temporary cannabis events may result in disciplinary action against the cannabis event organizer license or any other licenses held by a licensee participating in the temporary cannabis event and responsible for a violation under this division or the Act.

(c) A temporary cannabis event license shall only be issued for a single day or up to 4 consecutive days. No temporary cannabis event license will be issued for more than 4 days.

(d) An application for a temporary cannabis event license shall be submitted to the Department no less than 60 calendar days before the first day of the temporary cannabis event.

(e) A temporary cannabis event may only be held at a county fair event, district agricultural association event, or at another venue expressly approved by a local jurisdiction for the purpose of holding a temporary cannabis event.

(f) A temporary cannabis event license shall not be issued for a premises that is licensed for the sale of alcohol or tobacco.

(g) If the list of licensees and employees participating in the temporary cannabis event changes after the application is submitted or after the license is issued, the applicant

shall submit with the Licensee Notification and Request Form, Notifications and Requests Regarding Regulatory Compliance, DCC-LIC-028 (New 9/21), incorporated herein by reference, an updated list and an updated diagram, as required in section 15002.1(b)(5), to the Department no less than 72 hours before the event. Licensees not on the list submitted to the Department shall not participate in the temporary cannabis event.

(h) The licensed cannabis event organizer shall hire or contract for security personnel to provide security services at the licensed temporary cannabis event. All security personnel hired or contracted for by the licensee shall be at least 21 years of age, licensed by the Bureau of Security and Investigative Services, and comply with chapters 11.4 and 11.5 of division 3 of the Business and Professions Code. Security personnel shall be present on the licensed premises at all times cannabis goods are available for sale and/or cannabis goods consumption is allowed on the licensed premises.

(i) A licensed cannabis event organizer shall maintain a clearly legible sign not less than 7 inches by 11 inches in size, reading “No Persons Under 21 Allowed” at or near each public entrance to any area where the sale or consumption of cannabis goods is allowed. The lettering of the sign shall be no less than 1 inch in height.

(j) All cannabis waste generated at a temporary cannabis event shall be collected and disposed of in accordance with the requirements of section 17223. The licensed cannabis event organizer may contract or arrange for the collection and disposal of cannabis waste generated during the temporary cannabis event.

(k) A licensed cannabis event organizer and all other licensees participating in a temporary cannabis event are required to comply with section 15037 and all other applicable requirements in the Act and this division pertaining to record keeping.

(l) The Department may require the event organizer and all participants to cease operations without delay if, in the opinion of the Department or local law enforcement, it is necessary to protect the immediate public health and safety of the people of the state. Upon notification from the Department that the event is to cease operations, the event organizer shall immediately stop the event and all participants shall be removed from the premises within the time frame provided by the Department.

(m) Upon notification from the Department, the event organizer shall immediately expel from the event any person selling cannabis goods without a license from the Department that authorizes the participant to sell cannabis goods. The event organizer or their representative shall remain with the person being expelled from the premises at all times until he or she vacates the premises. If the person does not vacate the premises, the Department may inform the event organizer that the event must cease operations. Upon notification from the Department that the event is to cease operations, the event organizer shall immediately stop the event and all participants shall be removed from the premises within the time frame provided by the Department.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26200, Business and Professions Code.

§15602. Temporary Cannabis Event Sales.

(a) Only persons age 21 or older may purchase and consume cannabis goods at a temporary cannabis event. Prior to selling cannabis goods to a customer, the licensee making the sale shall confirm, using valid identification as specified in section 15404 of this division, the age and identity of the customer.

(b) All sales of cannabis goods at a temporary cannabis event must occur in a retail area as designated in the premises diagram pursuant to section 15002.1(b)(5) of this division.

(c) Each sale at a temporary cannabis event shall be performed by a licensed retailer, a licensed non-storefront retailer, or licensed microbusiness that is authorized to engage in retail sales. The cannabis event organizer may also sell cannabis goods at the temporary cannabis event if the organizer separately holds a license authorizing the retail sale of cannabis goods.

(1) Licensed retailers or licensed microbusinesses shall only conduct sales activities within their specifically assigned area, identified in the diagram of the physical layout of the temporary cannabis event.

(2) Mobile sales activities via wagon, cart, or similar means are prohibited at the temporary cannabis event site.

(d) Licensed retailers or licensed microbusinesses must prominently display their temporary cannabis event location number and state license within plain sight of the public.

(e) All sales at a temporary cannabis event shall occur on the dates stated on the license and shall occur at the location stated on the license. All onsite sales of cannabis goods must comply with the hours of operation requirements of section 15403 of this division.

(f) Sale of alcohol or tobacco shall not be allowed on the licensed temporary cannabis event premises.

(g) The cannabis goods sold onsite at a temporary cannabis event shall be transported by a licensed distributor or licensed microbusiness in compliance with the Act and this division. All shipments of cannabis goods and non-cannabis goods intended for sale at a temporary cannabis event must be checked by the temporary cannabis event organizer staff to prevent prohibited items, such as alcohol and tobacco, from entering the licensed premises.

(h) Except small amounts of cannabis goods used for display, all cannabis goods for sale at a temporary cannabis event shall be stored in a secure, locked container that is not accessible to the public. Cannabis goods being stored by a licensee at a temporary cannabis event shall not be left unattended. Licensees may share the secure, locked container; however, each licensee using the container shall be held responsible for any violations of this section and subject to disciplinary action.

(i) All cannabis goods made available for sale at a cannabis event shall comply with all requirements for the retail sale of cannabis goods within the Act and section 15406 of this division.

(j) All cannabis goods made available for sale at a temporary cannabis event shall

comply with all track and trace requirements within the Act and this division.

(k) All cannabis goods used for display at a temporary cannabis event shall comply with the requirements of section 15405 of this division.

(l) All cannabis goods sold at a temporary cannabis event shall comply with section 15413 of this division.

(m) All customer returns of cannabis goods at a temporary cannabis event shall comply with section 15410 of this division.

(n) The daily sales limits under section 15409 of this division apply to all sales made at a temporary cannabis event.

(o) A licensed retailer shall only provide free cannabis goods to a person at a temporary cannabis event if the licensed retailer complies with all requirements of section 15411 of this division.

(p) The licensed cannabis event organizer shall be responsible for ensuring that all rules and requirements for the onsite sale of cannabis goods are followed.

(q) Any compensation paid from a licensed retailer to a licensed cannabis event organizer for participation in a temporary cannabis event shall not be determined based on, or be contingent on, the sale of cannabis goods.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26200, Business and Professions Code.

§15603. Temporary Cannabis Event Consumption.

(a) Access to the area where cannabis consumption is allowed shall be restricted to persons 21 years of age or older.

(b) The event organizer licensee shall ensure that cannabis consumption is not visible from any public place or non-age-restricted area.

(c) Consumption of alcohol or tobacco shall not be allowed on the licensed premises.

(d) All requirements for onsite cannabis consumption imposed by the relevant local jurisdiction shall be followed and smoking of cannabis goods shall be prohibited in any areas where smoking is prohibited by law.

(e) The licensed cannabis event organizer, who holds the temporary cannabis event license, shall be responsible for ensuring that all rules and requirements for the onsite consumption of cannabis goods are followed.

(f) A licensed cannabis event organizer and all other licensees participating in a temporary cannabis event are required to follow all applicable requirements in this division pertaining to record keeping and waste management.

Authority: Section 26013, Business and Professions Code. Reference: Section 26200, Business and Professions Code.

§15604. Informational or Educational Cannabis Events.

(a) Informational or educational cannabis events where no sales of cannabis goods or consumption of cannabis goods is occurring are not required to be licensed by the Department.

(b) A person may display cannabis or cannabis products for informational or educational purposes consistent with Health and Safety Code sections 11362.1 and 11362.77.

Authority: Section 26013, Business and Professions Code. Reference: Section 26013, Business and Professions Code; and Sections 11362.1 and 11362.77, Health and Safety Code.

Chapter 6. Testing Laboratories

Article 1. Chapter Definitions

§15700. Definitions.

In addition to the definitions in section 15000 of this division, the following definitions apply to this chapter.

(a) “Acceptance criteria” means the specified limits placed on the characteristics of an item or method that are used to determine data quality.

(b) “Accreditation body” means an impartial non-profit organization that operates in conformance with the International Organization for Standardization (ISO) / International Electrotechnical Commission (IEC) standard 17011 and is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement (MRA) for Testing.

(c) “Accredited college or university” means a college or university accredited by a regional or national accrediting agency that is an accreditor recognized by the Secretary of the US Department of Education.

(d) “Action level” means the threshold value that provides the criterion for determining whether a sample passes or fails an analytical test.

(e) “Analyte” means a chemical, compound, element, bacteria, yeast, fungus, or toxin to be identified or measured.

(f) “Analytical batch” means a set of no more than 20 samples that is prepared together for the same analysis and are prepared with laboratory quality control (LQC) samples.

(g) “Analytical method” means a technique used qualitatively or quantitatively to determine the composition of a sample or a microbial contamination of a sample.

(h) “Analytical sequence” means a group of samples that are analyzed sequentially using the same instrument calibration curve.

(i) “Cannabinoid” means a class of diverse chemical compounds derived from a cannabis plant.

(j) “CAS number” means the unique numerical identifier assigned to every chemical substance by Chemical Abstracts Service, a division of the American Chemical Society.

- (k) “CBDA” means cannabidiolic acid, CAS number 1244-58-2.
- (l) “CBG” means cannabigerol, CAS number 25654-31-3.
- (m) “CBN” means cannabinal, CAS number 521-35-7.
- (n) “Certificate of accreditation” means a document issued by an accreditation body that attests to the laboratory’s competence to carry out specific testing analysis.
- (o) “Certified reference material” means a reference material prepared by a certifying body or a party independent of the laboratory with ISO/IEC 17034 accreditation.
- (p) “Chain of Custody” (COC) means the chronological documentation that records the sequence of custody, control, transfer, analysis, and disposal of a sample.
- (q) “Coefficient of Determination” (commonly denoted as “ r^2 ”) means a statistical measure that determines how well the regression approximates the actual data points in the calibration curve, with a regression of 1 being a perfect fit.
- (r) “Continuing calibration verification” (CCV) means a type of quality control sample that includes each of the target method analytes that is a mid-range calibration standard which checks the continued validity of the initial calibration of the instrument.
- (s) “Corrective action” means an action taken by the laboratory to resolve, and prevent from recurrence, a problem with the technical operations of the laboratory.
- (t) “Exclusivity” means the specificity of the test method for validating microbial testing methods. It evaluates the ability of the method to distinguish the target organisms from similar but genetically distinct non-target organisms.
- (u) “Foreign material” means any filthy, putrid, or decomposed substance including hair, insects, excreta, or related adulterant that may be hazardous or cause illness or injury to the consumer.
- (v) “Frequency” means the number of items occurring in each category. Frequency may be determined by analytical method or laboratory specific requirements for accuracy, precision of the analysis, or statistical calculation.
- (w) “Good laboratory practice” (GLP) means a system of management controls for laboratories to ensure the uniformity, consistency, reliability, reproducibility, quality, and integrity of analyses performed by the testing laboratory.
- (x) “Inclusivity” means, related to microbiological method validation, the sensitivity of the test method. It evaluates the ability of the test method to detect a wide range of target organisms by a defined relatedness.
- (y) “Inhalable” means consumable through the lungs.
- (z) “Initial Calibration Verification” (ICV) means a solution of each of the target method analytes of known concentration that is obtained from a source external to the laboratory and different from the source of calibration standards.
- (aa) “ISO/IEC” means the joint technical committee of the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC).

(bb) “ISO/IEC 17025” means the general requirements specified by the ISO/IEC for the competence of testing and calibration laboratories.

(cc) “ISO/IEC 17034” means the general requirements established by the ISO/IEC for the competence of reference material producers.

(dd) “ISO/IEC 17043” means the general requirements established by the ISO/IEC for proficiency testing.

(ee) “Laboratory” means “testing laboratory” as defined at Business and Professions Code section 26001(av).

(ff) “Laboratory Control Sample” (LCS) means a blank matrix to which known concentrations of each of the target method analytes are added. The spiked concentration must be at a mid-range concentration of the calibration curve for the target analytes. The LCS is analyzed in the same manner as the representative sample.

(gg) “Laboratory replicate sample” means a sub-sample taken of the representative sample used for laboratory quality control purposes to demonstrate reproducibility. It is prepared and analyzed in the identical manner as the representative sample. The results from replicate analyses are used to evaluate analytical precision.

(hh) “Laboratory employee” means any person directly employed by the laboratory for wages, salary, barter, or trade by the laboratory and who is not employed by any other licensee under the Act except for another testing laboratory. “Laboratory employee” does not mean an independent contractor, third party entity, or any other entity acting on behalf of the laboratory.

(ii) “Laboratory quality assurance” means the set of operating principles that enable laboratories to produce defensible data of known accuracy and precision and includes employee training, equipment preventative maintenance procedures, calibration procedures, and quality control testing, among other things.

(jj) “Limit of detection” (LOD) means the lowest quantity of a substance or analyte that can be distinguished from the absence of that substance within a stated confidence limit.

(kk) “Limit of quantitation” (LOQ) means the minimum concentration of an analyte in a specific matrix that can be reliably quantified while also meeting predefined goals for bias and imprecision.

(ll) “Linear regression” means the determination, in analytical chemistry, of the best linear equation for calibration data to generate a calibration curve. The concentration of an analyte in a sample can then be determined by comparing a measurement of the unknown to the calibration curve. A linear regression uses the following equation:

$$y = mx + b; \text{ where } m = \text{slope, } b = \text{intercept}$$

(mm) “Matrix” means the substances that are present in a sample except for the analyte(s) of interest.

(nn) “Matrix spike sample” means a sample prepared by adding a known quantity of each of the target analyte to a sample matrix or to a matrix that is as closely representative of the matrix being analyzed as possible. The spiked concentration must be at a mid-range

concentration of the calibration curve for the target analytes.

(oo) “Method Blank” means an analyte free matrix to which all reagents are added in the same volumes or proportions as used in the sample preparation and is processed in exactly the same manner as the samples.

(pp) “Moisture content” means the percentage of water in a sample, by weight.

(qq) “Non-target organism” means an organism that the test method or analytical procedure is not testing for and can be used in evaluating the specificity of a test method.

(rr) “Percent recovery” means the percentage of a measured concentration relative to the added (spiked) concentration in a reference material or matrix spike sample. A laboratory shall calculate the percent recovery by dividing the sample result by the expected result then multiplying the quotient by 100.

(ss) “Practical experience” means experience performing scientific analytical tests in a laboratory setting using equipment, instruments, kits, and materials routinely found in a laboratory. “Practical experience” includes experience in any type of laboratory setting and is not limited to cannabis-specific laboratories.

(tt) “Proficiency test” means an evaluation of a laboratory’s performance against pre-established criteria by means of interlaboratory comparisons of test measurements.

(uu) “Proficiency test sample” means a sample that is prepared by a party independent of the testing laboratory with the ISO/IEC 17043 accreditation, where the concentration and identity of an analyte is known to the independent party, but is unknown to the testing laboratory and testing laboratory employees.

(vv) “Quadratic regression” means the determination, in analytical chemistry, of the best parabola equation for calibration data to generate a calibration curve. The concentration of an analyte in a sample can then be determined by comparing a measurement of the unknown to the calibration curve. A quadratic regression uses the following equation:

$$y = ax^2 + bx + c; \text{ where } a, b, \text{ and } c \text{ are numerical coefficients}$$

(ww) “Quality control” means the set of measures implemented within an analytical procedure to ensure that the measurement system is operating in a state of statistical control for which errors have been reduced to acceptable levels.

(xx) “Quality control sample” means a sample that is produced and used by a laboratory for the purpose of assuring the quality of the data and results. Quality control samples include blank samples, matrix spike samples, laboratory control samples, replicate samples, and reference material samples.

(yy) “Reagent” means a compound or mixture added to a system to cause a chemical reaction or test if a reaction occurs. A reagent may be used to tell whether a specific chemical substance is present by causing a reaction to occur with the chemical substance.

(zz) “Reference material” means material containing a known concentration of an analyte of interest that is in solution or in a homogeneous matrix.

(aaa) “Reference method” means the method by which the performance of an alternate

method is measured or evaluated.

(bbb) “Relative percent difference” (RPD) means the comparative statistic that is used to calculate precision or random error. RPD is calculated using the following equation:

$$\text{RPD} = \left| \frac{\text{representative sample measurement} - \text{replicate sample measurement}}{([\text{representative sample measurement} + \text{replicate sample measurement}] / 2)} \right| \times 100\%$$

(ccc) “Relative standard deviation” (RSD) means the standard deviation expressed as a percentage of the means recovery. RSD is calculated using the following equation:

$$\text{RSD} = (s / x) \times 100\%; \text{ where } s = \text{standard deviation and } x = \text{mean}$$

(ddd) “Representative” means a small quantity of the batch whose characteristics represent, as accurately as possible, the entire batch, thus allowing the results to be generalized.

(eee) “Representative sample” means a sample that is comprised of several sample increments of cannabis or cannabis products that are collected from a batch for testing.

(fff) “Requester” means the person who submits a request to the laboratory for testing of cannabis or cannabis products from an entity licensed under the Act.

(ggg) “Reserve sample” means any portion of a representative sample that was not used in the testing process.

(hhh) “Sample” means a representative part of, or a single item from, a batch which is comprised of several sample increments.

(jjj) “Sample increment” means a portion of a batch that, together with other increments, makes up the sample.

(kkk) “Sampler” means the laboratory employee responsible for obtaining samples of cannabis or cannabis products from a licensed distributor or licensed microbusiness authorized to engage in distribution.

(lll) “Sanitize” means to sterilize, disinfect, or make hygienic.

(mmm) “Scope of accreditation” means the tests or types of tests performed, materials or products tested, and the methods used for testing cannabis or cannabis products for which the accreditation has been granted.

(nnn) “Standard operating procedure” (SOP) means a written document that provides detailed instructions for the performance of all aspects of an analysis, operation, or action.

(ooo) “Target organism” means an organism that is being tested for in an analytical procedure or test method.

(ppp) “THCA” means tetrahydrocannabinolic acid, CAS number 23978-85-0.

(qqq) “Total CBD” means the sum of CBD and CBDA. Total CBD is calculated using the following equation:

$$\text{Total CBD concentration (mg/g)} = (\text{CBDA concentration (mg/g)} \times 0.877) + \text{CBD}$$

concentration (mg/g)

(rrr) "Total THC" means the sum of THC and THCA. Total THC is calculated using the following equation:

$$\text{Total THC concentration (mg/g)} = (\text{THCA concentration (mg/g)} \times 0.877) + \text{THC concentration (mg/g)}$$

(sss) "Validation" means the confirmation by examination and objective evidence that the requirements for a specific intended use or analytical method are fulfilled.

(ttt) "Water activity" means the measure of the quantity of water in a product that is available and therefore capable of supporting bacteria, yeasts, and fungi and which is reported in units A_w .

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013 and 26100, Business and Professions Code.

Article 2. Laboratory License

§15701. General Laboratory License Requirements.

(a) A licensed laboratory shall maintain ISO/IEC 17025 accreditation for the testing of the following:

- (1) Cannabinoids;
- (2) Heavy metals;
- (3) Microbial impurities;
- (4) Mycotoxins;
- (5) Residual pesticides;
- (6) Residual solvents and processing chemicals; and
- (7) If tested, terpenoids.

(b) Each testing laboratory licensed premises shall have ISO/IEC 17025 accreditation.

(c) A licensed laboratory shall retain, and make available to the Department upon request, all records associated with the licensee's ISO/IEC 17025 certificate of accreditation.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26100, Business and Professions Code.

§15702. Laboratory License Application.

In addition to the information required in section 15002 of this division, an application for a testing laboratory license includes the following:

(a) A valid certificate of accreditation, issued by an accreditation body, that attests to the laboratory's competence to perform testing, including all the required analytes for the following test methods:

- (1) Cannabinoids;
- (2) Heavy metals;
- (3) Microbial impurities;
- (4) Mycotoxins;
- (5) Residual pesticides;
- (6) Residual solvents and processing chemicals; and
- (7) If tested, terpenoids.

(b) Standard operating procedures for the following testing methods:

- (1) Cannabinoids;
- (2) Foreign material;
- (3) Heavy metals;
- (4) Microbial impurities;
- (5) Moisture content and water activity;
- (6) Mycotoxins;
- (7) Residual pesticides;
- (8) Residual solvents and processing chemicals; and
- (9) If tested, terpenoids.

(c) Method validation reports for the following testing methods:

- (1) Cannabinoids;
- (2) Heavy metals;
- (3) Microbial impurities;
- (4) Water activity;
- (5) Mycotoxins;
- (6) Residual pesticides;
- (7) Residual solvents; and processing chemicals; and
- (8) If tested, terpenoids.

(d) Standard operating procedures for the sampling of cannabis or cannabis products.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26050, 26055, 26102 and 26104, Business and Professions Code.

§15703. Interim Testing Laboratory License.

(a) An applicant may apply for an interim license prior to receiving ISO/IEC 17025 accreditation provided that the commercial cannabis business meets all other licensure requirements for a testing laboratory and submits to the Department an application in

compliance with section 15002 of this division and an attestation that the commercial cannabis business has or intends to seek ISO/IEC 17025 accreditation for all testing methods required by this division.

(b) An interim testing laboratory license shall be valid for 12 months. The annual license fee for an interim license shall be determined pursuant to the requirements in section 15014 of this division for determining the annual license fee for a testing laboratory license.

(c) To timely renew an interim license, a completed license renewal form and the annual renewal license fee pursuant to section 15014 of this division shall be received by the Department from the licensee no earlier than 60 calendar days before the expiration of the license and no later than 5:00 p.m. Pacific Time on the last business day before the expiration of the license if the renewal form is submitted to the Department at its office(s), or no later than 11:59 p.m. on the last business day before the expiration of the license if the renewal form is submitted to the Department through its electronic licensing system. Failure to receive a notice for license renewal does not relieve a licensee of the obligation to renew an interim license as required.

(d) In the event the license is not renewed prior to the expiration date, the licensee must not test any commercial cannabis or cannabis products until the license is renewed.

(e) A licensee may submit a license renewal form up to 30 calendar days after the license expires. Any late renewal form will be subject to a late fee equal to 50 percent of the applicable licensing fees required by subsection (c) of this section.

(f) The license renewal application shall contain the following:

(1) The name of the licensee. For licensees who are individuals, the applicant shall provide both the first and last name of the individual. For licensees who are business entities, the licensee shall provide the legal business name of the commercial cannabis business;

(2) The license number and expiration date;

(3) The licensee's address of record and licensed premises address; and

(4) An attestation that all information provided to the Department in the original application under section 15002 of this division or subsequent notification under sections 15023 and 15024 of this division is accurate and current.

(g) The Department may renew an interim license for an initial renewal period of 12 months.

(h) After one renewal, the Department may renew the interim license for additional 12-month periods if the licensee has submitted an application for the ISO/IEC 17025 accreditation. In addition to the information required for a renewal form pursuant to subsection (f) of this section, any renewal request pursuant to this section shall also include an attestation that the licensee's application for each ISO/IEC 17025 is pending with the accrediting body, the name of the accrediting body, and the date the application was submitted to the accrediting body.

(i) The licensee shall notify the Department if the application for each ISO/IEC 17025 accreditation is granted or denied within 1 business day of receiving the decision from the accrediting body. The licensee shall submit to the Department the information required, on the Licensee Notification and Request Form, Notifications and Requests Regarding Testing Laboratories, DCC-LIC-029 (New 9/21), which is incorporated herein by reference. If the accrediting body grants or denies the licensee's application for any ISO/IEC 17025 accreditation before the expiration of the interim license, the Department may terminate the interim license at that time.

(j) The Department may revoke an interim license at any time.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26031, 26050 and 26102, Business and Professions Code.

Article 3. Sampling Cannabis and Cannabis Products

§15704. Sampling Standard Operating Procedures.

(a) The licensed laboratory shall develop and implement a sampling standard operating procedure (SOP) that describes the laboratory's method for obtaining representative samples of cannabis or cannabis products. The licensed laboratory shall use and submit to the Department Sampling – Standard Operating Procedures, DCC-LIC-021 (Amended 9/21), which is incorporated herein by reference.

(b) The licensed laboratory shall retain a copy of the sampling SOP on the licensed laboratory premises and ensure that the sampling SOP is accessible to the sampler during sampling.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26102, 26104 and 26110, Business and Professions Code.

§15705. General Sampling Requirements.

(a) The licensed laboratory that obtains a representative sample from a licensed distributor or licensed microbusiness shall perform all the required testing at one licensed laboratory premises.

(b) The licensed laboratory may obtain and analyze samples only from cannabis products batches in final form as required by Business and Professions Code section 26100.

(c) The licensed laboratory sampler shall collect a representative sample from each batch following the procedures specified in the laboratory's sampling standard operating procedure(s).

(d) The licensed laboratory shall ensure that the sample is transported and subsequently stored at the licensed laboratory premises in a manner that prevents degradation, contamination, commingling, and tampering. If the cannabis or cannabis products specify on the label how the cannabis or cannabis products shall be stored, the laboratory shall store the sample as indicated on the label.

(e) The licensed laboratory shall complete a chain of custody form for each sample that the laboratory collects and analyzes.

(f) Once a representative sample has been obtained for regulatory compliance testing, the licensed laboratory that obtained the sample must complete the regulatory compliance testing.

(g) If a licensed laboratory is unable to competently complete the regulatory compliance testing after sampling and before a COA is issued, the licensed distributor or microbusiness authorized to engage in distribution who arranged for the testing of the batch may request approval from the Department to have the impacted batch re-sampled and tested by another licensed laboratory.

(1) The request shall be made in writing via email to testinglabs@cannabis.ca.gov and shall include all of the following:

(A) The name and license number of the distributor;

(B) The batch numbers;

(C) The type and quantity of cannabis or cannabis products;

(D) The name and license number of the laboratory that took the initial sample and is not able to competently complete the regulatory compliance testing;

(E) The name and license number of the laboratory proposed to re-sample and complete the regulatory compliance testing for the batch; and

(F) The reason why the laboratory that initially took the sample cannot competently complete the regulatory compliance testing.

(2) The Department will review the request and determine if the licensed laboratory that initially took the sample is unable to competently complete the regulatory compliance testing. If the Department determines that the licensed laboratory is unable to competently complete the regulatory compliance testing, the Department, in its discretion, may approve the request in whole or part and set conditions for the re-sampling and testing.

(3) No re-sampling of any batch shall occur prior to the licensed distributor or licensed microbusiness authorized to engaged in distribution receiving written approval from the Department.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15706. Chain of Custody (COC).

(a) The licensed laboratory shall develop and implement a COC protocol to ensure accurate documentation is recorded for the transport, handling, storage, and destruction of samples.

(b) The COC protocol shall require the use of a COC form. The sampler shall use a COC to record the following information for each sampled batch:

- (1) Laboratory's name, licensed premises address, and license number;
 - (2) Date and time sampling started and ended;
 - (3) Licensed distributor or licensed microbusiness' name, licensed premises address, and license number;
 - (4) Licensed cultivator's, licensed manufacturer's, or licensed microbusiness' name, licensed premises address, and license number;
 - (5) Batch number of the batch from which the representative sample was obtained and assigned unique sample identifier;
 - (6) Sample matrix;
 - (7) Total batch size, by weight, or unit count;
 - (8) Total weight, or unit count of the representative sample;
 - (9) Sampling conditions or problems encountered during the sampling process, if any;
 - (10) Printed name and signature of the licensed distributor or licensed microbusiness' authorized to engage in distribution employee; and
 - (11) Printed name and signature of the sampler.
- (c) Each time a sample changes custody between licensees, is transported, or is destroyed, the date, time, and the names and signatures of persons involved in these activities shall be recorded on the COC form.
- (d) Once the custody of the sample changes between licensees, the COC form for that change of custody may not be altered.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26102, 26104 and 26110, Business and Professions Code.

§15707. Harvest Batch Sampling.

- (a) The sampler shall obtain a representative sample from each prepacked or unpacked harvest batch. The representative sample must weigh 0.35% of the total harvest batch weight.
- (b) A sampler may collect a representative sample greater than 0.35% of the total harvest batch weight of a prepacked or unpacked harvest batch if necessary to perform the required testing or to ensure that the samples obtained are representative.
- (c) The prepacked or unpacked harvest batch from which a sample is obtained shall weigh no more than 50.0 pounds. Laboratory analyses of a sample collected from a harvest batch weighing more than 50.0 pounds shall be deemed invalid and the harvest batch from which the sample was obtained shall not be released for retail sale.
- (d) When the sampler obtains a representative sample from an unpacked harvest batch, the sampler shall do all the following:
 - (1) Collect the number of sample increments relative to the unpacked harvest batch size as listed in the following table;

(2) Obtain sample increments from random and varying locations of the unpacked harvest batch, both vertically and horizontally. To the extent practicable, the sample increments obtained from an unpacked harvest batch shall be of equal weight; and

(3) To the extent practicable, collect an equal number of sample increments from each container if the unpacked harvest batch is stored in multiple containers.

Unpacked Harvest Batch Size (pounds)	Number of Increments (per sample)
≤ 10.0	8
10.1 – 20.0	16
20.1 – 30.0	23
30.1 – 40.0	29
40.1 – 50.0	34

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15708. Cannabis Product Batch and Pre-Roll Sampling.

(a) The sampler shall obtain a representative sample from each cannabis product batch or pre-roll batch.

(b) The sampler may collect a greater number of sample increments if necessary to perform the required testing or to ensure that the samples obtained are representative.

(c) The cannabis product batch or pre-roll batch from which a representative sample is obtained shall contain no more than 150,000 units. Laboratory analyses of a sample collected from a cannabis product batch containing more than 150,000 units shall be deemed invalid and the cannabis product batch or pre-roll batch from which the representative sample was obtained shall not be released for retail sale.

(d) The sampler shall obtain a representative sample of a cannabis product or pre-roll batch by collecting, at minimum, the number of sample increments relative to the batch size as listed in the following table. Each sample increment consists of 1 packaged unit.

Cannabis Product or Pre-roll Batch Size (units)	Number of Sample Increments (per sample)
≤ 50	2
51 – 150	3
151 – 500	5
501 – 1,200	8
1,201 – 3,200	13
3,201 – 10,000	20
10,001 – 35,000	32
35,001 – 150,000	50

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15709. Laboratory Transportation of Cannabis and Cannabis Products Samples.

(a) The following requirements apply when a licensed testing laboratory transports cannabis or cannabis products samples:

(1) While transporting cannabis or cannabis products samples, a licensed testing laboratory employee shall ensure the cannabis or cannabis products are not visible to the public. Cannabis or cannabis products shall be locked in a fully enclosed box, container, or cage that is secured to the inside of the vehicle or trailer. No portion of the enclosed box, container, or cage shall be comprised of any part of the body of the vehicle or trailer. For the purposes of this section, the inside of the vehicle includes the trunk.

(2) While left unattended, vehicles and trailers shall be locked and secured.

(3) The licensed laboratory shall not leave a vehicle or trailer containing cannabis or cannabis products samples unattended in a residential area or parked overnight in a residential area.

(4) The licensed laboratory shall ensure that any vehicle or trailer transporting cannabis or cannabis products samples has an alarm system.

(5) The licensed laboratory shall ensure that packages or containers holding cannabis or cannabis products samples are neither tampered with nor opened during transport.

(6) The licensed laboratory transporting cannabis or cannabis products samples shall only travel between licensees for whom the laboratory is conducting regulatory compliance testing or quality assurance testing. A laboratory shall not deviate from the travel requirements described in this section, except for necessary rest, fuel, or vehicle repair stops.

(7) The licensed laboratory may transport multiple cannabis or cannabis products samples obtained from multiple licensees at once.

(8) Vehicles or trailers transporting cannabis or cannabis products samples are subject to inspection by the Department at any licensed premises or during transport at any time.

(9) No person under the age of 21 years old shall be in a vehicle or trailer transporting cannabis or cannabis products samples.

(10) Only an employee of the licensed laboratory or security personnel who meets the requirement of section 15045 of this division shall be in a vehicle while transporting cannabis or cannabis products samples.

(b) Upon request, the licensed laboratory shall provide the following required transport vehicle information to the Department:

(1) The certificate of ownership or registration card issued by the California Department of Motor Vehicles for each vehicle used to transport cannabis or cannabis products samples;

(2) The year, make, model, license plate number, and numerical Vehicle Identification Number (VIN) for each vehicle or trailer used to transport cannabis or cannabis products samples; and

(3) Proof of insurance for each vehicle used to transport cannabis or cannabis products

samples.

(c) The laboratory shall provide the Department with the information required by this section in writing for any new vehicle or trailer that will be used to transport cannabis or cannabis products samples prior to using the vehicle or trailer.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26102, 26104 and 26110, Business and Professions Code.

§15710. Laboratory Receipt of Samples Obtained from a Distributor or Microbusiness.

(a) The licensed laboratory may accept and analyze a sample from a licensed distributor or licensed microbusiness authorized to engage in distribution for the required testing under section 15714 of this division only if there is an accompanying COC form for the sample.

(b) The licensed laboratory employee who receives the sample shall date, print, and sign their name on the accompanying sample COC.

(c) The licensed laboratory shall not analyze a sample obtained from a licensed distributor or licensed microbusiness authorized to engage in distribution, and the batch from which the sample was obtained may not be released for retail sale, if any of the following occur:

(1) The sample is received at the laboratory without the requisite COC form;

(2) The tamper-evident material is broken prior to the sample being received at the laboratory; or

(3) There is evidence of sample commingling, contamination, degradation, or a related occurrence rendering the sample unusable for analytical testing when the sample is received at the laboratory.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

Article 4. Standard Operating Procedures

§15711. Laboratory Analyses Standard Operating Procedures.

(a) The licensed laboratory shall develop, implement, and maintain written standard operating procedures (SOP) for sample preparation and each required test method. The licensed laboratory shall use and submit to the Department the following forms which are incorporated by reference:

(1) Sample Preparation – Standard Operating Procedures, Form DCC-LIC-022 (Amended 9/21), which is incorporated herein by reference; and

(2) Test Methods – Standard Operating Procedures, Form DCC-LIC-023 (Amended 9/21), which is incorporated herein by reference.

(b) The licensed laboratory shall keep each SOP at the licensed laboratory premises and ensure that each SOP is accessible to laboratory employees during operating hours.

(c) The licensed laboratory shall make each SOP available for inspection by the Department upon request, as well as any other SOPs associated with the licensee's ISO/IEC 17025 certificate of accreditation.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26100, 26102, 26104 and 26110, Business and Professions Code.

§15712. Test Methods.

(a) The laboratory shall develop, implement, and validate test methods for the analyses of samples as required under this division.

(b) To the extent practicable, the laboratory test methods shall comport with the following guidelines:

- (1) US Food and Drug Administration's *Bacterial Analytical Manual*, 2016;
- (2) AOAC International's *Official Methods of Analysis for Contaminant Testing of AOAC International*, 20th Edition, 2016; and
- (3) United States Pharmacopeia and the National Formulary's *Methods of Analysis for Contaminant Testing*, 2016.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26102, 26104 and 26110, Business and Professions Code.

§15713. Validation of Test Methods.

(a) The licensed laboratory may use a nonstandard, amplified, or modified test method or a method that is designed or developed by the licensed laboratory to validate the methods for analyses of samples.

(b) The licensed laboratory shall follow the guidelines set forth in the US Food and Drug Administration's *Guidelines for the Validation of Analytical Methods for the Detection of Microbial Pathogens in Foods and Feeds*, 2nd Edition, April 2015, incorporated herein by reference, to validate test methods for the microbial analysis of samples. The licensed laboratory shall include and address the criteria listed in the following table when validating test methods for microbial analyses of samples.

Criteria	Requirement
Number of target organisms; inclusivity	5
Number of non-target organisms; exclusivity	5
Number of analyte levels per matrix: Qualitative methods	3 levels: high and low inoculum levels and 1 uninoculated level
Number of analyte levels per matrix: Quantitative methods	4 levels: low, medium and high inoculum levels and 1 uninoculated level
Replicates per food at each level tested	2 or more replicates per level

(c) The licensed laboratory shall follow the guidelines set forth in the US Food and Drug Administration's *Guidelines for the Validation of Chemical Methods for the FDA FVM Program*, 2nd Edition, April 2015, incorporated herein by reference, to validate test methods for chemical analysis of samples.

(1) The licensed laboratory shall include and address the following criteria to validate test methods for chemical analyses of samples:

(A) Accuracy;

(B) Precision;

(C) Linearity and range;

(i) The Coefficient of Determination (r^2) for all calibration curves shall be greater than or equal to 0.99.

(ii) Linear regression or quadratic regression shall only be used for calibration curves. Curves shall not be weighted at all or only weighted at $1/x$.

(iii) LOQ for analytes tested shall be within the range of the calibration curve.

(D) Calibration standard;

(i) For calibration curves, there shall be a minimum of five calibration standards, not including zero; and

(ii) Each calibration curve must include an Initial Calibration Verification (ICV). The percent recovery must be between 70% to 130%.

(E) Sensitivity and selectivity;

(F) Limit of detection and limit of quantitation;

(G) Recovery;

(H) Reproducibility; and

(I) Robustness.

(2) The licensed laboratory shall use certified reference materials to validate the following chemical analyses. The test method used for analysis is valid if the percent recovery of the certified reference material is between 80% to 120% for all required analytes.

(A) Cannabinoids, if available;

(B) Heavy metals;

(C) Microbial impurities;

(D) Mycotoxins;

(E) Residual pesticides;

(F) Residual solvents and processing chemicals; and

(G) Terpenoids, if available.

(d) The licensed laboratory shall generate a validation report for each test method. Each validation report shall include the following information:

- (1) Instrument calibration data, if any;
- (2) Raw data, including instrument raw data, for each test method, if any;
- (3) Cannabis reference materials or certified reference material results;
- (4) Data and calculations pertaining to LOD and LOQ determinations, if any;
- (5) LQC report, as described in this chapter, for the validation of each method; and
- (6) Worksheets, forms, pictures, or copies of laboratory notebook pages and any other documentation necessary to meet the requirements described in subsections (b) and (c) of this section.
- (7) The supervisory or management laboratory employee shall review, approve, sign, and date the validation report for each test method.
- (8) Upon new test methods or altered test methods being used in the laboratory, the new validation report shall be submitted to the Department within 5 business days, accompanied by the Licensee Notification and Request Form, Notifications and Requests Regarding Testing Laboratories, DCC-LIC-029 (New 9/21), which is incorporated herein by reference.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26100, 26104 and 26110, Business and Professions Code.

Article 5. Laboratory Testing and Reporting

§15714. Required Testing.

- (a) All sample increments collected must be homogenized prior to sample analyses, notwithstanding foreign material testing.
- (b) The licensed laboratory shall test each representative sample for the following:
 - (1) Cannabinoids;
 - (2) Foreign material;
 - (3) Heavy metals;
 - (4) Microbial impurities;
 - (5) Mycotoxins;
 - (6) Moisture content and water activity;
 - (7) Residual pesticides;
 - (8) Residual solvents and processing chemicals; and
 - (9) If applicable, terpenoids.
- (c) The licensed laboratory shall report the results of each analysis performed by the laboratory on the certificate of analysis.

(d) The licensed laboratory that obtained the representative sample shall complete all required testing for each representative sample for regulatory compliance testing.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15717. Moisture Content and Water Activity Testing.

(a) The licensed laboratory shall analyze at minimum 0.5 grams of the representative sample of dried flower to determine the level of water activity and the percentage of moisture content.

(1) The dried flower sample, including pre-rolls, shall be deemed to have passed water activity testing if the water activity does not exceed 0.65 Aw. The laboratory shall report the result of the water activity test on the certificate of analysis (COA) and indicate “pass” or “fail” on the COA.

(2) The licensed laboratory shall report the result of the moisture content test on the COA as a percentage.

(b) The licensed laboratory shall analyze at least 0.5 grams of the representative sample of solid edible cannabis products to determine the level of water activity. A solid edible cannabis product shall be deemed to have passed water activity testing if the water activity does not exceed 0.85 Aw. The laboratory shall report the result of the water activity test on the COA and indicate “pass” or “fail” on the COA.

(c) If the sample fails water activity testing, the batch from which the sample was collected fails water activity testing and shall not be released for retail sale.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15718. Residual Solvents and Processing Chemicals Testing.

(a) The licensed laboratory shall analyze at minimum 0.25 grams of the representative sample of cannabis product or pre-rolls to determine whether residual solvents or processing chemicals are present.

(b) The licensed laboratory shall report the result of the residual solvents and processing chemicals testing in unit micrograms per gram ($\mu\text{g/g}$) on the COA and indicate “pass” or “fail” on the COA.

(c) The sample shall be deemed to have passed the residual solvents and processing chemicals testing if the presence of any residual solvent or processing chemical listed in the following tables in Category I and Category II does not exceed the indicated action levels.

(1) Notwithstanding subsection (c), the limit for ethanol does not apply to cannabis products that are tinctures.

(2) Notwithstanding subsection (c), the limit for ethanol or isopropyl alcohol does not apply to cannabis products that are topical cannabis products.

Category I Residual Solvent or Processing Chemical	CAS No.	Cannabis Product or Pre-Roll Action Level (µg/g)
1,2-Dichloroethane	107-06-2	1.0
Benzene	71-43-2	1.0
Chloroform	67-66-3	1.0
Ethylene oxide	75-21-8	1.0
Methylene chloride	75-09-2	1.0
Trichloroethylene	79-01-6	1.0

Category II Residual Solvent or Processing Chemical	CAS No.	Cannabis Product or Pre-roll Action Level (µg/g)
Acetone	67-64-1	5000
Acetonitrile	75-05-8	410
Butane	106-97-8	5000
Ethanol	64-17-5	5000
Ethyl acetate	141-78-6	5000
Ethyl ether	60-29-7	5000
Heptane	142-82-5	5000
Hexane	110-54-3	290
Isopropyl alcohol	67-63-0	5000
Methanol	67-56-1	3000
Pentane	109-66-0	5000
Propane	74-98-6	5000
Toluene	108-88-3	890
Total xylenes (ortho-, meta-, para-)	1330-20-7	2170

(d) If the sample fails residual solvents and processing chemicals testing, the batch from which the sample was collected fails residual solvents and processing chemicals testing and shall not be released for retail sale.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15719. Residual Pesticides Testing.

(a) The licensed laboratory shall analyze at minimum 0.5 grams of the representative sample of cannabis and cannabis products to determine whether residual pesticides are present.

(b) The licensed laboratory shall report whether any Category I Residual Pesticides are detected above the limit of detection (LOD) and shall report the result of the Category II Residual Pesticides testing in unit micrograms per gram ($\mu\text{g/g}$) on the COA. The laboratory shall indicate “pass” or “fail” on the COA.

(c) The licensed laboratory shall establish a limit of quantitation (LOQ) of 0.10 $\mu\text{g/g}$ or lower for all Category I Residual Pesticides.

(d) The sample shall be deemed to have passed the residual pesticides testing if both of the following conditions are met:

(1) The presence of any residual pesticide listed in the following tables in Category I are not detected, and

(2) The presence of any residual pesticide listed in the following tables in Category II does not exceed the indicated action levels.

Category I Residual Pesticide	CAS No.
Aldicarb	116-06-3
Carbofuran	1563-66-2
Chlordane	57-74-9
Chlorfenapyr	122453-73-0
Chlorpyrifos	2921-88-2
Coumaphos	56-72-4
Daminozide	1596-84-5
DDVP (Dichlorvos)	62-73-7
Dimethoate	60-51-5
Ethoprop(hos)	13194-48-4
Etofenprox	80844-07-1
Fenoxycarb	72490-01-8
Fipronil	120068-37-3
Imazalil	35554-44-0
Methiocarb	2032-65-7
Methyl parathion	298-00-0
Mevinphos	7786-34-7

Category I Residual Pesticide	CAS No.
Paclobutrazol	76738-62-0
Propoxur	114-26-1
Spiroxamine	118134-30-8
Thiacloprid	111988-49-9

Category II Residual Pesticide	CAS No.	Action Level (µg/g) for Inhalable Cannabis and Cannabis Products	Action Level (µg/g) for Non-Inhalable Cannabis Products
Abamectin	71751-41-2	0.1	0.3
Acephate	30560-19-1	0.1	5
Acequinocyl	57960-19-7	0.1	4
Acetamiprid	135410-20-7	0.1	5
Azoxystrobin	131860-33-8	0.1	40
Bifenazate	149877-41-8	0.1	5
Bifenthrin	82657-04-3	3	0.5
Boscalid	188425-85-6	0.1	10
Captan	133-06-2	0.7	5
Carbaryl	63-25-2	0.5	0.5
Chlorantraniliprole	500008-45-7	10	40
Clofentezine	74115-24-5	0.1	0.5
Cyfluthrin	68359-37-5	2	1
Cypermethrin	52315-07-8	1	1
Diazinon	333-41-5	0.1	0.2
Dimethomorph	110488-70-5	2	20
Etoxazole	153233-91-1	0.1	1.5
Fenhexamid	126833-17-8	0.1	10
Fenpyroximate	111812-58-9	0.1	2
Flonicamid	158062-67-0	0.1	2
Fludioxonil	131341-86-1	0.1	30
Hexythiazox	78587-05-0	0.1	2
Imidacloprid	138261-41-3	5	3

Category II Residual Pesticide	CAS No.	Action Level (µg/g) for Inhalable Cannabis and Cannabis Products	Action Level (µg/g) for Non-Inhalable Cannabis Products
Kresoxim-methyl	143390-89-0	0.1	1
Malathion	121-75-5	0.5	5
Metalaxyl	57837-19-1	2	15
Methomyl	16752-77-5	1	0.1
Myclobutanil	88671-89-0	0.1	9
Naled	300-76-5	0.1	0.5
Oxamyl	23135-22-0	0.5	0.2
Pentachloronitrobenzene	82-68-8	0.1	0.2
Permethrin	52645-53-1	0.5	20
Phosmet	732-11-6	0.1	0.2
Piperonylbutoxide	51-03-6	3	8
Prallethrin	23031-36-9	0.1	0.4
Propiconazole	60207-90-1	0.1	20
Pyrethrins	8003-34-7	0.5	1
Pyridaben	96489-71-3	0.1	3
Spinetoram	187166-15-0, 187166-40-1	0.1	3
Spinosad	131929-60-7, 131929-63-0	0.1	3
Spiromesifen	283594-90-1	0.1	12
Spirotetramat	203313-25-1	0.1	13
Tebuconazole	107534-96-3	0.1	2
Thiamethoxam	153719-23-4	5	4.5
Trifloxystrobin	141517-21-7	0.1	30

(e) If the sample fails residual pesticides testing, the batch from which the sample was collected fails residual pesticides testing and shall not be released for retail sale.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15720. Microbial Impurities Testing.

(a) The licensed laboratory shall analyze at minimum 1.0 grams of the representative sample of cannabis or cannabis products to determine whether microbial impurities are present.

(b) The licensed laboratory shall report the result of the microbial impurities testing by indicating “pass” or “fail” on the COA.

(c) The sample of inhalable cannabis and cannabis products shall be deemed to have passed the microbial impurities testing if all of the following conditions are met:

(1) Shiga toxin–producing *Escherichia coli* is not detected in 1 gram;

(2) *Salmonella* spp. is not detected in 1 gram; and

(3) Pathogenic *Aspergillus* species *A. fumigatus*, *A. flavus*, *A. niger*, and *A. terreus* are not detected in 1 gram.

(d) The sample of non-inhalable cannabis and cannabis products shall be deemed to have passed the microbial impurities testing if both the following conditions are met:

(1) Shiga toxin–producing *Escherichia coli* is not detected in 1 gram, and

(2) *Salmonella* spp. is not detected in 1 gram.

(e) If the sample fails microbial impurities testing, the batch from which the sample was collected fails microbial impurities testing and shall not be released for retail sale.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15721. Mycotoxin Testing.

(a) The licensed laboratory shall analyze at minimum 0.5 grams of the representative sample of cannabis and cannabis products to determine whether mycotoxins are present.

(b) The licensed laboratory shall report the result of the mycotoxins testing in unit micrograms per kilograms ($\mu\text{g}/\text{kg}$) on the COA and indicate “pass” or “fail” on the COA.

(c) The sample shall be deemed to have passed mycotoxin testing if both the following conditions are met:

(1) Total of aflatoxin B1, B2, G1, and G2 does not exceed 20 $\mu\text{g}/\text{kg}$ of substance, and

(2) Ochratoxin A does not exceed 20 $\mu\text{g}/\text{kg}$ of substance.

(d) If the sample fails mycotoxin testing, the batch from which the sample was collected fails mycotoxin testing and shall not be released for retail sale.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15722. Foreign Material Testing.

- (a) The licensed laboratory shall analyze the representative sample of cannabis and cannabis products to determine whether foreign material is present.
- (b) The licensed laboratory shall report the result of the foreign material test by indicating “pass” or “fail” on the COA.
- (c) The licensed laboratory shall perform foreign material testing on the total representative sample prior to sample homogenization.
- (d) When the licensed laboratory performs foreign material testing, at minimum, the laboratory shall do all of the following:
 - (1) Examine both the exterior and interior of the dried flower sample, and
 - (2) Examine the exterior of the cannabis product sample.
- (e) The sample shall be deemed to have passed the foreign material testing if the presence of foreign material does not exceed:
 - (1) 1/4 of the total sample area covered by sand, soil, cinders, or dirt;
 - (2) 1/4 of the total sample area covered by mold;
 - (3) 1 insect fragment, 1 hair, or 1 count mammalian excreta per 3.0 grams; or
 - (4) 1/4 of the total sample area covered by an imbedded foreign material.
- (f) If the sample fails foreign material testing, the batch from which the sample was collected fails foreign material testing and shall not be released for retail sale.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15723. Heavy Metals Testing.

- (a) The licensed laboratory shall analyze at minimum 0.5 grams of the representative sample of cannabis and cannabis products to determine whether heavy metals are present.
- (b) The licensed laboratory shall report the result of the heavy metals test in unit micrograms per gram ($\mu\text{g/g}$) on the COA and indicate “pass” or “fail” on the COA.
- (c) The sample shall be deemed to have passed the heavy metals testing if the presence of heavy metals does not exceed the action levels listed in the following table.

Heavy Metal	Action Level (µg/g) for Inhalable Cannabis and Cannabis Products	Action Level (µg/g) for Non-Inhalable Cannabis and Cannabis Products
Cadmium	0.2	0.5
Lead	0.5	0.5
Arsenic	0.2	1.5
Mercury	0.1	3.0

(d) If the sample fails heavy metals testing, the batch from which the sample was collected fails heavy metals testing and shall not be released for retail sale.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15724. Cannabinoid Testing.

(a) The licensed laboratory shall analyze at minimum 0.5 grams of the representative sample of cannabis and cannabis products to determine the cannabinoid profile such as THC; THCA; CBD; CBDA; CBG; and CBN.

(b) The licensed laboratory shall establish a limit of quantitation (LOQ) of 1.0 mg/g or lower for all cannabinoids analyzed and reported.

(c) The licensed laboratory shall report the result of the cannabinoid testing on the COA, including, at minimum:

(1) A percentage for THC, THCA, CBD, and CBDA;

(A) When the licensed laboratory reports the result of the cannabinoid testing for harvest batch representative samples on the COA in dry-weight percent, they shall use the following equation:

$$\text{Dry-weight percent cannabinoid} = \text{wet-weight percent cannabinoid} / (1 - \text{percent moisture} / 100)$$

(2) A percentage for Total THC and Total CBD, if applicable;

(3) Milligrams per gram (mg/g) if by dry-weight or milligrams per milliliter (mg/mL) if by volume for THC, THCA, CBD, and CBDA.

(4) Milligrams per gram (mg/g) if by dry-weight or milligrams per milliliter (mg/mL) if by volume for Total THC and Total CBD, if applicable;

(A) The licensed laboratory shall calculate the total cannabinoid concentration as follows:

(i) For concentration expressed in weight:

$$\text{Total cannabinoid concentration (mg/g)} = (\text{cannabinoid acid form concentration (mg/g)} \times 0.877) + \text{cannabinoid concentration (mg/g)}$$

(ii) For concentration expressed in volume:

Total cannabinoid concentration (mg/mL) = (cannabinoid acid form concentration (mg/mL) x 0.877) + cannabinoid concentration (mg/mL)

(5) Milligrams per package for THC and CBD;

(6) Milligrams per package for Total THC and Total CBD, if applicable;

(7) Milligrams per serving for THC and CBD, if any;

(8) Milligrams per serving for Total THC and Total CBD, if any and if applicable; and

(9) The licensed laboratory shall report the results of all other cannabinoids analyzed on the COA both as a percentage and in either milligrams per gram (mg/g) if by weight or milligrams per milliliter (mg/mL) if by volume.

(d) The sample shall be deemed to have passed the cannabinoid testing if the amount of THC does not exceed the limits established in section 17304 of this division.

(e) The licensed laboratory shall report the test results and indicate an overall “pass” or “fail” for the cannabinoid testing on the COA.

(f) Any cannabinoids found to be less than the LOQ shall be reported on the COA as “<1 mg/g” if by dry-weight or “<1 mg/mL” if by volume.

(g) If the sample fails cannabinoid testing, the batch from which the sample was collected fails cannabinoid testing and shall not be released for retail sale.

(h) For purposes of this division, any one cannabinoid, Total THC, and/or Total CBD claimed to be present on a label shall not be considered inaccurate if the difference in percentage on the certificate of analysis is plus or minus 10.0%.

(i) Notwithstanding subsection (h), until January 1, 2022, for edible cannabis products where milligrams per serving for THC does not exceed 10 milligrams per serving, as provided for under section 17304(a)(1), Total THC claimed to be present on a label shall not be considered inaccurate if the difference in percentage on the COA is plus or minus 12.0%.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15725. Terpenoid Testing.

(a) If requested, the licensed laboratory shall analyze at minimum 0.5 grams of the representative sample of cannabis or cannabis products to determine the terpenoid profile of the sample.

(b) The licensed laboratory shall report the result of the terpenoid testing on the COA both as a percentage and in either milligrams per gram (mg/g) if by weight or milligrams per milliliter (mg/mL) if by volume.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15726. Certificate of Analysis (COA).

(a) The licensed laboratory shall generate a COA for each representative sample that the laboratory analyzes.

(b) The licensed laboratory shall ensure that the COA contains the results of all required analyses performed for the representative sample.

(c) The licensed laboratory shall, within 1 business day of completing all analyses of a sample, both upload the COA into the track and trace system and simultaneously provide a copy of the COA to the Department via email at testinglabs@cannabis.ca.gov.

(d) The licensed laboratory shall not release to any person any cumulative or individual test results prior to completing all analyses and providing the COA to the Department.

(e) The COA shall contain, at minimum, the following information:

(1) The term “Regulatory Compliance Testing” in font no smaller than 14-point, which shall appear in the upper-right corner of each page of the COA. No text or images shall appear above the term “Regulatory Compliance Testing” on any page of the COA.

(2) Laboratory’s name, licensed premises address, and license number;

(3) Licensed distributor’s or licensed microbusiness authorized to engage in distribution’s name, licensed premises address, and license number;

(4) Licensed cultivator’s, licensed manufacturer’s, or licensed microbusiness’ name, licensed premises address, and license number;

(5) Batch number of the batch from which the sample was obtained. For cannabis and cannabis products that are already packaged at the time of sampling, the labeled batch number on the packaged cannabis and cannabis products shall match the batch number on the COA;

(6) Sample identifying information, including matrix type and unique sample identifiers;

(7) Sample history, including the date collected, the date received by the laboratory, and the date(s) of sample analyses and corresponding testing results;

(8) A picture of the sample of cannabis and cannabis products. If the sample is pre-packaged, the picture must include an unobstructed image of the packaging;

(9) For dried flower samples, the total weight of the batch, in grams or pounds, and the total weight, of the representative sample in grams;

(10) For cannabis product or pre-rolls samples, the total unit count of both the representative sample and the total batch size;

(11) Measured density of the cannabis and cannabis products;

(12) The analytical methods, analytical instrumentation used, and corresponding Limits of Detection (LOD) and Limits of Quantitation (LOQ);

(13) An attestation on the COA from the laboratory supervisory or management employee that all LQC samples required by section 15730 of this division were performed and met the acceptance criteria; and

(14) Analytes detected during the analyses of the sample that are unknown, unidentified, or injurious to human health if consumed, if any.

(f) The licensed laboratory shall report test results for each representative sample on the COA as follows:

(1) Indicate an overall “pass” or “fail” for the entire batch;

(2) When reporting qualitative results for each analyte, the licensed laboratory shall indicate “pass” or “fail”;

(3) When reporting quantitative results for each analyte, the licensed laboratory shall use the appropriate units of measurement as required under this chapter;

(4) When reporting results for each test method, the licensed laboratory shall indicate “pass” or “fail”;

(5) When reporting results for any analytes that were detected below the analytical method LOQ, indicate “<LOQ”, notwithstanding cannabinoid results;

(6) When reporting results for any analytes that were not detected or detected below the LOD, indicate “ND”; and

(7) Indicate “NT” for any test that the licensed laboratory did not perform.

(g) The licensed laboratory supervisory or management employee shall validate the accuracy of the information contained on the COA and sign and date the COA.

(h) The laboratory supervisory or management employee may request to amend a COA to correct minor errors. Requests must be emailed to the Department at testinglabs@cannabis.ca.gov for approval prior to making any corrections. Errors in results required to be reported pursuant to subsection (f) are not minor errors.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

Article 6. Post Testing Procedures

§15727. Remediation and Retesting.

(a) A cannabis or cannabis product batch that has been additionally processed after failed testing must be retested and successfully pass all the analyses required under this chapter.

(b) The licensed distributor or licensed microbusiness authorized to engage in distribution shall arrange for remediation of a failed cannabis or cannabis product batch. If the batch cannot be remediated, the batch shall be destroyed by the licensed distributor or licensed microbusiness authorized to engage in distribution.

(c) If a failed batch is not remediated or reprocessed in any way it cannot be retested. Any subsequent COAs produced without remediation of the failed batch will not supersede the initial regulatory compliance testing COA.

(d) A cannabis or cannabis product batch may only be remediated twice. If the batch fails after the second remediation attempt and the second retesting, the entire batch shall be

destroyed.

(e) Within one business day of completing the required analyses of a representative sample obtained from a remediated cannabis or cannabis product batch, the laboratory shall upload the COA information into the track and trace system, or if the licensee does not yet have access to the track and trace system, it shall be emailed to the Department.

(f) Nothing in this section shall be interpreted to prevent a cannabis or cannabis product batch from being retested when the COA is 12 or more months old.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15728. Post Testing Sample Retention.

(a) The licensed laboratory shall retain the reserve sample, consisting of any portion of a sample that was not used in the testing process. The reserve sample shall be kept, at minimum, for 45 business days after the analyses, after which time it may be destroyed and denatured to the point the material is rendered unrecognizable and unusable.

(b) The licensed laboratory shall securely store the reserve sample in a manner that prohibits sample degradation, contamination, and tampering.

(c) The licensed laboratory shall provide the reserve sample to the Department upon request.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

Article 7. Laboratory Quality Assurance and Quality Control

§15729. Laboratory Quality Assurance (LQA) Program.

(a) The licensed laboratory shall develop and implement a LQA program to assure the reliability and validity of the analytical data produced by the laboratory. The LQA program shall, at minimum, include a written LQA manual that addresses the following:

- (1) Quality control procedures;
- (2) Laboratory organization and employee training and responsibilities, including good laboratory practice (GLP);
- (3) LQA objectives for measurement data;
- (4) Traceability of data and analytical results;
- (5) Instrument maintenance, calibration procedures, and frequency;
- (6) Performance and system audits;
- (7) Corrective action procedures;
- (8) Steps to change processes when necessary;
- (9) Record retention and document control;

(10) Test procedure standardization; and

(11) Method validation.

(b) The supervisory or management laboratory employee shall annually review, amend if necessary, and approve the LQA program and manual both when they are created and when there is a change in methods, laboratory equipment, or the supervisory or management laboratory employee.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15730. Laboratory Quality Control (LQC) Samples.

The licensed laboratory shall use LQC samples and adhere to good laboratory practice (GLP) in the performance of each analysis according to the following specifications.

(a) The licensed laboratory shall analyze LQC samples in the same manner as the laboratory analyzes cannabis and cannabis products samples.

(b) The licensed laboratory shall use at least one negative control, one positive control, and one laboratory replicate sample in each analytical batch for each target organism during microbial testing. If one of the controls produces unexpected results, the samples shall be re-prepped and reanalyzed with a new set of controls.

(c) If the result of the microbial analyses is outside the specified acceptance criteria in the following table, the licensed laboratory shall determine the cause and take steps to remedy the problem until the result is within the specified acceptance criteria.

Laboratory Quality Control Sample	Acceptance Criteria	Corrective Action
Positive control	Produces expected result, positive result	Re-prepare and reanalyze the entire analytical batch, once. If problem persists, locate and remedy the source of unexpected result, then re-prepare samples and reanalyze with a new set of controls.
Negative control	Produces expected result, negative result	Re-prepare and reanalyze the entire analytical batch, once. If problem persists, locate and remedy the source of unexpected result, then re-prepare samples and reanalyze with a new set of controls.
Laboratory replicate sample	Sample results must concur	Reanalyze sample and associated replicate sample once. If problem persists, re-prepare samples and reanalyze.

(d) The licensed laboratory shall prepare and analyze at least one of each of the following LQC samples for each analytical batch:

(1) Method Blank;

(2) Laboratory control sample (LCS); and

(3) Laboratory replicate sample or matrix spike sample.

(e) The laboratory shall analyze, at minimum, a continuing calibration verification (CCV) sample at the beginning of each analytical sequence and every 10 samples thereafter.

(f) If the result of the chemical analyses is outside the specified acceptance criteria in the following table, the laboratory shall determine the cause and take steps to remedy the problem until the result is within the specified acceptance criteria.

Laboratory Quality Control Sample	Acceptance Criteria	Corrective Action
Method Blank sample	Not to exceed LOQ	Reanalyze entire analytical batch once. If method blank is still greater than the LOQ for any analyte, locate the source of contamination then re-prepare samples and reanalyze.
LCS	Percent recovery 70% to 130%	Reanalyze the entire analytical batch, once. If problem persists, re-prepare samples and reanalyze or re-run the initial calibration curve.
Laboratory replicate sample	RPD \leq 30%	Reanalyze sample and associated replicate sample once. If problem persists, re-prepare samples and reanalyze.
Matrix spike sample	Percent recovery between 70% to 130%	Reanalyze sample and associated matrix spike sample once. If problem persists, re-prepare samples and reanalyze.
CCV	Percent recovery between 70% to 130%	Reanalyze all samples that followed the last CCV that met the acceptance criteria. If CCV still fails, re-run the initial calibration curve and all samples in the analytical sequence.

(g) If any analyte is detected above any action level, as described in this chapter, the sample shall be re-prepped and reanalyzed in replicate within another analytical batch.

(1) For quantitative analyses, the re-prepped sample and its associated replicate must meet the acceptance criteria of RPD \leq 30%.

(2) For qualitative analyses, the re-prepped sample and its associated replicate results must concur.

(h) If any LQC sample produces a result outside of the acceptance criteria, the laboratory cannot report the result and the entire batch cannot be released for retail sale. The laboratory shall determine the cause and take steps to remedy the problem until the result is within the specified acceptance criteria.

(i) If the licensed laboratory determines that the result is a false-positive or a false-negative, the Department may ask for the laboratory to re-sample or re-test.

(j) The licensed laboratory shall compile and generate one LQC sample report for each analytical batch that includes LQC acceptance criteria, measurements, analysis date, and matrix.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15731. Limits of Detection (LOD) and Limits of Quantitation (LOQ) for Quantitative Analyses.

(a) The licensed laboratory shall calculate the LOD for chemical method analyses according to any of the following methods:

(1) Signal-to-noise ratio of between 3:1 and 2:1;

(2) Standard deviation of the response and the slope of calibration curve using a minimum of 7 spiked Blank samples calculated as follows;

LOD = (3.3 x standard deviation of the response) / slope of the calibration curve; or

(3) A method published by the United States Food and Drug Administration (USFDA) or the United States Environmental Protection Agency (USEPA).

(b) The licensed laboratory shall calculate the LOQ for chemical method analyses according to any of the following methods:

(1) Signal-to-noise ratio of 10:1, at minimum;

(2) Standard deviation of the response and the slope using a minimum of 7 spiked Blank samples calculated as follows:

LOQ = (10 × standard deviation of the response) / slope of the calibration curve; or

(3) A method published by the USFDA or the USEPA.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15732. Data Package.

(a) The licensed laboratory shall compile and generate one data package for each representative sample that the laboratory analyzes.

(b) The licensed laboratory shall create a data package and use the Data Package Cover Page and Checklist Form, DCC-LIC-024 (Amended 9/21), which is incorporated herein by reference. The data package and form DCC-LIC-024 (Amended 9/21) shall be provided to the Department immediately upon request.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104, 26110 and 26160, Business and Professions Code.

§15733. Required Proficiency Testing.

(a) The licensed laboratory shall participate in a proficiency testing program provided by an organization that operates in conformance with the requirements of ISO/IEC 17043, at least once every six months.

(b) The licensed laboratory shall annually, successfully participate in a proficiency testing program for each of the following test methods:

- (1) Cannabinoids;
- (2) Heavy metals;
- (3) Microbial impurities;
- (4) Mycotoxins;
- (5) Residual pesticides;
- (6) Residual solvents and processing chemicals; and
- (7) If tested, terpenoids.

(c) The licensed laboratory shall report all analytes available by the proficiency testing program provider and for which the licensee is required to test as required under this chapter.

(d) The licensed laboratory shall participate in the proficiency testing program by following the laboratory's existing SOPs for testing cannabis and cannabis products.

(e) The licensed laboratory shall rotate the proficiency testing program among the laboratory employees who perform the test methods.

(f) Laboratory employees who participate in a proficiency testing program shall sign the corresponding analytical reports or attestation statements to certify that the proficiency testing program was conducted in the same manner as the laboratory tests of cannabis and cannabis products.

(g) A supervisory or management laboratory employee shall review and verify the accuracy of results reported for all proficiency testing program samples analyzed.

(h) The licensed laboratory shall request the proficiency testing program provider to send results concurrently to the Department, if available, or the laboratory shall provide the proficiency testing program results to the Department within 3 business days after the laboratory receives notification of their test results from the proficiency testing program provider. Any results shall be reported by submitting the Licensee Notification and Request Form, Notifications and Requests Regarding Testing Laboratories, DCC-LIC-029 (New 9/21), which is incorporated herein by reference.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100 and 26110, Business and Professions Code.

§15734. Satisfactory and Unsatisfactory Proficiency Test Performance.

(a) The licensed laboratory shall be deemed to have successfully participated in a proficiency testing program for an analyte tested in a specific method if the test results demonstrate a “satisfactory” or otherwise proficient performance determination by the proficiency testing program provider.

(b) The licensed laboratory may not report test results for analytes that are deemed by the proficiency testing program provider as “unacceptable,” “questionable,” “unsatisfactory”, or otherwise deficient.

(c) The licensed laboratory may resume reporting test results for analytes that were deemed “unacceptable,” “questionable,” “unsatisfactory”, or otherwise deficient, only if both of the following conditions are met:

(1) The licensed laboratory satisfactorily remedies the cause of the failure for each analyte; and

(2) The licensed laboratory submits, to the Department, a written corrective action report demonstrating how the laboratory has fixed the cause of the failure.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100 and 26110, Business and Professions Code.

§15735. Laboratory Audits.

(a) The licensed laboratory shall conduct an internal audit at least once per year or in accordance with the ISO/IEC 17025 accrediting body’s requirement, whichever is more frequent.

(b) The internal audit must include all of the components required by the ISO/IEC 17025 internal-audit standards.

(c) Within 3 business days of completing the internal audit, the licensed laboratory shall submit the results of the internal audit to the Department.

(d) Within 3 business days of receiving the accrediting body on-site audit findings, the licensed laboratory shall submit the results to the Department.

(e) The licensed laboratory shall submit any audit results to the Department, accompanied by the Licensee Notification and Request Form, Notifications and Requests Regarding Testing Laboratories, DCC-LIC-029 (New 9/21), which is incorporated herein by reference.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100 and 26104, Business and Professions Code.

Article 8. Laboratory Employee Qualifications

§15736. General Laboratory Employee Qualifications.

- (a) The licensed laboratory may only employ persons who are at least 21 years of age.
- (b) The licensed laboratory shall develop and implement an employee training program to ensure competency of laboratory employees for their assigned functions.
- (c) The licensed laboratory shall ensure and document that each laboratory employee meets the employee qualifications.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26102 and 26104, Business and Professions Code.

§15737. Supervisor or Management Responsibilities and Qualifications.

(a) The licensed laboratory shall employ a supervisor or management employee who must be responsible for:

- (1) Overseeing and directing the scientific methods of the licensed laboratory;
- (2) Ensuring that the licensed laboratory achieves and maintains a laboratory quality assurance program as required by section 15729 of this division; and
- (3) Providing ongoing and appropriate training to laboratory employees.

(b) To be considered qualified, the supervisor or management employee must have at minimum:

- (1) A doctoral degree in biological, chemical, agricultural, environmental, or related sciences from an accredited college or university;
- (2) A master's degree in biological, chemical, agricultural, environmental, or related sciences from an accredited college or university, plus at least 2 years of full-time practical experience;
- (3) A bachelor's degree in biological, chemical, agricultural, environmental, or related sciences from an accredited college or university, plus at least 4 years of full-time practical experience; or
- (4) A bachelor's degree in any field from an accredited college or university, plus at least 8 years of full-time practical experience, 4 years of which must have been in a supervisory or management position.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26102 and 26104, Business and Professions Code.

§15738. Analyst and Sampler Qualifications.

- (a) The licensed laboratory shall employ an analyst who, at minimum, must have either:
 - (1) Earned a master's degree or a bachelor's degree in biological, chemical, agricultural, environmental, or related sciences from an accredited college or university; or

(2) Completed 2 years of college or university education that included coursework in biological, chemical, agricultural, environmental, or related sciences from an accredited college or university, plus at least 3 years of full-time practical experience.

(b) The licensed laboratory shall employ a sampler who, at minimum, must have either:

(1) Completed 2 years college or university education; or

(2) Earned a High School Diploma or passed a General Educational Development or High School Equivalency exam, plus at least 1 year of full-time practical experience.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26102 and 26104, Business and Professions Code.

Chapter 7. Cultivators

Article 1. General Cultivation Requirements

§16201. Cultivation License Types.

License types include:

(a) Specialty Cottage:

(1) “Specialty Cottage Outdoor” is an outdoor cultivation site with up to 25 mature plants or 2,500 square feet or less of total canopy.

(2) “Specialty Cottage Indoor” is an indoor cultivation site with 500 square feet or less of total canopy.

(3) “Specialty Cottage Mixed-Light Tier 1 and 2” is a mixed-light cultivation site with 2,500 square feet or less of total canopy.

(b) Specialty:

(1) “Specialty Outdoor” is an outdoor cultivation site with less than or equal to 5,000 square feet of total canopy, or up to 50 mature plants on noncontiguous plots.

(2) “Specialty Indoor” is an indoor cultivation site with between 501 and 5,000 square feet of total canopy.

(3) “Specialty Mixed-Light Tier 1 and 2” is a mixed-light cultivation site with between 2,501 and 5,000 square feet of total canopy.

(c) Small:

(1) “Small Outdoor” is an outdoor cultivation site with between 5,001 and 10,000 square feet of total canopy.

(2) “Small Indoor” is an indoor cultivation site with between 5,001 and 10,000 square feet of total canopy.

(3) “Small Mixed-Light Tier 1 and 2” is a mixed-light cultivation site with between 5,001 and 10,000 square feet of total canopy.

(d) Medium:

(1) “Medium Outdoor” is an outdoor cultivation site with between 10,001 square feet and

one acre of total canopy.

(2) “Medium Indoor” is an indoor cultivation site with between 10,001 and 22,000 square feet of total canopy.

(3) “Medium Mixed-Light Tier 1 and 2” is a mixed-light cultivation site with between 10,001 and 22,000 square feet of total canopy.

(e) “Nursery” is a cultivation site that conducts only cultivation of clones, immature plants, seeds, and other agricultural products used specifically for the propagation of cultivation of cannabis.

(f) “Processor” is a cultivation site that conducts only trimming, drying, curing, grading, packaging, and labeling of cannabis and nonmanufactured cannabis products.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26013, 26050 and 26061, Business and Professions Code.

§16202. General Cultivation Requirements.

(a) Licensees are prohibited from transferring any commercially cultivated cannabis or nonmanufactured cannabis products from their licensed premises. All transfers of cannabis and nonmanufactured cannabis product from a licensed cultivation premises must be conducted by a distributor licensed by the Department.

(b) Outdoor cultivation licensees are prohibited from using light deprivation. Artificial lighting is permissible only to maintain immature plants outside the canopy area.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26010, 26012, 26013, 26050 and 26053, Business and Professions Code.

§16209. Medium Cultivation License Limits.

A person or owner shall be limited to one (1) Medium Outdoor, or one (1) Medium Indoor, or one (1) Medium Mixed-Light A-License or M-License. This section shall remain in effect until January 1, 2023.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26013, 26050 and 26061, Business and Professions Code.

Article 2. Cultivation Site Requirements

§16300. Cultivation Requirements for Specialty Cottage, Specialty, Small, and Medium Licenses.

(a) Cannabis plants maintained outside of the designated canopy area(s) for specialty cottage, specialty, small, and medium licenses are prohibited from flowering. Should a plant outside of the canopy area(s) begin to flower, a plant tag shall be applied, the plant shall be moved to a designated canopy area and reported in the track and trace system without delay.

(b) All plants or portions of a plant used for seed production shall be tagged with a plant tag pursuant to section 15048.4.

(c) A licensee propagating immature plants for distribution or seed for distribution to another licensee shall obtain a nursery license.

(d) Licensees shall process their harvested cannabis only in area(s) designated for processing in their cultivation plan, or transfer their harvested cannabis to a licensed processor, manufacturer, or distributor via a licensed distributor.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26060 and 26120, Business and Professions Code.

§16301. Seed Production Requirements for Nursery Licensees.

Nursery licensees producing seed for distribution shall tag all mature plants with a plant tag pursuant to section 15048.4(b). All products, except seed, derived from these plants are prohibited from entering the commercial distribution chain.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26060 and 26067, Business and Professions Code.

§16302. Research and Development Requirements for Nursery Licensees.

Nursery licensees may maintain a research and development area, as identified in their cultivation plan, for the cultivation of mature plants. All mature plants shall be tagged with a plant tag pursuant to section 15048.4. All cannabis and cannabis products derived from these plants are prohibited from entering the commercial distribution chain or being transferred off the licensed premises.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26060 and 26067, Business and Professions Code.

§16303. Cultivation Requirements for Processor Licensees.

(a) Processor licensees shall comply with all of the following requirements:

(1) All aggregation of product shall adhere to track and trace requirements.

(2) Licensees may produce nonmanufactured cannabis products without a manufacturing license.

(3) Cultivation of cannabis plants is prohibited at a licensed processor premises.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26060, 26067, 26069 and 26120, Business and Professions Code.

§16304. General Environmental Protection Measures.

(a) All licensed cultivators shall comply with all of the following environmental protection measures:

- (1) Principles, guidelines, and requirements adopted pursuant to section 13149 of the Water Code and implemented by the State Water Resources Control Board, Regional Water Quality Control Boards, or California Department of Fish and Wildlife;
- (2) Any conditions of licensure included pursuant to section 26060.1(b)(1) of the Business and Professions Code;
- (3) Requirements of section 7050.5(b) of the Health and Safety Code if human remains are discovered during cultivation activities;
- (4) Requirements for generators pursuant to section 16306;
- (5) Requirements for pesticides pursuant to section 16307;
- (6) Outdoor lights used for safety or security purposes are shielded and downward facing; and
- (7) Lights used for indoor or mixed-light cultivation are shielded from sunset to sunrise to reduce nighttime glare.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26060, 26066 and 26201, Business and Professions Code.

§16305. Renewable Energy Requirements.

(a) Beginning January 1, 2023, all holders of indoor, tier 2 mixed-light license types of any size, and all holders of nursery licenses using indoor or tier 2 mixed-light techniques shall ensure that electrical power used for commercial cannabis activity meets the average electricity greenhouse gas emissions intensity required by their local utility provider pursuant to the California Renewables Portfolio Standard Program in division 1, part 1, chapter 2.3, article 16 (commencing with section 399.11) of the Public Utilities Code.

(b) If a licensed cultivator's average weighted greenhouse gas emission intensity, as calculated and reported upon license renewal pursuant to section 15020, is greater than the local utility provider's greenhouse gas emission intensity, the licensee shall obtain carbon offsets to cover the excess in carbon emissions from the previous annual licensed period. The carbon offsets shall be purchased from one or more of the following recognized voluntary carbon registries:

- (1) American Carbon Registry;
- (2) Climate Action Reserve; or
- (3) Verified Carbon Standard.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26060, 26066 and 26201, Business and Professions Code.

§16306. Generator Requirements.

(a) For the purposes of this section, "generator" means a stationary or portable compression ignition engine as defined in title 17, California Code of Regulations, section

93115.4.

(b) Licensed cultivators using generators rated at fifty (50) horsepower and greater shall demonstrate compliance with the Airborne Toxic Control Measure for stationary or portable engines, as applicable, established in title 17, California Code of Regulations, sections 93115-93116.5. Compliance shall be demonstrated by providing a copy of one of the following to the Department upon request:

(1) For portable engines, a Portable Equipment Registration Certificate provided by the California Air Resources Board; or

(2) For portable or stationary engines, a Permit to Operate or other proof of engine registration, obtained from the Local Air District with jurisdiction over the licensed premises.

(c) Licensed cultivators using generators rated below fifty (50) horsepower shall comply with the following by 2023:

(1) Either subsection (1)(A) or (1)(B):

(A) Meet the “emergency” definition for portable engines in title 17, California Code of Regulations, section 93116.2(a)(12), or the “emergency use” definition for stationary engines in title 17, California Code of Regulations, section 93115.4(a)(30); or

(B) Operate eighty (80) hours or less in a calendar year; and

(2) Either subsection (2)(A) or (2)(B):

(A) Meet Tier 3 with Level 3 diesel particulate filter requirements in title 13, California Code of Regulations, sections 2700-2711; or

(B) Meet Tier 4 requirements, or current engine requirements if more stringent, in title 40, Code of Federal Regulations, chapter I, subchapter U, part 1039, subpart B, section 1039.101.

(d) All generators used by licensed cultivators shall be equipped with non-resettable hour-meters. If a generator does not come equipped with a non-resettable hour-meter, an after-market non-resettable hour-meter shall be installed.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26060, 26066 and 26201, Business and Professions Code.

§16307. Pesticide Use Requirements.

(a) Licensed cultivators shall comply with all applicable pesticide statutes and regulations enforced by the Department of Pesticide Regulation.

(b) For all pesticides that are exempt from registration requirements, licensed cultivators shall comply with all applicable pesticide statutes and regulations enforced by the Department of Pesticide Regulation and the following pesticide application and storage protocols:

(1) Comply with all pesticide label directions;

(2) Store chemicals in a secure building or shed to prevent access by wildlife;

- (3) Contain any chemical leaks and immediately clean up any spills;
- (4) Apply the minimum amount of product necessary to control the target pest;
- (5) Prevent offsite drift;
- (6) Do not apply pesticides when pollinators are present;
- (7) Do not allow drift to flowering plants attractive to pollinators;
- (8) Do not spray directly to surface water or allow pesticide product to drift to surface water. Spray only when wind is blowing away from surface water bodies;
- (9) Do not apply pesticides when they may reach surface water or groundwater; and
- (10) Only use properly labeled pesticides. If no label is available, consult the Department of Pesticide Regulation.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26060, 26066 and 26201, Business and Professions Code.

§16308. Canopy Requirements.

- (a) Licensed cultivators shall comply with the following requirements for canopy areas:
 - (1) Each canopy shall be marked with clearly identifiable physical boundaries around all areas that will contain mature plants. Physical boundaries include, but are not limited to, interior walls, shelves, greenhouse walls, hoop house walls, garden benches, hedgerows, fencing, garden beds, garden plots, or stakes delineating the perimeter.
 - (2) Each canopy shall be of sufficient size to contain the mature plants in their entirety at any point in time. No portion of the plant is permitted to hang over an established canopy boundary.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013 and 26060, Business and Professions Code.

§16309. Cultivation Plan Requirements.

- (a) Licensed cultivators shall establish and maintain a cultivation plan that includes all of the following:
 - (1) A premises diagram drafted in accordance with section 15006.
 - (2) A cannabis waste management plan developed in accordance with section 17223.
 - (3) A pest management plan developed in accordance with section 16310.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26051.5, and 26060, Business and Professions Code.

§16310. Pest Management Plan.

- (a) The licensed cultivator shall develop a pest management plan that includes:
 - (1) The product name and active ingredient(s) of all pesticides to be applied to cannabis;

and

(2) Any integrated pest management protocols, including chemical, biological, and cultural methods, that will be used to prevent and control pests on the cultivation site.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26051.5 and 26060, Business and Professions Code.

§16311. Supplemental Water Source Information.

The following information shall be provided for each water source identified by the applicant:

(a) Retail water supply sources:

(1) If the water source is a retail water supplier, as defined in section 13575 of the Water Code, such as a municipal provider, provide the following:

(A) Name of the retail water supplier; and

(B) A copy of the most recent water service bill.

(2) If the water source is a small retail water supplier, such as a delivery service, and is subject to section 26060.1(a)(1)(B) of the Business and Professions Code and the retail water supplier contract is for delivery or pickup of water from a surface water body or an underground stream flowing in a known and definite channel, provide all of the following:

(A) The name of the retail water supplier under the contract;

(B) The water source and geographic location coordinates, in either latitude and longitude or the California Coordinate System, of any point of diversion used by the retail water supplier to divert water delivered to the commercial cannabis business under the contract;

(C) The authorized place of use of any water right used by the retail water supplier to divert water delivered to the commercial cannabis business under the contract;

(D) The maximum amount of water delivered to the commercial cannabis business for cannabis cultivation in any year; and

(E) A copy of the most recent water service bill.

(3) If the water source is a small retail water supplier, such as a delivery service, and is subject to section 26060.1(a)(1)(B) of the Business and Professions Code and the retail water supplier contract is for delivery or pickup of water from a groundwater well, provide all of the following:

(A) The name of the retail water supplier under the contract;

(B) The geographic location coordinates for any groundwater well used to supply water delivered to the commercial cannabis business, in either latitude and longitude or the California Coordinate System;

(C) The maximum amount of water delivered to the commercial cannabis business for cannabis cultivation in any year;

(D) A copy of the well completion report filed with the Department of Water Resources pursuant to section 13751 of the Water Code for each percolating groundwater well used to divert water delivered to the commercial cannabis business. If no well completion report is available, the applicant shall provide evidence from the Department of Water Resources indicating that the Department of Water Resources does not have a record of the well completion report. When no well completion report is available, the State Water Resources Control Board may request additional information about the well; and

(E) A copy of the most recent water service bill.

(b) If the water source is a groundwater well, provide the following:

(1) The groundwater well's geographic location coordinates, in either latitude and longitude or the California Coordinate System; and

(2) A copy of the well completion report filed with the Department of Water Resources pursuant to section 13751 of the Water Code. If no well completion report is available, the applicant shall provide evidence from the Department of Water Resources indicating that the Department of Water Resources does not have a record of the well completion report. If no well completion report is available, the State Water Resources Control Board may request additional information about the well.

(c) If the water source is a rainwater catchment system, provide the following:

(1) The total square footage of the catchment footprint area(s);

(2) The total storage capacity, in gallons, of the catchment system(s); and

(3) A detailed description and photographs of the rainwater catchment system infrastructure, including the location, size, and type of all surface areas that collect rainwater. Examples of rainwater collection surface areas include a rooftop and greenhouse.

(d) If the water source is a diversion from a waterbody (such as a river, stream, creek, pond, lake, etc.), provide any applicable water right statement, application, permit, license, or small irrigation use registration identification number(s), and either:

(1) A copy of any applicable statement, registration certificate, permit, license, or proof of a pending application issued under part 2 (commencing with section 1200) of division 2 of the California Water Code as evidence of approval of a water diversion by the State Water Resources Control Board; or

(2) If the commercial cannabis business has claimed an exception from the requirement to file a statement of diversion and use pursuant to section 5101 of the Water Code, provide a copy of the documentation submitted to the State Water Resources Control Board before January 1, 2019, demonstrating that the diversion is subject to subdivision (a), (c), (d), or (e) of section 5101 of the Water Code.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013 and 26060.1, Business and Professions Code.

Article 3. Release of Information to Financial Institutions

§16410. Cultivation Licensee Authorization to Release Data to Financial Institutions.

(a) A cultivation licensee may authorize the Department to provide information to a financial institution for purposes of facilitating the provision of financial services. The authorization shall be made in writing, through a form prescribed by the Department, which shall include the following information:

- (1) The name of the licensed business for which the licensee is authorizing the release of information;
- (2) The business's license number(s);
- (3) The financial institution authorized to receive information;
- (4) The name, phone number, email address, and signature of the owner submitting the authorization;
- (5) The categories of information specified in subsection (b) that are authorized for release; and
- (6) An acknowledgement that the authorization to release information includes information that is otherwise protected from disclosure, that the licensee is waiving privilege and confidentiality, and that the scope of the release is strictly limited for the purposes of disclosure to the financial institution.

(b) After receipt of the authorization from a cultivation licensee, the Department shall release the following information, when requested by an authorized financial institution pursuant to section 16411 of this division:

- (1) The license application(s), including renewal applications, excluding information required to be kept confidential pursuant to Penal Code section 11105 and confidential personal information of individual owners of the licensed business;
- (2) Information captured in the track and trace system established pursuant to Business and Professions Code section 26067, including, but not limited to, aggregated sales or transfer information, as applicable;
- (3) Documents issued to the licensee pursuant to disciplinary or enforcement proceedings;

(c) A cultivation licensee may withdraw the authorization to provide information to a financial institution at any time. The withdrawal shall be made in writing, through a form prescribed by the Department, and shall include the following information:

- (1) The name of the licensed business for which the licensee is withdrawing the authorization of the release of information;
- (2) The business's license number(s);
- (3) The financial institution from which authorization to receive information is withdrawn;

(4) The name, phone number, email address, and signature of the owner submitting the withdrawal.

Authority: Section 26013, Business and Professions Code. Reference: Section 26260, Business and Professions Code.

§16411. Financial Institution Request for Cultivation Licensee Information.

A financial institution as defined in Business and Professions Code section 26260(c)(3) may request information related to a cultivation licensee for purposes of facilitating the provision of financial services for that licensee. The request shall be made in writing, through a form prescribed by the Department, which shall include the following information:

- (a) The name of the financial institution;
- (b) The name, phone number, email, and signature of the representative of the financial institution requesting information;
- (c) The business name and license number of the licensee for which the financial institution is requesting information;
- (d) The type of financial services for which the information is requested (including, but not limited to, establishment or maintenance of bank accounts, extending loans, and providing insurance) and whether the request is for consideration of a new service or maintenance of an existing service;
- (e) The specific information requested as described in section 16410(b) if authorized by the licensee; and
- (f) An acknowledgment that use of the information is limited to that which is necessary for the provision of financial services.

Authority: Section 26013, Business and Professions Code. Reference: Section 26260, Business and Professions Code.

Chapter 8. Manufacturers

Article 1. Manufacturing Licenses

§17006. Manufacturing License Types.

The following manufacturing license types are available from the Department:

- (a) "Type 7," for extractions using volatile solvents as defined by section 15000(xxx). A Type 7 licensee may also:
 - (1) Conduct extractions using nonvolatile solvents or mechanical methods on the licensed premises, provided that the extraction process is noted on the application and the relevant information pursuant to section 15011(b) is provided to the Department;
 - (2) Conduct infusion operations on the licensed premises, provided the infusion operations and product types are noted on the application and the relevant information

pursuant to section 15011(b) is provided to the Department;

(3) Conduct packaging and labeling of cannabis products on the licensed premises; and

(4) Register and operate the licensed premises as a shared-use facility in accordance with article 2 (commencing with section 17124) of chapter 8.

(b) “Type 6,” for extractions using mechanical methods or nonvolatile solvents as defined by section 15000(uu). A Type 6 licensee may also:

(1) Conduct infusion operations on the licensed premises, provided the infusion operations and product types are noted on the application and the relevant information pursuant to section 15011(b) is provided to the Department;

(2) Conduct packaging and labeling of cannabis products on the licensed premises; and

(3) Register and operate the licensed premises as a shared-use facility in accordance with article 2 (commencing with section 17124) of chapter 8.

(c) “Type N,” for manufacturers that produce cannabis products other than extracts or concentrates that are produced through extraction. A Type N licensee may also:

(1) Conduct packaging and labeling of cannabis products on the licensed premises; and

(2) Register and operate the licensed premises as a shared-use facility in accordance with article 2 (commencing with section 17124) of chapter 8.

(d) “Type P,” for manufacturers that only package or repackage cannabis products or label or relabel cannabis product containers or wrappers.

(e) “Type S,” for manufacturers that conduct commercial cannabis manufacturing activities in accordance with article 2 (commencing with section 17124) of chapter 8 at a registered shared-use facility.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26012, 26050 and 26130, Business and Professions Code.

§17009. Additional Activities.

In addition to the activities specified in section 17006, a licensed manufacturer may also roll and package pre-rolls and package dried cannabis flower.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26012 and 26130, Business and Professions Code.

§17117. License Constraints.

(a) A manufacturer licensee shall not manufacture, prepare, package or label any products other than cannabis products at the licensed premises.

(b) No licensee shall employ or retain an individual under 21 years of age.

(c) A manufacturer licensee shall only use cannabinoid concentrates and extracts that are manufactured or processed from cannabis obtained from a licensed cannabis cultivator.

(d) A manufacturer licensee shall not manufacture, prepare, package, or label cannabis products in a location that is operating as a retail food establishment or as a processed food registrant.

(e) A manufacturer licensee shall not manufacture, prepare, package, or label cannabis products in a location that is licensed by the Department of Alcoholic Beverage Control pursuant to division 9 (commencing with section 23000) of the Business and Professions Code.

Authority: Section 26013 and 26130, Business and Professions Code. Reference: Sections 26050 and 26140, Business and Professions Code.

§17123.1. Manufacturing Licensee Authorization to Release Data to Financial Institutions.

(a) A manufacturing licensee may authorize the Department to provide information to a financial institution for purposes of facilitating the provision of financial services. The authorization shall be made in writing, through a form prescribed by the Department, which shall include the following information:

- (1) The name of the licensed business for which the licensee is authorizing the release of information;
- (2) The business's license number(s);
- (3) The financial institution authorized to receive information;
- (4) The name, phone number, email address, and signature of the owner submitting the authorization;
- (5) The categories of information specified in subsection (b) that are authorized for release; and
- (6) An acknowledgement that the authorization to release information includes information that is otherwise protected from disclosure, and waiving privilege and confidentiality is strictly for purposes of disclosure to the financial institution.

(b) After receipt of the authorization from a manufacturing licensee, the Department shall release the following information, as designated by the licensee, when requested by an authorized financial institution pursuant to section 17123.2 of this division:

- (1) The license application(s), including renewal applications, excluding information required to be kept confidential pursuant to Penal Code section 11105 and confidential personal information of individual owners of the licensed business;
- (2) Information captured in the track and trace system established pursuant to Business and Professions Code section 26067, including, but not limited to, aggregated sales or transfer information, as applicable; and
- (3) Documents issued to the licensee pursuant to disciplinary or enforcement proceedings.

(c) A licensee may withdraw the authorization to provide information to a financial institution at any time. The withdrawal shall be made in writing, through a form prescribed by the Department, and shall include the following information:

- (1) The name of the licensed business for which the licensee is withdrawing the authorization of the release of information;
- (2) The business's license number(s);
- (3) The financial institution from which authorization to receive information is withdrawn; and
- (4) The name, phone number, email address, and signature of the owner submitting the withdrawal.

Authority: Section 26013, Business and Professions Code. Reference: Section 26260, Business and Professions Code.

§17123.2. Financial Institution Request for Manufacturing Licensee Information.

A financial institution as defined in Business and Professions Code section 26260(c)(3) may request information related to a manufacturing licensee for purposes of facilitating the provision of financial services for that licensee. The request shall be made in writing, through a form prescribed by the Department, which shall include the following information:

- (a) The name of the financial institution;
- (b) The name, phone number, email, and signature of the representative of the financial institution requesting information;
- (c) The business name and license number of the licensee for which the financial institution is requesting information;
- (d) The type of financial services for which the information is requested (including, but not limited to, establishment or maintenance of bank accounts, extending loans, and providing insurance) and whether the request is for consideration of a new service or maintenance of an existing service;
- (e) The specific information requested as described in section 17123.1(b) if authorized by the licensee; and
- (f) An acknowledgment that use of the information is limited to that which is necessary for the provision of financial services.

Authority: Section 26013, Business and Professions Code. Reference: Section 26260, Business and Professions Code.

Article 2. Shared-Use Facilities

§17124. Definitions.

For purposes of this article, the following definitions shall apply:

- (a) “Common-use area” means any area of the manufacturer’s registered shared-use facility, including equipment that is available for use by more than one licensed manufacturer, provided that the use of a common-use area is limited to one licensee at a time.
- (b) “Designated area” means the area of the manufacturer’s registered shared-use facility that is designated by the primary licensee for the sole and exclusive use of a Type S licensee, including storage of the Type S licensee’s cannabis, cannabis concentrates, and cannabis products.
- (c) “Primary licensee” means the Type 7, Type 6, or Type N licensee that has registered and been approved to operate its licensed premises as a shared-use facility.
- (d) “Shared-use facility” means a manufacturing premises operated by a Type 7, Type 6, or Type N licensee in which Type S licensees are authorized to conduct manufacturing operations.
- (e) “Use agreement” means a written agreement between a primary licensee and a Type S commercial cannabis business or licensee that specifies the designated area of the Type S licensee, the days and hours in which the Type S licensee is assigned to use the common-use area, any allocation of responsibility for compliance pursuant to section 17128, and an acknowledgement that the Type S licensee has sole and exclusive use of the common-use area during the Type S licensee’s assigned time period.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26001, 26050, 26051.5 and 26130, Business and Professions Code.

§17126. Registration to Operate a Shared-Use Facility.

- (a) No licensed manufacturer shall operate as a shared-use facility without prior approval by the Department.
- (b) To register as a shared-use facility, a Type 7, Type 6, or Type N licensee shall submit the following to the Department through the online licensing system:
 - (1) A copy of the license, permit, or other authorization issued by the local jurisdiction that enables the licensee to operate as a shared-use facility. The Department shall contact the applicable local jurisdiction to confirm the validity of the authorization upon receipt of the application for registration. If the local jurisdiction does not respond within 10 calendar days, the Department shall consider the authorization valid.
 - (2) A registration form prescribed by the Department, which includes the following information:
 - (A) The proposed occupancy schedule that specifies the days and hours the common-use area will be available for use by Type S licensees and when the common-use area will be used by the primary licensee. The occupancy schedule shall allow for

maintenance and sanitizing between uses by individual licensees.

(B) A diagram indicating:

(i) Each designated area for Type S licensee(s).

(ii) The common-use area, including identification of any shared equipment.

(c) The Department shall notify the Type 7, Type 6, or Type N licensee upon approval of the registration to operate as a shared-use facility. Notification shall be made through the online licensing system.

(d) At least one business day prior to a Type S licensee commencing manufacturing operations at a registered shared-use facility, the primary licensee shall provide written notification to the Department. The notification to the Department shall include the Type S licensee's business name, contact person, contact phone number, and license number. The primary licensee shall also provide an updated occupancy schedule that includes the Type S licensee and an updated diagram that specifies the Type S licensee's designated area. Notification shall be provided by email or through the online licensing system.

(e) A primary licensee that wishes to discontinue operation as a shared-use facility may cancel its registration by providing written notice to the Department and each Type S licensee authorized to use the shared-use facility at least 30 calendar days prior to the effective date of the cancellation.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26051.5, 26055 and 26130, Business and Professions Code.

§17127. Shared-Use Facility Conditions for Operation.

(a) A primary licensee shall operate the shared-use facility in accordance with the conditions of operation specified in this section.

(b) Each Type S licensee shall be assigned a "designated area" that, at minimum:

(1) Is for exclusive use by the Type S licensee; and

(2) Provides an area for storage that is secure, fixed in place, locked with a commercial-grade lock, and accessible only to the Type S licensee for storage of that Type S licensee's cannabis, cannabis concentrates, and cannabis products.

(c) Any part of the premises used for manufacturing activities that is a common-use area shall be occupied by only one licensee at a time by restricting the time period that each licensee may use the common-use area. During the assigned time period, one licensee shall have sole and exclusive occupancy of the common-use area.

(d) The use of the shared-use facility shall be restricted to the primary licensee and the Type S licensees authorized by the Department to use the shared-use facility.

(e) Any cannabis product or other materials remaining after a Type S licensee ceases operation and discontinues use of its designated area shall be considered cannabis waste and disposed of by the primary licensee consistent with the requirements of the

Act and this division.

(f) The shared-use facility shall meet all applicable requirements of the Act and this division.

(g) The occupancy schedule shall be prominently posted near the entrance to the shared-use facility.

(h) The primary licensee may conduct manufacturing activities as permitted under its Type 7, Type 6, or Type N license and may use the common-use area during its scheduled time period.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26130, Business and Professions Code.

§17128. Shared-Use Facility Compliance Requirements.

(a) As part of the use agreement, the primary licensee and the Type S licensee(s) may allocate responsibility for providing and maintaining commonly used equipment and services, including, but not limited to, security systems, fire monitoring and protection services, and waste disposal services. However, the Department may take enforcement action against either the primary licensee or Type S licensee(s) regardless of the allocation of responsibility in the use agreement.

(b) A primary licensee or a Type S licensee is liable for any violation found at the shared-use facility during that licensee's scheduled occupancy or within that licensee's designated area. However, a violation of any provision of the Act or this division may be deemed a violation for which each Type S licensee and the primary licensee are responsible. In the event of a recall or embargo of a cannabis product produced at a shared-use facility, the Department, in its sole discretion, may include any or all cannabis products produced at the shared-use facility.

(c) The occupancy schedule and designated area for a Type S licensee shall not be altered without prior notification to the Department. Prior to making any changes to the occupancy schedule or the designated area, written notification that includes the intended changes shall be submitted by email or through the Department's online licensing system.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5, 26055 and 26130, Business and Professions Code.

Article 3. Solvent Use and Safety

§17202.1. General Requirements for Extraction and Post-Extraction Processing.

(a) A licensed manufacturer that uses a volatile solvent, a flammable liquid, or a solvent that creates an asphyxiant gas shall ensure that the solvent is used in accordance with the requirements of:

(1) Chapter 39 of the California Fire Code;

(2) Title 8, California Code of Regulations, sections 5416-5420, which includes ensuring

adequate ventilation and controlling sources of ignition;

(3) All Division of Occupational Safety and Health (Cal/OSHA) regulations related to the processing, handling, and storage of the applicable solvent; and

(4) All fire, safety, and building code requirements related to the processing, handling, and storage of the applicable solvent or gas.

(b) No volatile solvent extraction or post-extraction processing operations or other closed-loop system operations shall occur in an area zoned as residential.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5, 26105 and 26130, Business and Professions Code.

§17203. Permissible Extractions.

(a) Except as provided in subsection (b), cannabis extraction shall only be conducted using the following methods:

(1) Mechanical extraction;

(2) Chemical extraction using a nonvolatile solvent, as defined in section 15000(uu).

(3) Chemical extraction using CO₂ gas in a professional closed-loop extraction system.

(4) Chemical extraction using a volatile solvent, as defined in section 15000(xxx), in a professional closed-loop extraction system; or

(5) Any other method authorized by the Department pursuant to subsection (b).

(b) To request authorization from the Department to conduct cannabis extraction using a method other than those specified in subsections (a)(1) through (4), the applicant or licensee shall submit a detailed description of the extraction method, including any documentation that validates the method and any safety procedures to be utilized to mitigate any risk to public or worker health and safety.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26130, Business and Professions Code.

§17204. Solvent Requirements.

(a) Any solvents used for extraction or post-extraction processing shall meet the following minimum purity requirements:

(1) Hydrocarbon-based solvents shall be at least 99 percent purity.

(2) Nonhydrocarbon-based solvents shall be food-grade.

(3) CO₂ gas used for extraction shall be food-grade.

(4) Ethanol shall be food-grade in accordance with 21 CFR, part 184, subpart B, section 184.1293. Ethanol that meets the requirements of food-grade may be combined with another food-grade solvent or a hydrocarbon that meets the requirements of subsection (a)(1) of this section, provided that the use of the solvent mixture is pre-approved by the Department.

(5) Water and ice shall be potable.

(6) Dry ice shall be food-grade.

(b) The licensed manufacturer shall maintain copies of the safety data sheets for any chemical solvents used and make these records readily available to employees and to the Department upon request.

(c) The licensed manufacturer shall maintain documentation evidencing the purity of any chemical solvents used and make these records readily available to employees and to the Department upon request.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5, 26105 and 26130, Business and Professions Code.

§17205. Additional Requirements for Ethanol Operations.

A licensed manufacturer that uses ethanol in manufacturing operations for extractions or post-extraction processing shall receive approval for the facility and equipment from the local fire code official prior to commencing operations, if required by local ordinance.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26130, Business and Professions Code.

§17206. Closed-Loop Extraction System Requirements.

(a) Chemical extractions using CO₂; a volatile solvent; or chlorofluorocarbon, hydrocarbon, or other fluorinated gas shall be conducted in a professional closed-loop extraction system designed to recover the solvents. The system shall be commercially manufactured and bear a permanently affixed and visible serial number. The system shall be certified after installation by a California-licensed engineer as commercially manufactured, safe for use with the intended solvent, and built to codes of recognized and generally accepted good engineering practices, such as:

(1) The American Society of Mechanical Engineers (ASME);

(2) American National Standards Institute (ANSI);

(3) Underwriters Laboratories (UL); or

(4) The American Society for Testing and Materials (ASTM).

(b) The licensed manufacturer shall establish and implement procedures to ensure that the closed-loop extraction system is maintained in accordance with the equipment manufacturer specifications. The licensee shall maintain logs documenting the date(s) of maintenance; description of the maintenance done, including any machine parts that were replaced; and the initials of the employee conducting the maintenance.

(c) The certification document required pursuant to subsection (a) shall contain the signature and stamp of a California-licensed professional engineer and the serial number of the extraction unit being certified.

(d) The licensed manufacturer shall establish and implement procedures to ensure

routine verification that the system is operating in accordance with equipment manufacturer specifications and continues to comply with fire, safety, and building code requirements. The licensed manufacturer shall conduct any verification recommended by the equipment manufacturer. The licensed manufacturer shall maintain logs documenting the date(s) of verification, description of the verification method, and the initials of the employee conducting the verification.

(e) A licensed manufacturer shall establish and implement standard operating procedures, good manufacturing practices, and a training plan prior to using the closed-loop system. Any personnel using solvents or gases in a closed-loop system shall have direct access to applicable safety data sheets. Personnel shall be trained on how to use the system and handle and store solvents and gases safely prior to operating the system. The training shall be documented in accordance with section 17211.1.

(f) Professional closed-loop systems, other equipment used, the extraction operation, and facilities shall be approved for use by the local fire code official prior to commencing operation of the closed-loop system, if required by local ordinance.

(g) The facility shall have a gas detection system that meets the requirements of title 24, California Code of Regulations, sections 3905.1-3905.2.

(h) All procedures and logs described in this section shall be in writing and made available to the Department upon request.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5, 26105 and 26130, Business and Professions Code.

Article 4. Good Manufacturing Practices

§17207. Manufacturing Practices Definitions.

In addition to the definitions in section 26001 of the Act and section 15000 of this division, the following definitions shall govern the construction of this article:

(a) “Allergen cross-contact” means the unintentional incorporation of a food allergen into a cannabis product.

(b) “Component” means any substance or item intended for use in the manufacture of a cannabis product, including those substances or items that are not intended to appear in the finished cannabis product. “Component” includes cannabis, cannabis products used as ingredients, raw materials, other ingredients, and processing aids.

(c) “Contact surface” means any surface that contacts cannabis products and cannabis product components and those surfaces from which drainage, or other transfer, onto the cannabis product or cannabis product components, occurs during the normal course of operations. Examples of contact surfaces include containers, utensils, tables, and equipment.

(d) “Easily cleanable” means a characteristic of a surface that allows effective removal of soil, food residue, or other organic or inorganic materials by normal cleaning methods.

(e) “Environmental pathogen” means a pathogen capable of surviving and persisting within the manufacturing environment such that cannabis products may be contaminated and may result in illness if consumed or used without treatment to significantly minimize the environmental pathogen. Examples of environmental pathogens include *Listeria monocytogenes* and *Salmonella spp.* but do not include the spores of pathogenic spore-forming bacteria.

(f) “Hazard” means any biological, chemical, radiological, or physical agent that has the potential to cause illness or injury.

(g) “Holding” means storage of cannabis or cannabis products and includes activities performed incidental to storage of a cannabis product and activities performed as a practical necessity for the distribution of that cannabis product.

(h) “Microorganisms” means yeasts, molds, bacteria, viruses, protozoa, and microscopic parasites and includes species that are pathogens. The term “undesirable microorganisms” includes those microorganisms that are pathogens, that subject a cannabis product to decomposition, that indicate that a cannabis product is contaminated with filth, or that otherwise may cause a cannabis product to be adulterated.

(i) “Monitor” means to conduct a planned sequence of observations or measurements to assess whether preventive measures are operating as intended.

(j) “Pathogen” means a microorganism that can cause illness or injury.

(k) “Potable” means water that meets the requirements of Health and Safety Code section 113869.

(l) “Preventive measures” means those risk-based, reasonably appropriate procedures, practices, and processes that a person knowledgeable about the safe manufacturing, processing, packing, or holding of food would employ to significantly minimize or prevent the hazards identified pursuant to a product quality plan as specified in section 17214.

(m) “Processing aid” means any substance that is added to a cannabis product during manufacture but is removed in some manner from the cannabis product before it is packaged in its finished form. This includes substances that are converted into constituents normally present in the product, and do not significantly increase the amount of the constituent naturally found in the product. This also includes substances that are added to a product for their technical or functional effect in the processing but are present in the finished product at insignificant levels and do not have any technical or functional effect in that product.

(n) “Qualified individual” means a person who has the education, training, or experience (or a combination thereof) necessary to manufacture quality cannabis products as appropriate to the individual's assigned duties. A qualified individual may be, but is not required to be, an employee of the licensed manufacturer.

(o) “Quality control” means a planned and systematic operation or procedure for ensuring the quality of a cannabis product.

(p) “Quality control operation” means a planned and systematic procedure for taking all actions necessary to prevent cannabis product(s) from being adulterated or misbranded.

(q) “Quality control personnel” means any person, persons, or group designated by the licensed manufacturer to be responsible for quality control operations.

(r) “Raw material” means any unprocessed material in its raw or natural state that is intended to become part of the components of a cannabis product.

(s) “Sanitize” means to treat cleaned surfaces by a process that is effective in destroying vegetative cells of pathogens and substantially reducing numbers of other undesirable microorganisms, but without adversely affecting the product or its safety for the consumer.

(t) “Smooth” means any of the following:

(1) A contact surface that is free of pits, pinholes, cracks, crevices, inclusions, rough edges, and other surface imperfections detectable by visual or tactile inspection.

(2) A floor, wall, or ceiling having an even or level surface with no roughness or projections that render it difficult to clean.

(u) “Utensil” means an implement, tool, or container used in the storage, preparation, manufacture, or processing of cannabis and cannabis products. In addition to kitchenware, examples of utensils include, but are not limited to, gloves, screens, sieves, implements to create pre-rolls, buckets, and scissors.

(v) “Validate” means obtaining and evaluating scientific and technical evidence that a control measure, combination of control measures, or set of quality control procedures, when properly implemented, is capable of ensuring the quality of a cannabis product or effectively controlling an identified hazard.

(w) “Verification” means the application of methods, procedures, tests, or other evaluations, in addition to monitoring, to determine whether a control measure or combination of control measures is or has been operating as intended and to establish the validity of the quality control procedures.

(x) “Yield” means the quantity of a particular cannabis product expected to be produced at a given step of manufacture or packaging, as identified in the master manufacturing protocol. The expected yield is based upon the quantity of components or packaging to be used, in the absence of any loss or error in actual production. “Actual yield” means the quantity of a particular cannabis product that is actually produced at a given step of manufacture or packaging that is recorded in the batch production record.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26001 and 26130, Business and Professions Code.

§17208. Quality Control Program.

(a) A licensed manufacturer shall establish and implement a quality control program to ensure that cannabis products are not adulterated or misbranded. The quality control program shall describe how the licensee will comply with the following:

(1) Grounds, building, and manufacturing premises standards, as specified in section 17209;

- (2) Equipment and utensil requirements, as specified in section 17210;
 - (3) Personnel procedures, as specified in section 17211;
 - (4) Cannabis product component procedures, as specified in section 17212; and
 - (5) Manufacturing processes and procedures, as specified in section 17213.
- (b) The quality control program shall be under the supervision of one or more qualified individuals assigned responsibility for this function.
- (c) For purposes of this article, for those requirements that are contained in the Health and Safety Code, use of the term “food” shall include cannabis, cannabis products, components, and contact surfaces.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26131, Business and Professions Code.

§17209. Grounds, Building, and Manufacturing Premises.

(a) Exterior facility and grounds. A licensed manufacturer shall ensure the facility exterior and grounds under the licensed manufacturer’s control meet the following minimum standards:

- (1) Grounds shall be equipped with draining areas in order to prevent pooled or standing water;
- (2) Weeds, grass, and vegetation shall be cut within the immediate vicinity of the cannabis manufacturing premises, litter and waste shall be removed, and equipment shall be stored in order to minimize the potential for the grounds to constitute an attractant, breeding place, or harborage for pests;
- (3) Roads, yards, and parking lots shall be maintained so that these areas do not constitute a source of contamination in areas where cannabis products are handled or transported;
- (4) Openings into the building (such as windows, exhaust fans, ventilation ducts, or plumbing vent pipes) shall be screened, sealed, or otherwise protected to minimize potential for pests to enter the building;
- (5) Waste treatment and disposal systems shall be provided and maintained so as to prevent contamination in areas where cannabis products may be exposed to such a system’s waste or waste by-products.
- (6) A licensed manufacturer shall implement precautions within the premises, such as inspection or extermination, if the premises is bordered by grounds outside the licensed manufacturer’s control that are not maintained in the manner described in subsections (1) through (5), in order to eliminate any pests, dirt, and filth that pose a source of cannabis product contamination. Any use of insecticide, rodenticide, or other pesticide within the premises shall meet the requirements of Health and Safety Code section 114254.

(b) Interior facility. A licensed manufacturer shall ensure construction, design, and maintenance of the interior of the manufacturing premises as follows:

(1) Walls, ceilings, and floors. Walls, ceilings, and floors shall be constructed of material that is smooth, nonporous, easily cleanable, corrosion-resistant, and suitable to the activity that will be conducted. Fixtures, ducts, and pipes shall not pose a source of drip or condensate that may contaminate cannabis, cannabis products, components, contact surfaces, or packaging material.

(2) Lighting. Interior facility lighting shall meet the requirements of the Health and Safety Code section 114252, subdivisions (a)(1) and (3), (b)(3) and (4), and (c). Interior facility lighting shall also meet the requirements for shatter-resistant lighting in Health and Safety Code section 114252.1. The requirements of Health and Safety Code section 114252.1(a), shall also apply to all areas where glass breakage may result in the contamination of exposed cannabis, cannabis products, components, contact surfaces, or packaging material.

(3) Plumbing system and fixtures.

(A) Water supply. Running water shall be supplied as required by Health and Safety Code section 114192 in all areas where required for the manufacturing of cannabis products; in all areas used for the cleaning of equipment, utensils, and packaging materials; and for employee sanitary facilities. Water that contacts cannabis, cannabis products, components, contact surfaces, or packaging materials shall be potable.

(B) Plumbing. Plumbing systems shall meet the requirements of Health and Safety Code section 114190.

(C) Sewage disposal. The sewage system shall be maintained and kept in good repair so that it does not pose a potential source of contamination of cannabis, cannabis products, components, contact surfaces, or packaging materials.

(D) Toilet facilities. A licensed manufacturer shall provide employees with access to toilet facilities that meet the requirements of Health and Safety Code section 114250. Toilet facilities shall be kept clean and shall not pose a potential source of contamination of cannabis, components, cannabis products, contact surfaces, or packaging materials.

(E) Hand-washing facilities. A licensed manufacturer shall provide hand-washing facilities that meet the requirements of Health and Safety Code sections 113953(a)-(d) and 113953.2.

(F) Waste disposal. A licensed manufacturer shall provide for waste disposal in accordance with Health and Safety Code sections 114244(a) and (c) and 114245.1. Cannabis waste shall be disposed of in accordance with section 17223.

(4) Ventilation. Ventilation systems shall meet the requirements of Health and Safety Code sections 114149 and 114149.3.

(5) Cleaning and maintenance. The premises, including any fixtures, and other physical facilities therein, shall be maintained in a clean and sanitary condition and kept in good repair so as to prevent cannabis products from becoming adulterated, and shall meet the requirements of Health and Safety Code section 114257.1.

(A) The premises shall have a janitorial facility that meets the requirements of Health and Safety Code section 114279(a).

(B) Cleaning equipment and supplies shall be stored in a manner that meets the requirements of Health and Safety Code section 114281.

(C) Poisonous or toxic materials such as cleaning compounds, sanitizing agents, and pesticide chemicals that are necessary for premises and equipment maintenance and operation shall be handled and stored in a manner that meets the requirements of Health and Safety Code sections 114254.1, 114254.2 and 114254.3.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26131, Business and Professions Code.

§17210. Equipment and Utensils.

(a) Design and construction. Equipment and utensils shall meet the requirements of Health and Safety Code sections 114130.1, 114130.2, 114130.3, and 114130.4 and shall be used in accordance with their operating instructions to avoid the adulteration of cannabis products with lubricants, fuel, metal fragments, contaminated water, or any other contaminants.

(b) Installation. Equipment shall be installed so as to allow cleaning and maintenance of the equipment and of adjacent spaces. Equipment that is not easily moveable shall meet the requirements of Health and Safety Code section 114169.

(c) Cleaning, sanitizing, and maintenance. Equipment and utensils shall be maintained in a clean and sanitary condition and kept in good repair. The quality control program for cleaning, sanitizing, and maintenance of equipment and utensils shall include the following elements, at minimum:

- (1) A detailed, written procedure for cleaning, sanitizing, and maintaining (including calibrating) equipment and utensils;
- (2) A schedule for cleaning, sanitizing, and maintaining equipment and utensils;
- (3) A log for documentation of the date and time of maintenance, cleaning, and sanitizing of equipment and utensils; and
- (4) A procedure for storing cleaned and sanitized equipment and utensils in a manner to protect the equipment and utensils from contamination.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26131, Business and Professions Code.

§17211. Manufacturing Personnel.

(a) Licensed manufacturers shall establish and implement procedures for personnel that include, at minimum:

(1) Disease control. Any individual who by medical examination or supervisory observation is shown to have, or appears to have, an illness specified in Health and Safety Code section 113949.2(a) or an open lesion (e.g., boil, sore, cut, rash, or infected wound), unless covered in accordance with the requirements of Health and Safety Code section 113949.2(b), shall be excluded from any manufacturing operations until their

health condition is corrected. Personnel shall be instructed to report such health conditions to their supervisors.

(2) Cleanliness. All individuals working in direct contact with cannabis, cannabis products, components, contact surfaces, and packaging materials shall maintain personal cleanliness in order to protect against allergen cross-contact and contamination of cannabis products while on duty. The methods for maintaining personal cleanliness include:

(A) Wearing clean outer clothing to protect against allergen cross-contact and contamination of cannabis, cannabis products, components, contact surfaces, and packaging materials;

(B) Washing hands thoroughly in a hand-washing facility that meets the requirements of section 17209 before starting work, after each absence from a work station, at any time specified in Health and Safety Code section 113953.3, and at any time when the hands may have become soiled or contaminated;

(C) Removing all unsecured jewelry and other objects that might fall into cannabis, cannabis products, components, equipment, or containers. Hand jewelry that cannot be sanitized shall be removed during periods in which cannabis products are manipulated by hand. If such hand jewelry cannot be removed, it shall be covered by material that can be maintained in an intact, clean, and sanitary condition and that effectively protects against contamination by these objects of cannabis, cannabis products, components, contact surfaces, and packaging materials;

(D) Maintaining gloves used in cannabis product handling in an intact, clean, and sanitary condition;

(E) Wearing hair nets, caps, beard covers, or other hair restraints that are designed and worn to prevent hair contact with cannabis, cannabis products, components, contact surfaces, and packaging materials;

(F) Storing clothing and personal belongings in areas separate from those where cannabis products are exposed or where equipment or utensils are washed; and

(G) Confining the following activities to areas separate from those where cannabis products may be exposed or where equipment or utensils are washed: eating food, chewing gum, drinking beverages, and using tobacco.

(3) Nothing in this section prohibits a licensed manufacturer from establishing additional precautions to protect against allergen cross-contact and contamination of cannabis, cannabis products, components, contact surfaces, and packaging materials by microorganisms or foreign substances (e.g., perspiration, hair, cosmetics, tobacco, chemicals, and medicines applied to the skin).

(4) The procedures for manufacturing personnel shall be in writing and made available to the Department upon request.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26131, Business and Professions Code.

§17211.1. Training Program.

(a) A manufacturing licensee shall establish and implement a training program to ensure that all personnel present at the premises are provided information and training that, at minimum, covers the following topics:

(1) Within 30 days of the start of employment:

(A) Health and safety hazards;

(B) Hazards presented by all solvents or chemicals used at the licensed premises as described in the safety data sheet for each solvent or chemical;

(C) Emergency response procedures;

(D) Security procedures;

(E) Record keeping requirements; and

(F) Training requirements.

(2) Prior to independently engaging in any cannabis manufacturing process:

(A) An overview of the cannabis manufacturing process and standard operating procedure(s);

(B) Quality control procedures;

(C) Product quality plans developed in accordance with section 17214;

(D) Proper and safe usage of equipment or machinery;

(E) Safe work practices applicable to an employee's job tasks, including appropriate use of any necessary safety or sanitary equipment;

(F) Cleaning and maintenance requirements;

(G) Emergency operations, including shutdown; and

(H) Any additional information reasonably related to an employee's job duties.

(3) Additionally, a manufacturing licensee that produces edible cannabis products shall ensure that all personnel who prepare, handle, or package edible products successfully complete a California food handler certificate course from an entity accredited by the American National Standards Institute (ANSI) within 90 days of commencing employment at the premises and again every three years during employment. A manufacturing licensee shall obtain documentation evidencing the fulfillment of this requirement;

(b) A manufacturing licensee shall ensure that all personnel receive annual refresher training to cover, at minimum, the topics listed in subsection (a). This annual refresher training must be completed within 12 months of the previous training completion date.

(c) A manufacturing licensee shall maintain a record of training containing, at minimum:

(1) A list of all personnel at the premises including, at minimum, name and job duties of each individual;

(2) Documentation of training topics and dates of training completion, including refresher training, for all personnel;

- (3) The signatures of each individual and the licensee verifying receipt and understanding of each training or refresher training completed by the individual; and
- (4) Any official documentation attesting to the successful completion of required training by personnel.

(d) A manufacturing licensee may assign responsibility for the training of individual personnel to supervisory personnel. Assigned supervisory personnel must have the education, training, or experience (or a combination thereof) necessary to ensure the production of quality cannabis products by all personnel. The assigned training personnel shall sign and date a document on an annual basis attesting that they received and understands all information that will be provided to personnel in the training program. This documentation shall be maintained as part of the record requirements in subsection (c).

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5, 26130 and 26160, Business and Professions Code.

§17212. Cannabis Product Components.

(a) In order to prevent adulteration of cannabis products, licensed manufacturers shall establish and implement written policies and procedures to ensure and maintain the quality of product components.

(b) Components are subject to the following minimum requirements:

(1) Components that are food must be obtained from a source that complies with federal and state food laws.

(2) Raw materials and other components shall be inspected upon intake to ensure that they are clean and suitable for manufacturing into cannabis products, and shall be stored under conditions that protect against allergen cross-contact and contamination and minimize deterioration.

(3) Raw materials shall be washed or cleaned as necessary to remove soil and other visible contaminants. Water used for washing, rinsing, or conveying cannabis product ingredients shall be potable.

(4) Raw materials and other components shall not contain levels of microorganisms that render the cannabis product injurious to human health, or shall be pasteurized or otherwise treated during manufacturing so that they no longer contain levels of microorganisms that would cause the cannabis product to be adulterated.

(5) Raw materials and other components susceptible to contamination with aflatoxin or other natural toxins, pests, or extraneous material shall not exceed generally acceptable limits set by the U.S. Food and Drug Administration in the *Defect Levels Handbook* (Rev. February 2005), which is hereby incorporated by reference, before these raw materials or other ingredients are incorporated into cannabis products.

(6) Raw materials and other components shall be held in containers designed and constructed to protect against allergen cross-contact or contamination, and shall be held

at a temperature and relative humidity and in a manner that prevents the cannabis products from becoming adulterated.

(7) Frozen raw materials and other components shall be kept frozen. If thawing is required prior to use, it shall be done in a manner that prevents the raw materials and other ingredients from becoming adulterated.

(8) Raw materials and other components that are food allergens shall be identified and held in a manner that prevents cross-contact with other raw materials or ingredients.

(c) Holding and storage of raw materials and other components shall meet the requirements of Health and Safety Code sections 114047(a) and (b), 114049, and 114051.

(d) The policies and procedures for components shall be in writing and made available to the Department upon request.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26131, Business and Professions Code.

§17213. Manufacturing Processes and Procedures.

(a) A licensed manufacturer shall implement and maintain the following manufacturing processes and procedures that ensure cannabis product quality:

(1) A product quality plan, as described in section 17214;

(2) Master manufacturing protocols, as described in section 17215, for each unique formulation of cannabis product manufactured to ensure only intended components are included and that the cannabis product is packaged and labeled in accordance with product specifications and this division; and

(3) Batch production records, as described in section 17216, to document the production process and, if needed, to verify that the established processes and procedures, including the preventive measures and master manufacturing protocol, were implemented correctly.

(b) All manufacturing records, processes, and procedures shall be in writing and are subject to inspection by the Department, its inspectors and agents.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26131, Business and Professions Code.

§17214. Product Quality Plan.

(a) A licensed manufacturer shall establish and implement a written product quality plan for each type of product manufactured at the premises. The product quality plan shall address the hazards associated with the premises or the manufacturing process that, if not properly mitigated, may cause the product to be adulterated or misbranded, or may cause the product to fail laboratory testing or quality assurance review.

(b) To create the product quality plan, the licensed manufacturer shall conduct a comprehensive assessment of the overall manufacturing process, as follows:

- (1) Identify each step from component intake through transfer of product from the premises;
- (2) Evaluate the potential risks associated with each step;
- (3) Identify the preventive measures that shall be taken to mitigate the potential risks identified;
- (4) Identify the methods to evaluate and monitor the effectiveness of the preventive measures; and
- (5) Identify any action to take if a preventive measure was unsuccessful.

(c) The licensed manufacturer shall evaluate the following potential risks to cannabis product quality that could be introduced during manufacturing operations:

- (1) Biological hazards, including microbiological hazards;
- (2) Chemical hazards, including radiological hazards, pesticide contamination, solvent or other residue, natural toxins, decomposition, or allergens;
- (3) Physical hazards, such as stone, glass, metal fragments, hair, or insects; and
- (4) Process failures that may lead to product contamination, allergen cross-contact, packaging errors, labeling errors, or other errors affecting cannabis product quality.

(d) The licensed manufacturer shall identify and implement the preventive measure(s) necessary to mitigate each potential risk identified pursuant to subsection (c). Examples of preventive measures include, but are not limited to:

- (1) Cleaning and sanitizing of equipment and utensils to mitigate against risk of microbiological hazards;
- (2) Conducting in-house testing of raw cannabis to mitigate against the risk of pesticide contamination;
- (3) Establishing an allergen control program to ensure that allergen cross-contact does not occur between product types; and
- (4) Implementing procedures to ensure homogeneity of cannabinoids into a cannabis product to mitigate against the risk of a non-homogeneous product.

(e) The licensed manufacturer shall identify and implement methods to evaluate and monitor the effectiveness of the preventive measures in mitigating the potential risks identified in subsection (c). Methods for evaluation and monitoring of preventive measures include, but are not limited to, the following:

- (1) Review of test results conducted to determine contamination such as pesticide residue;
- (2) Maintaining and reviewing cleaning, sanitizing, or maintenance logs to verify such actions have been taken;

- (3) Conducting environmental testing to determine if equipment or utensils are contaminated with pathogens; and
- (4) Monitoring the temperature of raw materials that need to be held below 41 degrees Fahrenheit to prevent microbial contamination.
- (f) The licensed manufacturer shall identify actions to be taken if the evaluation and monitoring of the preventive measure indicates that a risk was not properly mitigated. The corrective action shall be specific to the type of product under evaluation and the specific risk to be mitigated. Examples of corrective actions include, but are not limited to:
- (1) Destruction of product components or finished manufactured cannabis product;
 - (2) Further manufacturing of cannabis extract to remove impurities; and
 - (3) Reworking the unfinished product to further homogenize the cannabinoids.
- (g) The licensed manufacturer shall maintain the product quality plans and documentation of preventive measures, monitoring results, and corrective actions and make the records available to the Department upon the Department's request, including during the Department's onsite inspection of the premises. Nothing in this chapter requires the disclosure of product quality plans other than to the Department and its inspectors and agents. The licensee may consider the product quality plan subject to trade secret protection.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26131, Business and Professions Code.

§17215. Master Manufacturing Protocol.

- (a) A licensed manufacturer shall establish and follow a written master manufacturing protocol for each unique formulation of cannabis product manufactured, and for each batch size, in order to mitigate the potential for adulteration through incorporation of incorrect amounts of cannabinoids, unintended ingredients, or hazards identified in the product quality plan; the potential for misbranding through incorporation of ingredients not identified on the label or mislabeling of the product; and to ensure uniformity in finished batches and across all batches produced.
- (b) The master manufacturing protocol shall include:
- (1) The name and intended cannabinoid concentration(s) of the cannabis product to be manufactured;
 - (2) A complete list of components to be used;
 - (3) The weight or measure of each component to be used. The master manufacturing protocol for any given product may include the ability to adjust the weight or measure of cannabinoid-containing ingredients in order to account for the variability of cannabinoid content in harvest batches;
 - (4) The identity and weight or measure of each ingredient that will be declared on the ingredients list of the cannabis product;

- (5) The expected yield of the finished manufactured cannabis product, based upon the quantity of components or packaging to be used in the absence of any loss or error in actual production, and the maximum and minimum percentages of expected yield beyond which a deviation investigation of a batch will be necessary, material review will be conducted, and a decision on the disposition of the product will be made;
 - (6) A description of packaging and a representative label, or a cross-reference to the physical location of the actual or representative label;
 - (7) The expected number of packages and labels to be used, if the cannabis product will leave the manufacturing premises in final form;
 - (8) Written instructions for each point, step, or stage in the manufacturing process; and
 - (9) Written instructions for any action to mitigate risk(s) identified in the product quality plan.
- (c) Master manufacturing protocols shall be in writing and made available to the Department upon request.
- (d) Nothing in this chapter requires disclosure of the master manufacturing protocol to any person other than the individuals conducting activities that utilize the protocol or to the Department and its inspectors and agents. The licensee may consider the master manufacturing protocol subject to trade secret protection.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26131, Business and Professions Code.

§17216. Batch Production Record.

- (a) A licensed manufacturer shall prepare a written batch production record every time a batch of a cannabis product is manufactured or a batch of cannabis or cannabis product is remediated. The batch production record shall accurately follow the appropriate master manufacturing protocol, and each step of the protocol shall be performed in the production of the batch.
- (b) The batch production record shall document complete information relating to the production and control of each batch, including all of the following details:
- (1) The UID and the batch or lot number of the finished batch of cannabis product and the UIDs of all cannabis or cannabis products used in the batch;
 - (2) The specific equipment and processing lines used in producing or remediating the batch;
 - (3) The identity and weight or measure of each component used;
 - (4) A statement of the actual yield and the percentage difference from expected yield at appropriate phases of manufacturing as identified in the master manufacturing protocol;
 - (5) The actual results obtained during any monitoring operation, if the product quality plan identifies any monitoring needed to ensure product safety;

- (6) Documentation, at the time of performance, of the manufacture of the batch, including:
- (A) The date on which each step of the master manufacturing protocol was performed; and
 - (B) The initials of the person(s) performing each step;
- (7) An actual or representative label or other identification of the label to be used for the cannabis product;
- (8) The actual quantity of the packaging and labels used, and the difference from the expected number to be used, if the cannabis product will leave the manufacturing premises as a final form cannabis good;
- (9) Documentation, at the time of performance, that quality control personnel:
- (A) Reviewed the batch production record;
 - (B) Reviewed all required monitoring operation(s);
 - (C) Reviewed the results of all tests and examinations, including tests and examinations conducted on components, finished batches of cannabis product, and packaged and labeled cannabis products; and
 - (D) Either approved and released, or rejected, the finished cannabis product, including any remediated, repackaged or relabeled cannabis product;
- (10) Documentation, at the time of performance, of any investigation identified in the product quality plan or master manufacturing protocol, including investigations into deviations from the expected yield or package and label count.
- (c) The batch production record shall:
- (1) Contain the actual values and observations obtained during monitoring and, as appropriate, during verification activities;
 - (2) Be accurate, indelible, and legible;
 - (3) Be created concurrently with performance of the activity documented;
 - (4) Be as detailed as necessary to provide a history of work performed; and
 - (5) Include the following information:
 - (A) The license number or premises address of the facility at which the manufacturing occurred;
 - (B) The date each step was performed;
 - (C) The signature or initials of the person performing the activity; and
 - (D) The identity of the product, the UID, and the batch or lot number.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26131, Business and Professions Code.

§17217. Standard Operating Procedures.

(a) A licensed manufacturer shall establish and maintain written standard operating procedures that are easily accessible to onsite personnel. The standard operating procedures shall, at minimum, include the following:

(1) Policies or procedures developed in accordance with the security plan required by section 15042.1;

(2) Emergency response procedures, including safety data sheets for any chemicals onsite;

(3) Policies and procedures developed in accordance with section 17206;

(4) Policies and procedures developed in accordance with this article;

(5) Procedures for complying with the track and trace requirements established in article 6 of chapter 1; and

(6) Cannabis waste management procedures in compliance with section 17223.

(b) Procedures shall be written in English but may be made available in other languages, as necessary for the licensee's personnel.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5, 26130 and 26160, Business and Professions Code.

§17218. Inventory Control – Cannabis and Cannabis Products.

(a) A licensed manufacturer shall establish and implement a written inventory control plan capable of tracking the location and disposition of all cannabis and cannabis products at the licensed premises.

(b) A licensed manufacturer shall reconcile the on-hand inventory of cannabis and cannabis products at the licensed premises with the records in the track and trace system at least once every thirty (30) calendar days.

(c) If a licensed manufacturer finds a discrepancy between the on-hand inventory and the track and trace system, the licensee shall conduct an audit.

(d) If the inventory reconciliation conducted pursuant to subsection (b) or the audit conducted pursuant to subsection (c) reveals a discrepancy that is more than five percent of the documented inventory, the licensed manufacturer shall notify the Department within 24 hours of the discovery.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26130, Business and Professions Code.

Article 5. Special Requirements

§17219. Juice Manufacturing.

Manufacturers of cannabis juice or cannabis-infused juice or beverages shall prepare and implement a written juice hazard analysis and critical control plan in accordance with the requirements of title 21, Code of Federal Regulations, Part 120, subpart A, section 120.8 and subpart B, section 120.24, (Rev. January 2001), which are hereby incorporated by reference.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26131, Business and Professions Code.

§17220. Dried Meat Manufacturing.

Manufacturing of cannabis-infused dried meat products shall be conducted in accordance with the United States Department of Agriculture *FSIS Compliance Guideline for Meat and Poultry Jerky Produced by Small and Very Small Establishments: 2014 Compliance Guideline* (Rev. 2014), which is hereby incorporated by reference. Meat for manufacturing into dried meat products shall be acquired from a commercially-available source.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26131, Business and Professions Code.

Chapter 9. Other Responsibilities

§17221. Weighing Devices and Weighmasters.

(a) A licensee shall use weighing devices approved, tested, and sealed in accordance with the requirements in Business and Professions Code, division 5, chapter 5 (commencing with section 12500) and its implementing regulations, and registered with the county sealer consistent with Business and Professions Code, division 5, chapter 2 (commencing with section 12240) and its implementing regulations whenever:

- (1) Cannabis or cannabis product is bought or sold by weight or count;
- (2) Cannabis or cannabis product is packaged for sale by weight or count;
- (3) Cannabis or cannabis product is weighed or counted for entry into the track and trace system; and
- (4) The weighing device is used for commercial purposes as defined in Business and Professions Code section 12500.

(b) Whenever the licensee is determining the weight, measure, or count of cannabis and cannabis products for the purposes specified in subsection (a), the weight, measure, or count shall be determined by a licensed weighmaster in compliance with the requirements of Business and Professions Code, division 5, chapter 7 (commencing with section 12700).

(c) A licensee shall obtain a weighmaster certificate that complies with the requirements

of Business and Professions Code, division 5, chapter 7 (commencing with section 12700) whenever:

- (1) Payment for the cannabis or cannabis product is dependent upon the quantity determined by the weighmaster; or
- (2) Payment for service or processing of the cannabis or cannabis product is dependent upon the quantity determined by the weighmaster.
- (d) The weighmaster certificate shall not be required when cannabis or cannabis products are weighed or counted for entry into the track and trace system.
- (e) In any county in which a county sealer refuses or is not required to approve, register, test, and seal weighing devices used by a licensee, the licensee may have a service agency registered pursuant to Business and Professions Code, division 5, chapter 5.5 perform testing of a weighing device consistent with the requirements in title 4, California Code of Regulations, section 4070. The licensee shall keep a copy of the registered service agency's written inspection report attesting to the accuracy of the device for each device operated by the licensee.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26060, Business and Professions Code.

§17223. Waste Management.

- (a) A licensee shall dispose of all waste in accordance with the Public Resources Code and any other applicable state and local laws. It is the responsibility of the licensee to properly evaluate waste to determine if it should be designated and handled as a hazardous waste, as defined in Public Resources Code section 40141.
- (b) A licensee shall establish and implement a written cannabis waste management plan that describes the method or methods by which the licensee will dispose of cannabis waste, as applicable to the licensee's activities. A licensee shall dispose of cannabis waste using only the following methods:
 - (1) On-premises composting of cannabis waste.
 - (2) Collection and processing of cannabis waste by a local agency, a waste hauler franchised or contracted by a local agency, or a private waste hauler permitted by a local agency in conjunction with a regular organic waste collection route.
 - (3) Self-haul cannabis waste to one or more of the following:
 - (A) A manned, fully permitted solid waste landfill or transformation facility;
 - (B) A manned, fully permitted composting facility or manned composting operation;
 - (C) A manned, fully permitted in-vessel digestion facility or manned in-vessel digestion operation;
 - (D) A manned, fully permitted transfer/processing facility or manned transfer/processing operation;
 - (E) A manned, fully permitted chip and grind operation or facility; or

(F) A recycling center as defined in title 14, California Code of Regulations, section 17402.5(d) that meets the following:

(i) The cannabis waste received shall contain at least ninety (90) percent inorganic material;

(ii) The inorganic portion of the cannabis waste is recycled into new, reused, or reconstituted products that meet the quality standards necessary to be used in the marketplace; and

(iii) The organic portion of the cannabis waste shall be sent to a facility or operation identified in subsections (b)(3)(A)-(E).

(4) Reintroduction of cannabis waste back into agricultural operation through on-premises organic waste recycling methods including, but not limited to, tilling directly into agricultural land and no-till farming.

(c) The licensee shall maintain any cannabis waste in a secured waste receptacle or secured area on the licensed premises until the time of disposal. Physical access to the receptacle or area shall be restricted to the licensee, employees of the licensee, the local agency, waste hauler franchised or contracted by the local agency, or private waste hauler permitted by the local agency only. Nothing in this subsection prohibits licensees from using a shared waste receptacle or area with other licensees, provided that the shared waste receptacle or area is secured and access is limited as required by this subsection.

(d) A licensee that disposes of waste through an entity described in subsection (b)(2) shall do all of the following:

(1) Maintain and make available to the Department upon request the business name, address, contact person, and contact phone number of the entity hauling the waste; and

(2) Obtain documentation from the entity hauling the waste that evidences subscription to a waste collection service.

(e) If a licensee is self-hauling cannabis waste as allowed by the local jurisdiction, the licensee shall be subject to all of the following requirements:

(1) Self-hauled cannabis waste shall only be transported by the licensee or its employees;

(2) Self-hauled cannabis waste shall only be transported to a facility specified in subsection (b)(3); and

(3) The licensee or its employee who transports the waste shall obtain for each delivery of cannabis waste a copy of a certified weight ticket or receipt from the solid waste facility.

(f) A batch of cannabis or cannabis products that is being disposed of because the batch has failed internal quality testing, quality assurance review by a distributor, or regulatory compliance testing shall comply with the following additional requirements:

(1) All cannabis or cannabis products in the batch shall be rendered unusable prior to disposal;

- (2) Rendering of the cannabis or cannabis products shall be done under video surveillance, unless the rendering is performed by a licensee engaging in cultivation activities on a licensed premises authorized exclusively for cultivation activities or the cultivation area of a licensed microbusiness premises; and
- (3) The reason for disposal and the disposition of the batch shall be noted in the track and trace system.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26130, Business and Professions Code.

§17225. Product Complaints.

- (a) A licensee shall review all product complaints made to the licensee to determine whether the complaints involve possible misbranding or adulteration of a cannabis good, and shall investigate the complaints to the extent practicable based on the information received and the records the licensee is required to maintain.
- (b) For purposes of this section, “product complaint” means any written, electronic, or oral communication received by a licensee that contains any allegation expressing concern, for any reason, with the quality of a cannabis good. Examples of product complaints may include, but are not limited to: foul odor, caused illness or injury, foreign material in a cannabis product container, improper packaging, mislabeling, cannabis products that contain an incorrect concentration of cannabinoids, and cannabis products that contain an unidentified ingredient, or any form of contaminant.
- (c) The licensee shall maintain written records for every product complaint received and any subsequent investigation. The records shall include:
 - (1) The name and description of the cannabis good;
 - (2) The batch number or UID of the cannabis good, if available;
 - (3) The date the complaint was received and the name, address, and telephone number of the complainant, if available;
 - (4) The nature of the complaint including, if known, how the product was used;
 - (5) The reply to the complainant, if any;
 - (6) The findings of the investigation or follow-up action taken when an investigation is performed;
 - (7) The basis for any determination not to conduct an investigation, if applicable; and
 - (8) The notification to the licensee that made the cannabis good, if applicable.
- (d) The licensee shall conduct a recall, as specified in section 17226, when the investigation evidences adulteration or misbranding.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26131, Business and Professions Code.

§17226. Voluntary Recalls.

(a) Licensees shall establish and implement written procedures for recalling cannabis goods that are determined to be misbranded or adulterated. These procedures shall include:

(1) Factors that necessitate a recall;

(2) Personnel responsible for implementing the recall procedures; and

(3) Notification protocols, including:

(A) A mechanism to notify all customers that have, or could have, obtained the cannabis goods, including communication and outreach via media, as necessary and appropriate;

(B) A mechanism to notify any licensees that supplied or received the recalled cannabis goods; and

(C) Instructions to the general public and other licensees for the return or destruction of the recalled cannabis goods; and

(4) Procedures for the collection and destruction of any recalled cannabis goods. These procedures shall meet the following requirements:

(A) All recalled cannabis goods that are intended to be destroyed shall be quarantined for a minimum of 72 hours, unless a longer holding time is requested by the Department. The licensee shall affix to the recalled cannabis goods any bills of lading, shipping manifests, or other similar documents with the cannabis goods information and weight. The cannabis goods held in quarantine shall be subject to auditing by the Department.

(B) Following the quarantine period, the licensee shall render the recalled cannabis goods unusable and dispose of them in accordance with section 17223.

(b) In addition to the tracking requirements set forth in section 15049, a licensee shall use the track and trace system and onsite documentation to ensure that recalled cannabis goods intended for destruction are identified, weighed, and tracked while on the licensed premises and when disposed of in accordance with this section. For recalled cannabis goods, the licensee shall enter the following details into the track and trace system: the weight and count of the cannabis goods, reason for destruction, and date the quarantine period will begin.

(c) The licensee shall notify the Department of any recall within 24 hours of initiating the recall.

(d) A licensed manufacturer may submit a remediation plan to the Department in accordance with the section 17305. If the remediation plan is not approved by the Department, the cannabis goods shall be destroyed pursuant to the procedures required by subsection (a)(4).

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26039.1 and 26039.6, Business and Professions Code.

§17227. Mandatory Recalls.

- (a) The Department may require licensees to conduct a recall of a cannabis good that is adulterated or misbranded in accordance with Business and Professions Code section 26039.1.
- (b) The licensee shall conduct the mandatory recall in the same manner as a voluntary recall as provided in section 17226.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26039.1 and 26039.6, Business and Professions Code.

Chapter 10. Cannabis and Cannabis Products

Article 1. Standards for Manufactured Cannabis Products

§17300. Prohibited Products.

The following types of products shall not be sold as cannabis products:

- (a) Alcoholic beverages, as defined in Business and Professions Code section 23004. This prohibition does not apply to tinctures that meet the requirements of section 17303;
- (b) Any product containing any non-cannabinoid additive that would increase potency, toxicity, or addictive potential, or that would create an unsafe combination with other psychoactive substances. Prohibited additives include, but are not limited to, nicotine and caffeine. This prohibition shall not apply to products containing naturally-occurring caffeine, such as coffee, tea, or chocolate;
- (c) Any cannabis product that must be held at or below 41 degrees Fahrenheit to keep it safe for human consumption, including, but not limited to, cream- or custard-filled pies; pies or pastries consisting in whole or in part of milk or milk products, or eggs; and meat-filled pies or pastries. This prohibition shall not apply to juices or beverages that need to be held below 41 degrees Fahrenheit if the juice or beverage was processed in accordance with section 17219, or to infused butter manufactured as permitted by subsection (g);
- (d) Any thermally-processed low-acid cannabis product packed in a hermetically sealed container that, if it did not contain cannabis, would be subject to the manufacturing requirements of title 21, Code of Federal Regulations, part 113;
- (e) Any acidified cannabis product that, if it did not contain cannabis, would be subject to the manufacturing requirements of title 21, Code of Federal Regulations, part 114;
- (f) Any juice that is not shelf-stable or that is not processed in accordance with section 17219;
- (g) Dairy products of any kind, as prohibited by Business and Professions Code section 26001(u), except butter purchased from a licensed milk products plant or retail location that is subsequently infused or mixed with cannabis may be sold as a cannabis product;
- (h) Meat products other than dried meat products prepared in accordance with section 17220;

- (i) Seafood products of any kind;
- (j) Any product that is manufactured by application of cannabinoid concentrate or extract to commercially available candy or snack food items without further processing of the product. Commercially available candy or snack food items may be used as ingredients in a cannabis product, provided that they are used in a way that renders them unrecognizable as the commercially available items, and the label, including the ingredient list, does not note that the final cannabis product contains the commercially available item;
- (k) Any cannabis product that the Department determines, on a case-by-case basis, is attractive to children, as specified in section 17408;
- (l) Any cannabis product that the Department determines, on a case-by-case basis, is easily confused with commercially available foods that do not contain cannabis; or
- (m) Any cannabis product in the shape of, or imprinted with the shape, either realistic or caricature, of a human being, animal, insect, or fruit.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26130, Business and Professions Code.

§17301. Requirements for Edible Cannabis Products.

- (a) Except for cannabis, cannabis products, or terpenes, no ingredient or component shall be used in the manufacture of an edible cannabis product unless that ingredient or component is permitted by the United States Food and Drug Administration for use in food or food manufacturing, as specified in *Substances Added to Food in the United States*, available at <https://www.accessdata.fda.gov/scripts/fdcc/index.cfm?set=FoodSubstances> or is Generally Recognized as Safe (GRAS) under sections 201(s) and 409 of the Federal Food, Drug, and Cosmetic Act (codified in 21 U.S.C. 321(s) and 21 U.S.C. 348).
- (b) Edible cannabis products that consist of more than a single serving shall be either:
 - (1) Scored or delineated to indicate one serving, if the edible cannabis product is in solid form. For purposes of this section, “delineated” includes directly marking the product to indicate one serving or providing a means by which a consumer can accurately identify one serving; or
 - (2) If the edible cannabis product is not in solid form, packaged in a manner such that a single serving is readily identifiable or easily measurable.
- (c) An edible cannabis product consisting of multiple servings shall be homogenized so that each serving contains the same concentration of THC.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26130, Business and Professions Code.

§17302. Additional Requirements for Topical Cannabis Products.

(a) Except for cannabis, cannabis concentrate, or terpenes, topical cannabis products shall only contain ingredients permitted for cosmetic manufacturing in accordance with title 21, Code of Federal Regulations, part 700, subpart B (section 700.11 et seq.) (Rev. April 2020), which is hereby incorporated by reference.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Section 26011.5, Business and Professions Code.

§17303. Orally Consumed Products Containing Alcohol.

(a) Any orally consumed product that contains more than 0.5% alcohol by volume as an ingredient, and is not otherwise an alcoholic beverage as defined in Business and Professions Code section 23004, shall be packaged in a container no larger than two (2) fluid ounces and shall include a calibrated dropper or other similar device capable of accurately measuring servings.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Section 26011.5, Business and Professions Code.

Article 2. Cannabinoid Concentration Limits

§17304. THC Concentration Limits.

(a) An edible cannabis product shall not contain more than:

- (1) 10 milligrams THC per serving; and
- (2) 100 milligrams THC per package.

(b) Notwithstanding subsection (a), a package containing an edible product that is an orally dissolving product, such as sublingual lozenges or mouth strips, may contain up to 500 milligrams THC per package, if:

- (1) The cannabis product consists of discrete servings of no more than 10 milligrams THC per piece;
- (2) The cannabis product is labeled “FOR MEDICAL USE ONLY;” and
- (3) The cannabis product is only available for sale to a medicinal-use patient.

(c) A topical cannabis product or a cannabis concentrate shall not contain more than 1,000 milligrams THC per package.

(d) Notwithstanding subsection (c), a topical cannabis product or a cannabis concentrate may contain more than 1,000 milligrams THC per package, but not more than 2,000 milligrams THC per package, if the product is labeled “FOR MEDICAL USE ONLY” and is only available for sale to a medicinal-use patient.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5, 26120 and 26130, Business and Professions Code.

Article 3. Failed Product Batches

§17305. Failed Product Batches.

(a) A finished cannabis product batch that fails any regulatory compliance laboratory testing requirement established in this division shall be destroyed unless:

(1) The cannabis product batch may be remediated by relabeling pursuant to subsection (d); or

(2) A corrective action plan for remediation is approved by the Department pursuant to subsection (e).

(b) Remediation of a failed product batch or the use of a harvest batch that has failed any regulatory compliance laboratory test shall comply with the requirements and procedures established by the Department in section 15727, in addition to the requirements of this article.

(c) Except as provided in subsections (d) and (f), edible cannabis products that fail regulatory compliance laboratory testing shall not be remediated and shall be destroyed. If any edible cannabis product that has failed regulatory compliance laboratory testing is remediated or otherwise mixed with another batch of cannabis product in violation of this section, such action shall render the final cannabis product adulterated, regardless of the defect level of the final cannabis product.

(d) A cannabis product batch that fails regulatory compliance laboratory testing for cannabinoid or terpenoid content may be remediated by relabeling the product with the correct information from the laboratory certificate of analysis, provided that the THC limits in section 17304 are met. In addition, the following conditions apply:

(1) The manufacturer licensee shall notify the Department within 3 business days of notification by a distributor that the product failed cannabinoid content testing and is required to be relabeled.

(2) Notification shall be given to the Department by email and shall include a copy of the certificate of analysis for the batch and the name and license number of the licensee relabeling the product.

(e) Except as provided in subsection (d), a cannabis product batch or a harvest batch that fails regulatory compliance laboratory testing or quality assurance review shall not be remediated unless the Department has approved a corrective action plan submitted by the manufacturer licensee. The corrective action plan shall include, at minimum, a description of how the product or harvest batch will be remediated so that the product or harvest batch, or any product produced therefrom, will meet all regulatory compliance laboratory testing and quality assurance requirements. Edible cannabis products may only be remediated by relabeling or repackaging as provided in subsection (f). Corrective action plans will be reviewed by the Department on a case-by-case basis.

(f) Edible cannabis products that fail regulatory compliance laboratory testing because the per-package limit of THC has been exceeded may be remediated by repackaging under the following conditions:

(1) The Department has approved a corrective action plan for repackaging the product;

- (2) The product batch is returned to the manufacturer that packaged the product;
 - (3) The product itself is not altered in any way; and
 - (4) The product is labeled to accurately state the contents.
- (g) All remediation of harvest or product batches shall be documented in the batch production records. Remediated products, harvest batches, or products produced therefrom shall be tested and undergo quality assurance review in accordance with the requirements established by the Department in chapter 2 of this division prior to retail sale.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Section 26131, Business and Professions Code.

Chapter 11. Labeling and Packaging Requirements

Article 1. Bulk Cannabis or Cannabis Products, Immature Plants, and Seeds

§17398. Bulk Cannabis or Cannabis Products.

- (a) For purposes of this section, “bulk cannabis or cannabis products” means cannabis or cannabis products transferred between licensees for the purpose of further processing and/or packaging.
- (b) The packaging used to transport bulk cannabis or cannabis products shall protect the cannabis or cannabis products from contamination and shall not expose the cannabis or cannabis products to any toxic or harmful substance.
- (c) Packages of bulk cannabis or cannabis products shall be labeled with the following:
- (1) The type or common name of the cannabis or cannabis products contained therein;
 - (2) The UID assigned to the cannabis or cannabis products;
 - (3) The ingredients of the cannabis products, including a list of any allergens present as described in section 17406(a)(6); and
 - (4) The net weight or count of the cannabis or cannabis products.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Section 26120, Business and Professions Code.

§17399. Immature Plants.

- (a) Immature plants to be sold at retail are not required to be placed in child-resistant or tamper-evident packaging prior to sale.
- (b) Immature plants shall be labeled with the following:
- (1) The legal business name, or any name listed on the license certificate, of the licensed nursery that cultivated the immature plant, and its contact number or website address;
 - (2) The strain name; and

(3) The statement: “This plant has not been tested in accordance with the Medicinal and Adult-Use Cannabis Regulation and Safety Act.”

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070, 26100 and 26120, Business and Professions Code.

§17400. Seeds.

(a) Packages of seeds are not required to be placed in child-resistant packaging prior to sale.

(b) Packages of seeds to be sold at retail shall be labeled with the following:

(1) The legal business name, or any name listed on the license certificate, of the licensed nursery that cultivated the seeds, and its contact number or website address;

(2) The strain name(s);

(3) Either the weight or count of seeds in the package;

(4) The universal symbol described in section 17410; and

(5) The statement: “These seeds have not been tested in accordance with the Medicinal and Adult-Use Cannabis Regulation and Safety Act.”

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Section 26130, Business and Professions Code.

Article 2. Cannabis Products Released from Manufacturing

§17401. Release to Distributor as Finished Product.

(a) Prior to release of a manufactured cannabis product to a distributor for purposes of compliance testing and retail sale, a licensed manufacturer shall ensure that the product is labeled and packaged in its final form for retail sale.

(b) Notwithstanding subsection (a), a product label may exclude labeling of cannabinoid content if the cannabinoid content is to be added to the label at the distribution premises after issuance of a Certificate of Analysis in accordance with section 17407.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5 and 26130, Business and Professions Code.

Article 3. Labeling Requirements

§17402. General Provisions.

(a) Any information required to be listed on a label shall be written in English.

(b) A label shall be unobstructed and conspicuous so that it can be read by the consumer.

(c) All required label information shall be located on the outside container or wrapper of the finished product to be sold at a retailer, or be easily legible through the outermost

container or wrapper. If the immediate container holding the cannabis goods is separable from the outermost packaging, such as a container placed inside of a box, the immediate container shall be labeled with the universal symbol as described in section 17410.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Section 26120, Business and Professions Code.

§17403. Primary Panel Labeling Requirements: Nonmanufactured Cannabis Goods.

(a) The label for a package of nonmanufactured cannabis goods shall include a primary panel that includes the following information in a type size no smaller than 6 point and proportional to the size of the primary panel and container:

- (1) The identity of the product;
- (2) The net weight of cannabis in the package, listed in both metric and U.S. customary units; and
- (3) The universal symbol described in section 17410.

(b) The label for a package of pre-rolls or packaged flower shall include an informational label that includes the following information in a type size no smaller than 6 point and proportional to the size of the informational panel and container:

- (1) The UID;
- (2) The name of the licensed cultivator or licensee packaging the product (either the legal business name or the registered name under which the business will operate listed on the license certificate) and that licensee's contact number or website address;
- (3) The date of packaging for retail sale; and
- (4) The following statement in bold print: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS CANNABIS, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. CANNABIS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF CANNABIS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION."

(c) Nothing in this section prohibits the inclusion of additional information on the primary panel, provided that the label does not violate the requirements of section 17408.

(d) The cannabinoid content for a package of pre-rolls or packaged flower shall be labeled as specified in section 17407.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Section 26120, Business and Professions Code.

§17404. Primary Panel Labeling Requirements: Manufactured Cannabis Products.

(a) The label for a manufactured cannabis product shall include a primary panel that includes the following information in a type size no smaller than 6 point and proportional to the size of the primary panel and container:

- (1) The identity of the product in a text size reasonably proportional to the most prominent printed matter on the panel;
- (2) The universal symbol as described in section 17410; and
- (3) The net weight or volume of the contents of the package, listed in both metric and U.S. customary units.

(b) Nothing in this section prohibits the inclusion of additional information on the primary panel, provided that the label does not violate the requirements of section 17408.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Section 26120, Business and Professions Code.

§17405. Additional Primary Panel Labeling Requirements: Edible Products.

(a) In addition to the requirements of section 17404, the primary panel of an edible cannabis product shall include the words “cannabis-infused” or “cannabis infused” immediately above the identity of the product in bold type and a text size larger than the text size used for the identity of the product.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Section 26120, Business and Professions Code.

§17406. Informational Panel Labeling Requirements.

(a) The label for a manufactured cannabis product shall include an informational panel that includes the following:

- (1) The name of the licensed manufacturer (either the legal business name or the registered name under which the business will operate listed on the license certificate) that manufactured the cannabis product and the manufacturer’s contact number or website address;
- (2) The date the cannabis product was packaged for retail sale;
- (3) The following statement in bold print: “GOVERNMENT WARNING: THIS PRODUCT CONTAINS CANNABIS, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. CANNABIS PRODUCTS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. THE INTOXICATING EFFECTS OF CANNABIS PRODUCTS MAY BE DELAYED UP TO TWO HOURS. CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF CANNABIS PRODUCTS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION;”

(4) The statement: “FOR MEDICAL USE ONLY” if the package contains an amount of THC that exceeds the level allowed for adult-use cannabis goods, as specified in section 17304;

(5) A list of all product ingredients in descending order of predominance by weight or volume. If any product ingredient contains subingredients, the list shall either:

(A) Include the common name of the ingredient followed by a parenthetical listing of all ingredients in descending order by weight or volume; or

(B) List all subingredients as individual ingredients in descending order of predominance; however,

(C) This subsection shall not apply to flavoring, which shall instead comply with title 21, Code of Federal Regulations, Part 101.22 (Rev. April 2020), hereby incorporated by reference;

(6) For cannabis products containing an ingredient, flavoring, coloring, or an incidental additive that bears or contains a major food allergen, the word “contains,” followed by a list of the applicable major food allergens. The list shall conform with the requirements for food allergen labeling set forth in 21 U.S.C. §343(w), paragraph (1)(A) or (1)(B);

(7) The names of any artificial colorings contained in the product;

(8) For edible cannabis products, the amount, in grams or milligrams, of sodium, sugar, carbohydrates, and total fat per serving;

(9) Instructions for use, such as the method of consumption or application, and any preparation necessary prior to use;

(10) The UID;

(11) The batch or lot number; and

(12) The statement: “KEEP REFRIGERATED” or “REFRIGERATE AFTER OPENING,” as applicable, if the cannabis product is perishable or perishable after opening.

(b) The informational panel text shall be in a type size no smaller than 6 point and proportional to the size of the primary panel and container.

(c) Except for the information required by subsections (a)(10) and (a)(11), the requirements of subsection (a) may be fulfilled through the use of supplemental labeling, which may include, but is not limited to, a package insert, fold-out or booklet label, or a hanging tag. After December 31, 2021, supplemental labeling may not be used to fulfill the labeling requirement in subsection (a)(1).

(d) Cannabinoid content may be included on the informational panel. Cannabinoid content for manufactured cannabis products shall be labeled as specified in section 17407.

(e) Nothing in this section prohibits the inclusion of additional information on the informational panel provided that the label does not violate the requirements of section 17408.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Section 26120, Business and Professions Code.

§17407. Cannabinoid Content Labeling.

(a) Each package for retail sale of cannabis goods shall be labeled with the cannabinoid content on either the primary panel or an informational panel. For manufactured products, cannabinoid content may be included on the label prior to release to a distributor or it may be added to the label at the distribution premises after issuance of a regulatory compliance testing Certificate of Analysis for the batch as described in subsection (d).

(b) Cannabinoid content labeling shall include the following:

(1) For an edible product or a cannabis concentrate for which the manufacturer has established serving designations, THC and CBD content expressed in milligrams per serving and milligrams per package.

(2) For a topical cannabis product or a cannabis concentrate without serving designations, THC and CBD content expressed in milligrams per package.

(3) For nonmanufactured cannabis goods, Total THC content expressed as a percentage.

(4) Packages of infused pre-rolls shall be labeled with either:

(A) The cannabinoid content in milligrams; or

(B) The cannabinoid content of the dried flower expressed as a percentage and the added cannabinoid content in milligrams.

(c) Cannabis goods labeled prior to testing must include the items specified in subsection (b), as appropriate to the product. For THC or CBD concentration that is less than two (2) milligrams per serving or per package, the THC or CBD concentration may be stated as “<2 mg per serving” or “<2 mg per package.”

(d) Cannabis goods labeled at the distribution premises after issuance of the Certificate of Analysis shall comply with the following:

(1) Each package of cannabis goods shall be labeled with the cannabinoid content as specified in subsection (b) that is indicated on the Certificate of Analysis, as well as any other cannabinoid that is five (5) percent or greater of the total cannabinoid content;

(2) Labeled cannabinoid content shall reflect the amount indicated on the Certificate of Analysis. The amount may be rounded to the nearest whole number, except that packages shall not be labeled with an amount greater than the allowable THC limits. If the THC or CBD content of a manufactured cannabis product is indicated on the Certificate of Analysis as “Not Detected” or “<LOQ,” the cannabinoid content shall be labeled as “0 mg” or “<2 mg;”

(3) The cannabinoid content label shall be affixed to the outermost packaging of the cannabis goods and shall not obscure any other label information.

(e) Nothing in this section precludes the labeling of terpenes or additional cannabinoid content on the cannabis goods, provided that the information is verified by the Certificate of Analysis.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Section 26120, Business and Professions Code.

§17408. Labeling Restrictions.

(a) Cannabis goods labeling shall not contain any of the following:

(1) The name of a California city, county, or city and county, including any similar name that is likely to mislead consumers as to the origin of the product, unless one hundred percent of the cannabis contained in the product was grown in that city, county, or city and county. For purposes of this subsection, a cannabis plant is considered to have been grown within a city, county, or city and county of origin if the plant was cultivated within that boundary starting from the time the plant was no taller or wider than 18 inches.

(2) Content that is, or is designed to be, attractive to individuals under the age of 21, as specified in section 15040(a)(2) and (3).

(3) Any health-related statement that is untrue or misleading. Any health-related statement must be supported by the totality of publicly available scientific evidence (including evidence from well-designed studies conducted in a manner which is consistent with generally recognized scientific procedures and principles), and for which there is significant scientific agreement among experts qualified by scientific training and experience to evaluate such claims.

(4) If the product is an edible cannabis product, a picture of the product contained therein.

(5) Any information that is false or misleading. For purposes of this section, false and misleading information includes, but is not limited to:

(A) Any statement or indication that the cannabis or cannabis product is organic, unless the National Organic Program (section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. section 6501 et seq.)) authorizes organic designation and certification for cannabis and the cannabis or cannabis product meets the requirements for that designation and certification. This includes use of the word “organic” or variants in spelling such as “organix” on the labeling, except for use of the term “organic” in the ingredient statement on the informational panel of a cannabis product in compliance with the requirements of the programs established pursuant to Business and Professions Code section 26062.

(B) Any statement or indication that the cannabis or cannabis product is “OCal,” “OCal certified,” or made with “OCal cannabis,” if the cannabis or cannabis product has not been cultivated, handled, processed, or manufactured in compliance with the requirements of the programs established pursuant to Business and Professions Code

section 26062.

(6) Any statement or indication of an appellation of origin if the cannabis or cannabis product does not meet the requirements of the program established pursuant to Business and Professions Code section 26063.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26062.5, 26063, 26120, 26121 and 26154, Business and Professions Code.

§17409. Statement of Characteristic Anticipated Effects.

(a) A cannabis good may include information on the characteristic anticipated effects of the cannabis good if the licensee has substantiation that the information is truthful and not misleading. Such information may be located on the informational panel of the label or the supplemental labeling with the package. For purposes of this section, “characteristic anticipated effect” includes any physiological effect (a temporary effect on the body related to the consumption of cannabis goods) that is common to or expected from the particular cannabis strain, but excludes any claim of health benefits (i.e. claims of therapeutic action as a result of the consumption of cannabis goods).

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26120 and 26130, Business and Professions Code.

§17410. Universal Symbol.

(a) The symbol established pursuant to Business and Professions Code section 26130 shall replicate the following in form:



(b) The symbol shall be black in color. For packaging that is dark in color, the symbol shall be made conspicuous by printing the symbol on, or outlining the symbol with, a contrasting color.

(c) The symbol shall be no smaller in height than one-half (0.5) inch except as allowed under subsection (d).

(d) For a cannabis vape cartridge or integrated cannabis vaporizer, the symbol shall be engraved, printed, or affixed with a sticker in a size no smaller than one-quarter (0.25) inch wide by one-quarter (0.25) inch high.

(e) The symbol shall not be altered or cropped in any way other than to adjust the sizing for placement on the primary panel.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26120, 26121 and 26130, Business and Professions Code.

Article 4. Packaging

§17411. Packaging.

(a) A package used to contain a cannabis good shall comply with the following requirements:

(1) The package shall protect the cannabis good from contamination and shall not expose the good to any toxic or harmful substance.

(2) The package shall be tamper-evident, which means that the packaging is sealed so that the contents cannot be accessed without obvious destruction of the seal upon initial opening.

(3) If the cannabis good has more than one serving, the package shall be resealable.

(4) The package shall not imitate any package used for products typically marketed to children.

(5) If the cannabis good is an edible product, the package shall be opaque. Colored bottles that obscure the color of the liquid inside shall be considered opaque for purposes of this section.

(6) Notwithstanding subsection (e), opaque bottles used to contain a cannabis beverage product may utilize a single, vertical, clear strip no wider than one-quarter (0.25) inch for the purpose of determining serving amounts.

(7) The package shall be child-resistant, as described in section 17412.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26120 and 26121, Business and Professions Code.

§17412. Child-Resistant Packaging Requirements.

(a) A package containing cannabis or cannabis products transferred to a distributor for retail sale shall be child-resistant, as follows:

(1) The package for an edible product, an orally consumed concentrate, or a suppository shall be child-resistant for the life of the product. A package that contains more than a single serving is not required to be child-resistant if each individual serving is packaged in child-resistant packaging.

(2) Cannabis or a cannabis product intended to be inhaled or a cannabis product that is applied topically may utilize packaging that is child-resistant only until first opened, if the package is labeled with the statement: "This package is not child-resistant after opening."

(b) The following packages are considered child-resistant for purposes of this article:

(1) Any package that has been certified as child-resistant under the requirements of the Poison Prevention Packaging Act of 1970 Regulations (16 C.F.R. §1700.15(b)(1)) (Rev. July 1995), which is hereby incorporated by reference.

(2) A bottle sealed with a pry-off, metal crown, cork-style bottle cap, provided that the bottle contains only a single serving.

(3) Plastic packaging that is at least four (4) mils thick and heat-sealed without an easy-open tab, dimple, corner, or flap, provided that the package contains a cannabis product described in subsection (a)(2) or a cannabis product that is only a single serving.

Authority: Sections 26013 and 26130, Business and Professions Code. Reference: Sections 26011.5, 26120 and 26121, Business and Professions Code.

Chapter 12. Enforcement

Article 1. Authority

§17800. Right of Access.

(a) The Department and its authorized representatives, for purposes of inspection, investigation, review, or audit, shall have full and immediate access to:

(1) Enter any premises licensed by the Department.

(2) Inspect and test any vehicle or equipment possessed by, in control of, or used by a licensee or their agents and employees for the purpose of conducting commercial cannabis activity.

(3) Test any cannabis goods or cannabis-related materials or products possessed by, in control of, or used by a licensee or their agents and employees for the purpose of conducting commercial cannabis activity.

(4) Copy any materials, books, or records of any licensee or their agents and employees.

(b) Failure to cooperate with and participate in any Department investigation pending against the licensee may result in a licensing violation subject to discipline. This subsection shall not be construed to deprive a licensee of any privilege guaranteed by the Fifth Amendment to the Constitution of the United States, or any other constitutional or statutory privileges. This subsection shall not be construed to require a licensee to cooperate with a request that would require the licensee to waive any constitutional or statutory privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the licensee's business. Any constitutional or statutory privilege exercised by the licensee shall not be used against the licensee in a regulatory or disciplinary proceeding against the licensee.

(c) Prior notice of an inspection, investigation, review, or audit is not required.

(d) Any inspection, investigation, review, or audit of a licensed premises shall be conducted anytime the licensee is exercising privileges under the license, or as otherwise agreed to by the Department and the licensee or its agents, employees, or representatives.

(e) If the licensed premises is not accessible because access is only available by going through another licensed premises and the licensee occupying the other licensed premises denies the Department access, the licensees shall both be held responsible and subject to discipline.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26015 and 26160, Business and Professions Code; and Section 11181, Government Code.

Article 2. Compliance and Enforcement Actions

§17801. Notice to Comply.

(a) The Department may issue a Notice to Comply to a licensee for violation(s) of the Act or this division discovered during an investigation or observed during an inspection.

(b) The Notice to Comply shall be in writing and describe the nature and facts of each violation, including a reference to the statute or regulation violated, and may indicate the manner in which the licensee must correct the violation(s) to achieve compliance.

(c) The Department may serve the Notice to Comply personally or by mail to the licensee, employee, agent, or person delegated by the licensee to accept notice.

(d) The licensee shall sign and return the Notice to Comply and, if required, a written plan to address the violations or describe how compliance was achieved within 30 calendar days after the date of personal service or mailing of the notice, or a different date specified by the Department. The Department may also require the licensee to provide a plan for review and approval by the Department on a case-by-case basis.

(e) Failure to correct the violation(s) in the Notice to Comply may result in disciplinary action.

Authority: Section 26013, Business and Professions Code; Reference: Sections 26012 and 26018, Business and Professions Code.

§17801.1 Notice of Violation.

(a) Until October 1, 2021, the Department may issue a Notice of Violation to a licensee for violation(s) of the Act of this division that shall inform the licensee of:

- (1) The violation(s) alleged;
- (2) The proposed fine amount; and
- (3) The licensee's right to request a hearing pursuant to subsection (b).

(b) Within 30 calendar days after issuance by the Department, a licensee may appeal a Notice of Violation by submitting a written request for an informal hearing by mail to the Department of Cannabis Control, Legal Affairs Division, 2920 Kilgore Road, Rancho Cordova, CA 95670, or by email to appeals@cannabis.ca.gov. The request shall include the following:

- (1) The licensee's name, mailing address, and daytime phone number;

(2) The license number issued by the Department;

(3) A copy of the Notice of Violation; and

(4) A clear and concise statement of the basis of the appeal.

(c) If the licensee fails to submit a timely request for hearing pursuant to subsection (b), the Notice of Violation is not appealable and the Department may proceed upon the noticed violation(s) without a hearing.

(d) A hearing requested to appeal a Notice of Violation will be scheduled and conducted in accordance with chapter 5 (commencing with section 11500) of part 1 of division 3 of the Government Code.

(e) For all written requests for a hearing submitted by licensees and received by the Department prior to October 1, 2021, with hearings scheduled to take place on or after October 1, 2021, the following will occur:

(1) Informal hearing proceedings noticed prior to October 1, 2021, shall be converted to adjudicative proceedings under chapter 5 (commencing with section 11500) of part 1 of division 3 of the Government Code.

(2) Any scheduled informal hearings will be vacated, and a new hearing date, location and time will be noticed by the Department.

Authority cited: Section 26013, Business and Professions Code. Reference: Sections 26012, 26031 and 26031.5, Business and Professions Code.

§17801.5. Embargo of Cannabis or Cannabis Products.

(a) The Department may embargo cannabis or cannabis products to prevent their sale, disposal, or removal from the location when the Department has probable cause to believe the cannabis or cannabis products are adulterated or misbranded or the sale would otherwise be in violation of the Act or this division.

(b) To embargo cannabis or cannabis products, the Department shall:

(1) Provide initial notice to the licensee or product owner that the cannabis or cannabis products are subject to embargo and the reason for the embargo. Initial notice may be oral or written and may be provided in person or by telephone, mail, facsimile transmission, email, or other electronic means;

(2) Affix a tag or marking to the cannabis or cannabis products, or component thereof, subject to embargo; and

(3) Provide an inventory of the embargoed items to the licensee or product owner.

(c) The Department shall further provide written notice to the licensee or product owner of the embargoed items that includes the following:

(1) The factual and legal bases for the embargo;

(2) A description of the cannabis or cannabis products under embargo;

(3) A request for a written plan to address the issues(s) that resulted in the embargo;

(4) A summary of the proceedings for condemnation in accordance with chapter 5 (commencing with section 11500) of part 1 of division 3 of title 2 of the Government Code;

(5) Notification that the embargoed items cannot be removed, sold, or disposed of without authorization of the Department or a court; and

(6) The penalty for violation of the embargo.

(d) The licensee or product owner may submit a written plan to the Department that describes how the licensee or product owner will address the issue(s) that resulted in the embargo.

(1) If the Department determines that the plan will resolve the issue(s) that resulted in the embargo, and that all of the provisions of the Act and this division can be complied with, the Department will approve the plan and supervise the completion of the plan.

(2) If the Department cannot approve the plan, or the Department does not receive a response from the licensee within seven (7) calendar days after providing the notice described in subsection (c), the Department may initiate condemnation proceedings in accordance with Business and Professions Code section 26039.3(f).

(e) A licensee or product owner or their authorized representative may provide written consent for the voluntary condemnation and destruction of the cannabis and cannabis products under embargo. Destruction and disposal of embargoed items shall be at the licensee or product owner's expense and shall be conducted under the supervision of the Department.

(f) A licensee or product owner shall not remove the tag or marking from cannabis or cannabis products subject to embargo.

(g) A licensee or product owner shall not remove, sell, or dispose of any cannabis or cannabis products under embargo without written permission of the Department or a court. Each item removed, sold, or disposed of without written permission of the Department or a court constitutes a separate violation of the Act.

(h) A licensed cultivator or a microbusiness authorized to engage in cultivation may request permission to continue cultivation or harvesting of cannabis under embargo. The request shall be made to the Department in writing at compliance@cannabis.ca.gov and shall specify the cultivation or harvesting activities in which the licensee requests to engage. The Department may, in its sole discretion, authorize and impose conditions on the continued cultivation or harvesting of the cannabis under embargo.

Authority: Section 26013, Business and Professions Code. Reference: Section 26039.3, Business and Professions Code.

§17802. Citations; Orders of Abatement; Administrative Fines.

(a) The Department may issue citations containing orders of abatement and fines against a licensee, or an unlicensed person, for any acts or omissions that are in violation of any provision of the Act or this division, or any another California laws applicable to cannabis licensees including, but not limited to, state labor law.

(b) The Department may issue a citation under this section to a licensee for a violation of a term or condition contained in a decision placing that licensee on probation.

(c) Each citation may contain either order(s) of abatement, monetary fine(s), or both, and shall:

(1) Be in writing and describe with particularity the nature of the violation, including a reference to the statute or regulation determined to have been violated;

(2) Fix a reasonable time for abatement of the violation if the citation contains an order of abatement;

(3) Assess an administrative fine of up to \$5,000 per violation, per day, by a licensee and up to \$30,000 per violation, per day, by an unlicensed person if the citation contains a fine;

(4) Be served personally or by certified mail; and

(5) Inform the licensee or person that they may request an informal conference, or contest the citation, or both, pursuant to section 17803 of this division.

(d) Fines issued with a citation must be paid within 30 calendar days after service of the citation, unless the fine is contested. If a citation is not appealed and the fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.

(e) The amount of any fine assessed by the Department under this section shall take into consideration the factors listed in Business and Professions Code section 26031.5(a)(1)-(3).

(f) Nothing in this section shall be deemed to prevent the Department from filing an accusation to suspend or revoke a license where grounds for such suspension or revocation exist.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26030 and 26031.5, Business and Professions Code.

§17803. Contesting Citations.

(a) A cited licensee or person may, within 30 calendar days after service of the citation, contest the citation by submitting to the Department a written request for a hearing, conducted in accordance with chapter 5 (commencing with section 11500) of part 1 of division 3 of the Government Code. If a hearing is not requested, it is waived and payment of a fine will not constitute an admission of the violation charged.

(b) In addition to requesting a hearing provided for in subsection (a), the cited licensee or person may, within 15 calendar days after service of the citation, submit a written request for an informal conference with the Department regarding the acts or omissions charged in the citation.

(c) The Department shall, within 15 calendar days after receipt of the written request, hold an informal conference with the cited licensee or person and/or their legal counsel or authorized representative.

(d) At the conclusion of the informal conference, the Department may affirm, modify, or dismiss the citation, including any fines levied or orders of abatement issued. A written decision stating the reasons for the decision shall be mailed to the cited licensee or person and their legal counsel, if any, within 15 calendar days after the date of the informal conference. This decision shall be deemed to be a final order with regard to the citation issued, including the levied fine and the order of abatement, if any.

(e) If the citation is dismissed, any request for a hearing shall be deemed withdrawn. If the citation is affirmed or modified, the cited licensee or person may either withdraw the request for a hearing or proceed with the administrative hearing process.

(f) If the citation, including any fines levied or orders of abatement issued, is modified, the citation originally issued shall be considered withdrawn and new citation issued. If a hearing is requested for the subsequent citation, it shall be requested within 30 calendar days after issuance of the citation.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26016 and 26031.5, Business and Professions Code.

§17804. Citation Compliance.

(a) If a citation with an order of abatement is issued, the time to abate or correct a violation as provided for in the order of abatement may be extended for good cause. If a cited licensee or person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond their control after the exercise of reasonable diligence, the cited licensee or person may request an extension of time from the Department in which to complete the correction. The request must be in writing and made within the time set forth for abatement.

(b) When a citation is not contested, or if it is contested and the cited licensee or person does not prevail, failure to abate the violation within the time allowed or pay a fine that was imposed shall constitute a separate violation.

(c) Failure to timely comply with an order of abatement or pay a fine that was imposed may result in further action being taken by the Department, including, but not limited to, suspension or revocation of a license, or further administrative or civil proceedings.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26031.5, Business and Professions Code.

§17805. Minor Decoys.

(a) Peace officers may use a person under 21 years of age to attempt to purchase cannabis goods, for the purposes of enforcing the Act and to apprehend licensees, employees, or agents of licensees who sell cannabis goods to minors. For purposes of this section, a “minor” is a person under 21 years of age.

(b) The following minimum standards shall apply to the use of a minor decoy:

- (1) At the time of the operation, the decoy shall be less than 20 years of age.
- (2) A decoy shall either carry identification showing the decoy's correct date of birth or carry no identification. A decoy who carries identification shall present it upon request to any seller of cannabis goods.
- (3) A decoy shall truthfully answer any questions about their age.
- (4) Following any completed sale, but not later than the time a citation, if any, is issued, the peace officer directing the decoy shall make a reasonable attempt to enter the licensed premises or respond to the location where the licensee is located and have the minor decoy who purchased cannabis goods identify the alleged seller of the cannabis goods.

Authority: Sections 26013 and 26140, Business and Professions Code. Reference: Section 26140, Business and Professions Code.

§17806. Attire and Conduct.

- (a) No licensee shall allow the following:
 - (b) Employment or use of any person in the sale or service of cannabis goods in or upon the licensed premises while such person is unclothed or in such attire, costume, or clothing as to expose to view any portion of the breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals.
 - (c) Employment or use of the services of any host or other person to mingle with the patrons while such host or other person is unclothed or in such attire, costume, or clothing as described in subsection (a).
 - (d) Encouraging or permitting any person on the licensed premises to touch, caress, or fondle the breasts, buttocks, anus, or genitals of any other person.
 - (e) Permitting any employee or person to wear or use any device or covering, exposed to view, which simulates the breast, genitals, anus, pubic hair, or any portion thereof.

Authority: Section 26013, Business and Professions Code. Reference: Section 26011.5, Business and Professions Code.

§17807. Entertainers and Conduct.

- (a) Live entertainment is permitted on a licensed premises, except that no licensee shall permit any person to perform acts of or acts that simulate:
 - (1) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts that are prohibited by law.
 - (2) Touching, caressing, or fondling of the breast, buttocks, anus, or genitals.
 - (3) Displaying of the buttocks, breasts, pubic hair, anus, vulva, or genitals.
- (b) No licensee shall permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described in this section.

(c) No licensee shall permit any person to remain in or upon the licensed premises who exposes to public view any portion of their breast, buttocks, genitals, or anus.

Authority: Section 26013, Business and Professions Code. Reference: Section 26011.5, Business and Professions Code.

Article 3. Disciplinary Actions

§17808. Additional Grounds for Discipline.

The following include, but are not limited to, additional grounds that constitute a basis for disciplinary action:

(a) Failure to pay a fine imposed by the Department or agreed to by the licensee.

(b) Failure to take reasonable steps to correct objectionable conditions on the licensed premises, including the immediately adjacent area that is owned, leased, or rented by the licensee, that constitute a nuisance, within a reasonable time after receipt of notice to make those corrections, under Penal Code section 373a.

(c) Failure to take reasonable steps to correct objectionable conditions that occur during operating hours on any public sidewalk abutting a licensed premises and constitute a nuisance, within a reasonable time after receipt of notice to correct those conditions from the Department. This subsection shall apply to a licensee only upon written notice to the licensee from the Department. The Department shall issue this written notice upon its own determination, or upon a request from the local law enforcement agency in whose jurisdiction the licensed premises is located, that is supported by substantial evidence that persistent objectionable conditions are occurring on the public sidewalk abutting the licensed premises. For purposes of this subsection:

(1) “Any public sidewalk abutting a licensed premises” means the publicly owned, pedestrian-traveled way, not more than 20 feet from the licensed premises, that is located between a licensed premises, including any immediately adjacent area that is owned, leased, or rented by the licensee, and a public street.

(2) “Objectionable conditions that constitute a nuisance” means disturbance of the peace, public intoxication, drinking alcoholic beverages in public, smoking or ingesting cannabis or cannabis products in public, harassment of passersby, gambling, prostitution, loitering, public urination, lewd conduct, drug trafficking, or excessive loud noise.

(3) “Reasonable steps” means all of the following:

(A) Calling the local law enforcement agency. Timely calls to the local law enforcement agency that are placed by the licensee or their agents or employees shall not be construed by the Department as evidence of objectionable conditions that constitute a nuisance.

(B) Requesting that those persons engaging in activities causing objectionable conditions to cease those activities, unless the licensee or their agents or employees feel that their personal safety would be threatened in making that request.

(C) Making good faith efforts to remove items that facilitate loitering, such as furniture,

except those structures approved or permitted by the local jurisdiction. The licensee shall not be liable for the removal of those items that facilitate loitering.

(4) When determining what constitutes “reasonable steps,” the Department shall consider site configuration constraints related to the unique circumstances of the nature of the business.

(5) Even after correcting the objectionable conditions that constitute a nuisance, the licensee has a continuing obligation to meet the requirements of subsections (b) and (c), and failure to do so shall constitute grounds for disciplinary action.

(d) Knowingly permitting the illegal sale, or negotiations for the illegal sale, of controlled substances or dangerous drugs upon the licensed premises. Successive sales, or negotiations for sales, over any continuous period of time shall be deemed evidence of permission. As used in this section, “controlled substances” has the same meaning as in Health and Safety Code section 11007, and “dangerous drugs” has the same meaning as in Business and Professions Code section 4022.

(e) If the licensee has employed or permitted any person to solicit or encourage others, directly or indirectly, to buy that person’s cannabis goods in the licensed premises under any commission, percentage, salary, or other profit-sharing plan, scheme, or conspiracy.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26011.5, 26012, 26030 and 26031, Business and Professions Code.

§17809. Disciplinary Actions.

(a) When an accusation recommending disciplinary action against a licensee has been filed pursuant to Business and Professions Code section 26031, the accusation shall be served on the licensee in accordance with Government Code section 11505.

(b) A hearing shall be conducted in accordance with the provisions of chapter 5 (commencing with section 11500) of part 1 of division 3 of title 2 of the Government Code to determine if cause exists to take action against the licensee. At the hearing, the Department shall have all of the powers granted by the statutes cited above and by the Business and Professions Code.

(c) If a hearing on an accusation against a licensee results in a finding that the licensee has committed any of the acts or omissions constituting grounds for disciplinary action, the Department may order the license revoked, suspended outright for a specified period of time, or suspended on probationary restriction for a specified period of time, including terms and conditions of probation the Department considers appropriate on the basis of its findings, impose a fine, or any combination thereof. The Department may also issue other lawful orders it considers appropriate on the basis of its findings.

(d) An accusation may be terminated by written stipulation at any time prior to the conclusion of the hearing on the accusation. If a licensee submits a proposed stipulation to the Department for its consideration and the Department subsequently declines to accept the proposed stipulation, the Department shall not thereafter be disqualified from hearing evidence on the accusation and taking action thereon as authorized in this section.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26031 and 26034, Business and Professions Code.

§17810. Interim Suspension.

(a) Pursuant to Business and Professions Code section 494, the Department may petition for an interim order to suspend any license or impose licensing restrictions upon any licensee if:

(1) The licensee has engaged in acts or omissions constituting a violation of the Business and Professions Code or this division, or been convicted of a crime substantially related to the licensed activity, and

(2) Permitting the licensee to continue to engage in the licensed activity would endanger the public health, safety, or welfare.

(b) An interim order for suspension or restrictions may be issued with notice, as follows:

(1) The Department shall provide the licensee with at least 15 days' notice of the hearing on the petition for an interim order.

(2) The notice shall include all documents submitted in support of the petition.

(c) An interim order for suspension or restrictions may be issued without notice to the licensee if it appears from the Department's petition and supporting documents that serious injury would result to the public before the matter could be heard on notice.

(2) The licensee shall be entitled to a hearing on the petition within 20 days after issuance of the initial interim order.

(3) Notice of the hearing shall be provided to the licensee by the Department within two days after issuance of the initial interim order.

(4) The licensee shall receive all documents in support of the petition.

(d) The Department shall file an accusation, pursuant to chapter 5 (commencing with section 11500) of part 1 of division 3 of title 2 of the Government Code, within 15 calendar days after issuance of the interim order.

Authority: Section 26013, Business and Professions Code; Reference: Sections 494, 26011.5, 26012 and 26031, Business and Professions Code.

§17813. Enforcement Costs.

(a) In any order in resolution of a disciplinary proceeding for suspension or revocation of a license, the Department may request the administrative law judge to direct a licensee

found to have committed a violation or violations of the Act or this division to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(b) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the Department's designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(c) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subsection (a). The Department may reduce or eliminate the cost award, or remand to the administrative law judge where the proposed decision fails to make a finding on costs requested pursuant to subsection (a).

(d) Where an order for recovery of costs is made and timely payment is not made as directed in the decision, the Department may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the Department may have to recover costs.

(e) In any action for recovery of costs, proof of the decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(f) Except as provided in subsection (g), the Department shall not renew or reinstate any license of a licensee who has failed to pay all of the costs ordered under this division.

(g) Notwithstanding subsection (f), the Department may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and enters into a formal agreement with the Department for reimbursement within that one-year period for the unpaid costs.

(h) Nothing in this section shall preclude the Department from including recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

Authority: Section 26013, Business and Professions Code; Reference: Sections 125.3, 26012 and 26031, Business and Professions Code.

§17814. Disciplinary Guidelines.

In reaching a decision on a disciplinary action under the Act and the Administrative Procedure Act (Govt. Code section 11400 et seq.), the Department shall consider the disciplinary guidelines entitled "Department of Cannabis Control Disciplinary Guidelines for All Commercial Cannabis Licenses Amended September 2021," which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Department in its sole discretion determines that the facts of the particular case warrant such a deviation (e.g., the presence of mitigating factors, the age of the case, or evidentiary problems).

Authority: Section 26013, Business and Professions Code; Reference: Sections 26012 and 26031, Business and Professions Code.

Article 4. Emergency Decision and Orders

§17815. Emergency Decision and Order.

(a) The Department may issue an emergency decision and order for temporary, interim relief to prevent or avoid immediate danger to the public health, safety, or welfare. Such circumstances include, but are not limited to, the following:

(1) The Department has information that cannabis goods at a licensee's premises have a reasonable probability of causing serious adverse health consequences or death.

(2) To prevent the sale, transfer, or transport of contaminated or illegal cannabis goods in possession of a licensee.

(3) The Department observes or has information that conditions at a licensee's premises exist that present an immediate risk to worker or public health and safety.

(4) To prevent illegal diversion of cannabis goods, or other criminal activity at a licensee's premises.

(5) To prevent the destruction of evidence related to illegal activity or violations of the Act.

(6) To prevent misrepresentation to the public, such as selling untested cannabis goods, providing inaccurate information about the cannabis goods or cannabis goods that have been obtained from an unlicensed person.

(b) Temporary, interim relief may include a suspension or administrative hold by one or more of the following:

(1) An order temporarily suspending a license.

(2) An order to segregate or isolate specific cannabis goods.

(3) An order prohibiting the movement of cannabis goods to or from the premises.

(4) An order prohibiting the sale of specific cannabis goods.

(5) An order prohibiting the destruction of specific cannabis goods.

(c) The emergency decision and order issued by the Department shall include a brief explanation of the factual and legal bases of the emergency decision that justify the Department's determination that emergency action is necessary, and the specific actions ordered. The emergency decision and order shall be effective when issued or as otherwise provided by the decision and order.

(d) To issue an administrative hold that prohibits activity related to specified cannabis goods, the Department shall comply with the following:

(1) Provide notice of the administrative hold that includes a description of the cannabis goods subject to the administrative hold.

(2) Following notice, the Department shall identify the cannabis goods subject to the administrative hold in the track and trace system.

(e) A licensee subject to an administrative hold shall comply with the following:

(1) Within 24 hours after receipt of notice of the administrative hold, physically segregate

all designated cannabis goods in a limited-access area of the licensed premises. The licensee shall ensure that all cannabis goods subject to the administrative hold are safeguarded and preserved in a manner that prevents tampering, degradation, or contamination.

(2) While the administrative hold is in effect, the licensee shall not sell, donate, transfer, transport, gift, or destroy the cannabis goods subject to the hold.

(3) A microbusiness licensee subject to an administrative hold may continue to cultivate any cannabis subject to an administrative hold. If the cannabis subject to the hold must be harvested, the licensee shall place the harvested cannabis into separate batches.

(4) A licensee may voluntarily surrender cannabis goods that are subject to an administrative hold. The licensee shall identify the cannabis goods being voluntarily surrendered in the track and trace system. Voluntary surrender shall not be construed to waive the right to a hearing or any associated rights.

(f) To issue a temporary suspension, the Department shall specify in the order that the licensee shall immediately cease conducting all commercial cannabis activities under its license, unless otherwise specified in the order.

(g) A microbusiness licensee subject to a temporary suspension may continue to cultivate cannabis at the licensed premises only as prescribed by the Department in the order. If the order permits the cannabis to be harvested, the licensee shall place the harvested cannabis into separate batches.

(h) The emergency decision and order for temporary, interim relief shall be issued in accordance with the following procedures:

(1) The Department shall give notice of the emergency decision and order and an opportunity to be heard to the licensee prior to the issuance, or effective date, of the emergency decision and order, if practicable.

(2) Notice and hearing under this section may be oral or written and may be provided by telephone, personal service, mail, facsimile transmission, electronic mail, or other electronic means, as the circumstances permit.

(3) Notice may be given to the licensee, any person meeting the definition of owner for the license, or to a manager or other personnel at the licensed premises.

(4) Upon receipt of the notice, the licensee may request a hearing within three (3) business days by submitting a written request for hearing to the Department through electronic mail, facsimile transmission, or other means. The hearing shall commence within five (5) business days after receipt of the written request for hearing, unless a later time is agreed upon by the Department and the licensee.

(5) The hearing may be conducted in the same manner as an informal conference under section 17803; however, the timeframes provided in section 17803 shall not apply to a hearing under this section. Pre-hearing discovery or cross-examination of witnesses is not required under this section.

(6) The emergency decision and order shall be affirmed, modified, or set aside as determined appropriate by the Department within five (5) business days after the hearing.

(i) Within ten (10) calendar days after the issuance or effective date of the emergency decision and order for temporary, interim relief, the Department shall commence adjudicative proceedings in accordance with chapter 5 (commencing with section 11500) of part 1 of division 3 of title 2 of the Government Code to resolve the underlying issues giving rise to the temporary, interim relief.

(j) After formal proceedings are held pursuant to subsection (i), a licensee aggrieved by a final decision of the Department may appeal the decision to the Cannabis Control Appeals Panel pursuant to section 26043 of the Act.

(k) Notwithstanding administrative proceedings commenced pursuant to subsection (i), the licensee may obtain judicial review of the emergency decision and order pursuant to section 1094.5 of the Code of Civil Procedure in the manner provided in section 11460.80 of the Government Code without exhaustion of administrative remedies.

(l) The Department's authority provided by this section may be used in addition to any civil, criminal, or other administrative remedies available to the Department.

Authority: Section 26013, Business and Professions Code. Reference: Section 26012, Business and Professions Code; and Sections 11460.10, 11460.20, 11460.30, 11460.40, 11460.50, 11460.60, 11460.70 and 11460.80, Government Code.

Article 5. Posting Notices of Suspension and Revocation

§17816. Posting of Notice of Suspension.

(a) A licensee whose license has been suspended shall conspicuously and continuously display a notice on the exterior of the licensee's premises for the duration of the suspension.

(b) The notice shall be 11 inches in length and 8.5 inches in width. The notice shall read:

NOTICE OF SUSPENSION

The Department of Cannabis Control License(s) Issued For This Premises Has Been
Suspended For Violation of State Law

(c) Advertising or posting signs to the effect that the licensed premises has been closed or that business has been suspended for any reason other than the reason provided in the decision suspending the license, shall be deemed a violation of this section.

(d) Failure to display the notice as required in this section or removal of the notice prior to the expiration of the suspension shall be a violation of this section and may result in additional disciplinary action.

(e) A licensee shall notify the Department by submitting the Licensee Notification and Request Form, Notifications and Requests Regarding Regulatory Compliance, DCC-LIC-028 (New 9/21), incorporated herein by reference, within 24 hours of discovering that the notice under subsection (b) of this section has been removed or damaged to an extent that makes the notice illegible.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26011.5 and 26012, Business and Professions Code.

§17817. Posting of Notice of Revocation.

(a) A person whose license has been revoked shall conspicuously display a notice on the exterior of the premises indicating that the license has been revoked. The notice shall remain continuously on the premises for at least 15 calendar days.

(b) The notice shall be 11 inches in length and 8.5 inches in width. The notice shall read:

NOTICE OF REVOCATION

The Department of Cannabis Control License(s) Issued For This Premises Has Been Revoked For Violation of State Law

(c) Advertising or posting signs to the effect that the premises has been closed, or that business has been suspended for any reason other than the reason provided in the decision revoking the license, shall be deemed a violation of this section.

(d) If the Department revokes a license at a licensed premises that has one or more licenses at the location that will remain active after the revocation, the revocation notice shall remain posted for a period of at least 15 calendar days.

(e) Failure to display the notice for the time required in this section shall be a violation of this section and may result in additional disciplinary action.

(f) A person whose license has been revoked shall notify the Department by submitting the Licensee Notification and Request Form, Notifications and Requests Regarding Regulatory Compliance, DCC-LIC-028 (New 9/21), incorporated herein by reference, within 24 hours of discovering that the notice under subsection (b) has been removed or damaged to an extent that makes the notice illegible.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26011.5 and 26012, Business and Professions Code.

Chapter 13. Other Provisions

Article 1. Research Funding

§17900. Eligibility.

(a) Only public universities in California shall be eligible to be selected to receive funds disbursed pursuant to Revenue and Taxation Code section 34019(b).

(b) Subject to available funding, the amounts to be disbursed to the university or universities will not exceed the sum of ten million dollars (\$10,000,000) for each fiscal year, ending with the 2028-2029 fiscal year.

Authority: Section 26013, Business and Professions Code. Reference: Section 34019, Revenue and Taxation Code.

§17901. Request for Proposals.

(a) A Request for Proposal (RFP) is the document issued by the Department to notify all eligible fund recipients of the following, at a minimum:

- (1) The funding available for research related to the Act or this division;
- (2) Disbursement of funds to eligible applicants through a review and selection process, including the criteria that will be used for review and selection;
- (3) The specified timeframes for the proposal review and selection process, including the deadline for submission of proposals;
- (4) Proposal requirements, including necessary documentation;
- (5) Any priorities or restrictions imposed upon the use of the funds;
- (6) The governing statutes and regulations; and
- (7) The name, address, and telephone number of a contact person within the Department who can provide further information regarding the process for submission of proposals.

Authority: Section 26013, Business and Professions Code. Reference: Section 34019, Revenue and Taxation Code.

§17902. Selection Process and Criteria.

- (a) The selection process shall involve eligible proposals timely received by the Department, in response to an applicable RFP, or similar notice.
- (b) The Department will consider only one proposal per applicant for a given research project. Applicants may submit more than one proposal if the proposals are for separate and distinct research projects or activities.
- (c) The Department will make a selection for funding based on criteria including, but not limited to:
 - (1) The extent to which the proposed project is designed to achieve objectives specified in Revenue and Taxation Code section 34019(b).
 - (2) The extent to which the proposed project is designed to achieve measurable outcomes, and the clarity of the measures for success, including, for research-based objectives, the scientific and technical merit of the proposed project as evaluated by relevant experts.
 - (3) The extent to which the proposed project is feasible, demonstrated by:
 - (A) A timeline for project completion, including readiness; and
 - (B) Budget detail.
 - (4) Qualifications of the staff who will be assigned to or working on the proposed project.
 - (5) Any other criteria to determine the proposed project's efficacy in evaluating the implementation and effect of the Act.
- (d) Applicants selected for funding will be notified of the selection and amount of funding in writing.

(e) The Department's selection decision is final and not subject to appeal.

Authority: Section 26013, Business and Professions Code. Reference: Section 34019, Revenue and Taxation Code.

§17903. Release of Funds.

(a) The Department shall not cause funds to be disbursed until the recipient has executed a Grant Agreement and any other required documents.

(b) Selected recipients shall receive a single disbursement of funds for the duration of the research project.

(c) Funds released to the recipient that will be used for the purchase of any equipment related to the research project shall, at a minimum, meet the following conditions:

(1) Prior to the purchase of any equipment, the recipient shall obtain written approval from the Department.

(2) Receipts or other documentation for the purchase of any equipment shall be provided to the Department immediately upon purchase and request and retained pursuant to section 17904.

(d) Any funds that are not used prior to the completion of the research project shall be forfeited.

Authority: Section 26013, Business and Professions Code. Reference: Section 34019, Revenue and Taxation Code.

§17904. Reports to the Department.

(a) The recipient of funds shall provide regular performance reports to the Department in the following manner, unless otherwise specified in the Grant Agreement:

(1) At monthly intervals for research projects with an estimated completion time not exceeding one year.

(2) At quarterly intervals for research projects with an estimated completion time exceeding one year.

(b) Performance reports shall include, at a minimum:

(1) A detailed, estimated time schedule of completion for the research project;

(2) A description of any measurable outcomes, results achieved, or other completed objectives of the research project;

(3) A description of remaining work to be completed;

(4) A summary of expenditures of the funds and statement of whether the research project is meeting the proposed budget. If not, the reasons for any discrepancies and a list of actions that will be taken to ensure completion of the research project; and

(5) Any changes to the information provided in the proposal, including, but not limited to, change in staff.

Authority: Section 26013, Business and Professions Code. Reference: Section 34019, Revenue and Taxation Code.

§17905. Research Records.

Recipients shall retain all research and financial data necessary to substantiate the purposes for which the funds were spent for the duration of the funding, and for a period of seven years after completion of the research project. Recipients shall provide this documentation to the Department upon request.

Authority: Section 26013, Business and Professions Code. Reference: Section 26160, Business and Professions Code; and Section 34019, Revenue and Taxation Code.



CITY OF FORT BRAGG
Incorporated August 5, 1889

Initial Study/Negative Declaration

Amendments to the City of Fort Bragg Municipal Code
Chapter 9.30 Cannabis Businesses and Title 18 Inland
Land Use Development Code to Regulate Cannabis
Businesses

February 16, 2022

Project title: Amendments to the City of Fort Bragg Municipal Code Chapter 9.30 Cannabis Businesses and Title 18 Inland Land Use Development Code to Regulate Cannabis Businesses.

Lead Agency Name and Address:
City of Fort Bragg
416 N. Franklin St.
Fort Bragg, CA 95437

Contact Person and Phone Number:
Heather Gurewitz, MCRP, AICP
Associate Planner
(707) 961-2827

Project Location: Inland Industrial (Light and Heavy) Zones and Inland Central Business District, General Commercial, and Highway Visitor Commercial Zones

Project Sponsor's Name and Address:
City of Fort Bragg
416 N. Franklin St. Fort Bragg, CA 95437

General Plan Designation: Industrial (Light and Heavy), Commercial (Central Business District, General and Highway Visitor Commercial)

Zoning: Industrial (Light and Heavy), Commercial (Central Business District, General and Highway Visitor Commercial)

Surrounding land uses and setting: The industrial and Commercial inland zones are surrounded by other zones including coastal and non-coastal zoning (See Figure 1).

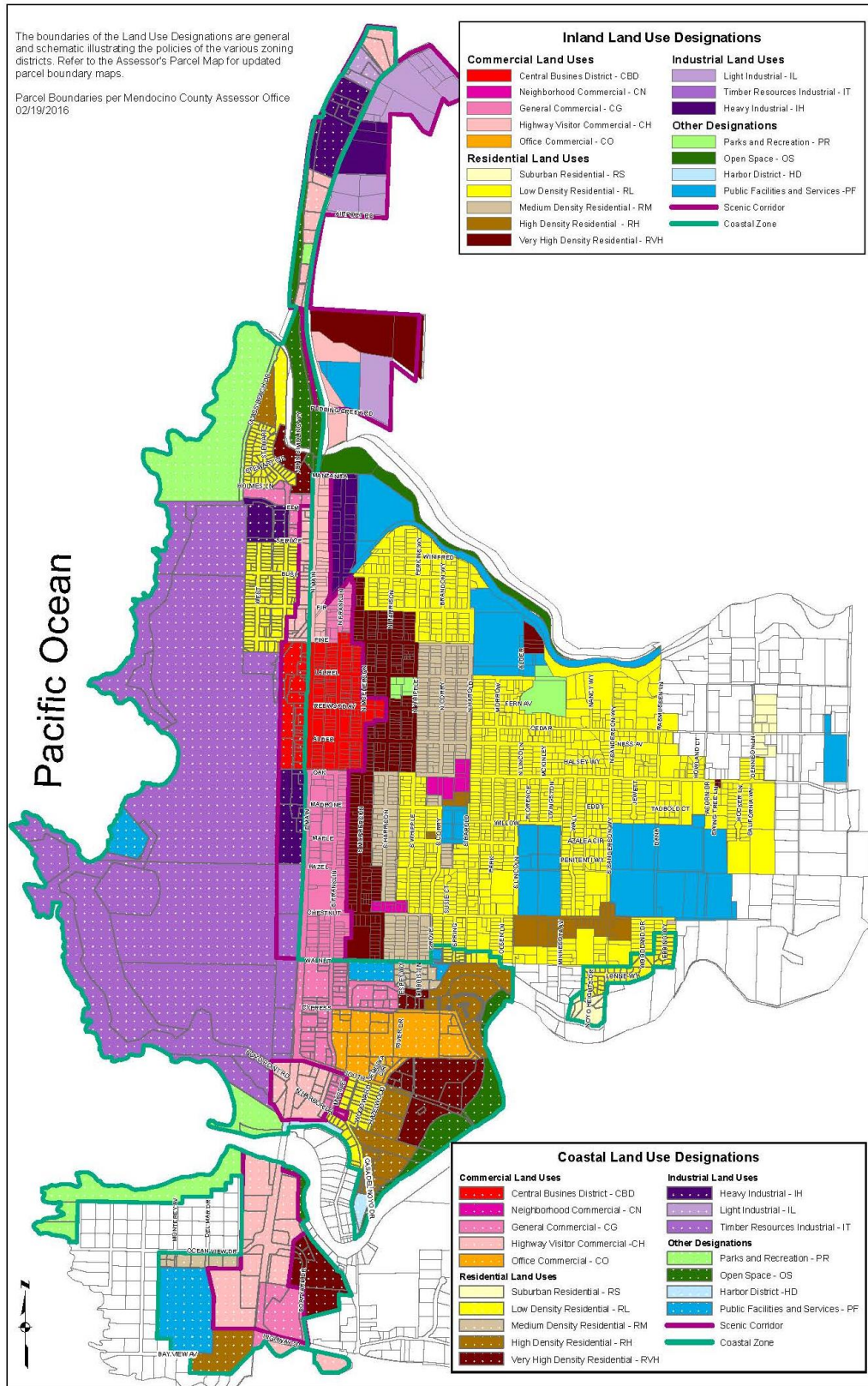
Other public agencies whose approval is required: None

Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1?

No, because this is a policy decision that does not affect a specific site.

This document was prepared by the City of Fort Bragg Community Development Department in consultation with Metropolitan Planning Group.

Figure 1: City of Fort Bragg Zoning Map



PROJECT DESCRIPTION:

The existing regulations for a CBP are established by Municipal Code Chapter 9.30. 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 which regulates the inland area of Fort Bragg (see Figure 1). It also provides minor modifications to the City of Fort Bragg Municipal Code Chapter 9.30 Cannabis Businesses.

All commercial cannabis activity requires a discretionary Cannabis Business Permit (CBP) and will continue to be discretionary under the proposed municipal code changes. CBP applications are and will continue to be subject to review under the California Environmental Quality Act (CEQA). At the time an application is received and deemed complete, the City will conduct an Initial Study to determine the appropriate level of CEQA review. Some future Cannabis projects may qualify for one or more CEQA exemption pursuant to CEQA Guidelines Section 15300 provided that none of the exceptions set forth in 15300.2 apply.

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

Attachment A	Proposed Amendments to City of Fort Bragg Municipal Code Chapter 9.30 Cannabis Businesses
Attachment 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
Attachment C	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
Attachment D	Proposed Amendment to ILUDC Chapter 10 Definitions Including New and Revised Definitions in §18.100.020

The proposed changes to the Municipal Code Chapter 9.30 will:

- Add §9.30.130(H) which establishes a 100 foot buffer between schools and youth centers and cannabis dispensaries.
- Add §9.30.150 Retail Cannabis Retail Requirements which will:
 - Reduce allowable operating hours for cannabis retail to 7:00 am – 7:00 pm
 - Relocates existing regulations regarding employee, record keeping, photo identification, on-site consumption, and drive through operations from

ILUDC §18.42.057 to the Municipal Code Chapter 9.30 Cannabis Businesses.

The proposed changes to the ILUDC Chapter 2 §18.22.030 Commercial Districts 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 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 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 adds definitions for cannabis cultivation, cannabis microbusiness, and other definitions necessary to support regulations of these activities.

The proposed project will amend Municipal Code Chapter 9.30 and 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.

Setting

The City of Fort Bragg is located on California’s North Coast in Mendocino County. The proposed project is for the non-coastal zoned areas of the City, referred to as “inland.”

The City lies within the Coastal Franciscan Ecological Subsection of California (Miles and Goudey, 1997). This subsection is a steep, mountainous area of the northern California Coast Ranges, near the coast, south from Humboldt Bay to the Russian River. There is substantial oceanic influence on climate, including summer fog. The subsection is particularly mountainous, with rounded ridges, steep and moderately steep sides, and narrow canyons. The mean annual precipitation in this subsection is about 40 to 110 inches, with mostly rain at lower elevations. Runoff is rapid and many of the smaller streams are dry by the end of summer. Natural lakes are absent from the Coastal Franciscan Ecological Subsection (Miles and Goudey, 1997).

Located in the far west of the Noyo River Basin, the inland area of the City is mostly north of the Noyo River and south of Pudding Creek, with a small portion of the inland zone extending north on the east side of Highway 1. (See Figure 1) The City is approximately 2.85 square miles, 1/3 of which is the former Georgia Pacific Mill site in the coastal zone.

The City sits atop the coastal bluffs and the vegetation is characterized by Redwood forests, riparian stream habitat, and coastal/dune grasslands. The City has a diversity of wildlife which may include deer, mountain lions, bear, coyotes, bats, frogs, newts, and several species of shore birds. The US Fish and Wildlife Service notes the potential presence of several endangered or threatened species including the Pacific Marten, the Marbled Murrelet, the Northern Spotted Owl, Western Snowy Plover, Yellow-Billed Cuckoo, California Red-legged Frog, the Tidewater Goby, Behren’s Silverspot Butterfly, Lotis Blue Butterfly, and the Monarch Butterfly. There is one critical habitat identified in the City limits for the Tidewater Goby in the estuary of Pudding Creek. (USFW, 2022)

The population of Fort Bragg is approximately 7,000 people. While it is small, it is the largest city on the coast between San Francisco and Eureka and is a popular tourist and recreational destination. The City is considered an Urban Cluster by the US Census. The City’s population density is 2,586 people per square mile.

Most areas in the inland industrial and commercial zones in the City limits, east of Highway 1, south of Pudding Creek and north of the Noyo River are developed. However, there are some ruderal vacant lots and some open space. The City's development is typically either redevelopment of existing lots or infill development on lots surrounded by urban uses. The exception is to the north of Pudding Creek and south of the Noyo River. The City purchased 90 acres on the former Georgia Pacific Mill site and converted the area to public access trails and open space in perpetuity.

Commercial land uses in the City are located along the State Highway 1 and Franklin Street corridors. The Central Business District, located between Oak Street and Pine Street, is the historic, civic and cultural core of the community. Industrial lands are located on the Georgia-Pacific mill property located west of State Highway 1, on North Franklin Street, north of the General Commercial, and on State Highway 1 north of Pudding Creek. Residential neighborhoods are located east of the commercial core and in the west Fort Bragg area. See Figure 1 for the City's Zoning Map.

Land Use Setting

Approximately 47% of the City's land is outside of the coastal zone and under the jurisdiction of the Inland General Plan and the Inland Land Use Development Code.

The Inland zone of the City has a full range of land uses including low to high density residential, retail and service commercial, manufacturing, public facilities, recreation, and open space. The Inland General Plan Land Use Element establishes policies and programs to maintain the existing pattern of land uses within the City while anticipating and providing for future growth and development.

The 2012 Inland General Plan Land Use Element includes the following land use designations for the Inland area of the City:

- Large Lot Rural Residential (RR5)
- Medium Lot Rural Residential (RR2)
- Rural Residential (RR1)
- Suburban Residential (RS)
- Low Density Residential (RL)
- Medium Density Residential (RM)
- High Density Residential (RH)
- Very High Density Residential (RVH)
- Central Business District (CBD)
- Neighborhood Commercial (CN)
- General Commercial (CG)
- Highway Visitor Commercial (CH)
- Office Commercial (CO)
- Heavy Industrial (IH)
- Light Industrial (IL)
- Parks and Recreation (PR)
- Agriculture (A)
- Open Space (OS)
- Public Facilities and Services (PF)

These land use designations are implemented by the City's zoning regulations established by the Inland Land Use and Development Code provided in Chapter 18 of the Fort Bragg Municipal Code and Zoning Map.

The City's current zoning designations including both coastal and inland include the following general categorizations of zones:

Zone Type	Geographic Coverage
Commercial	16%
Industrial	28%
Residential	35%
Open Space, parks, rec	11%
Public Facilities	9%

The following table shows the total square footage of each zone and the percentage of that zone located in the coastal zone versus the inland zone:

Zone	Total Area (sq ft)	Inland %	Coastal %
Central Business District	2,212,699	70%	30%
General Commercial	4,091,909	47%	53%
Highway Visitor Commercial	4,550,241	24%	76%
Neighborhood Commercial	293,009	100%	0%
Office Commercial	1,525,708	0%	100%
Light Industrial	2,069,224	90%	10%
Heavy Industrial	2,433,546	40%	60%
Timber Resources Industrial	18,210,066	0%	100%
Very High Density Residential	5,669,689	66%	34%
High Density Residential	2,718,734	25%	75%
Medium Density Residential	2,951,830	85%	15%
Low Density Residential	16,473,745	83%	17%
Suburban Residential	478,664	59%	41%
Open Space	5,186,303	59%	41%
Parks and Recreation	3,938,721	11%	89%
Public Facilities and Services	6,923,696	80%	20%
Harbor District	179,265	0%	100%

Regulatory Setting for Commercial Cannabis Cultivation

The regulatory environment for cannabis is complex. In 1937, the federal government enacted the Marihuana Tax Act which did not prohibit cannabis, but instead instituted a heavy tax. With the onset of the “war on drugs, Congress enacted the Comprehensive Drug Abuse Prevention and Control Act of 1970 which included Title II, the Controlled

Substances Act (CSA). This legislation established five schedules for controlled substances. It was under this act that cannabis was listed as a Schedule I Narcotic. (League of California Cities, 2021)

Cannabis is still considered a Schedule 1 Narcotic at the Federal Level, which limits the industry's ability to bank and participate in certain aspects of the financial system. Despite legalization, the CSA is still enforceable in California. Enforcement of the CSA has been dependent on the leadership of the executive administration. For example, the Cole Memo was issued by the Department of Justice in 2013. It provided policy guidance on where to focus federal enforcement and directed enforcement away from operations legalized by states. However, in 2018, a memo issued by a new administration under then Attorney General Jeff Sessions rescinded the Cole Memo and removed any "deprioritization" of operations legalized by states. (League of Cities, 2021)

Shortly after the Federal adoption of the CSA, the State of California passed the California Uniform Controlled Substances Act (USCA) in 1972. Article 2 of this legislation set criminal prohibitions and penalties for the possession, cultivation, transportation, and distribution of cannabis. (League of Cities, 2021)

In 1996, the voters of California passed the Compassionate Use Act, also known as Proposition 215, which allowed qualified patients and or caregivers to cultivate and or possess cannabis with a written or oral recommendation or approval from a physician. This act did not decriminalize cannabis. In 2003, the state passed the Medical Marijuana Program Act (MMPA) to provide for the safe and affordable distribution of medical marijuana. (League of Cities, 2021)

In 2015, AB 243, AB 266, and SB 643, cumulatively known as Medical Marijuana Regulation and Safety Act (MMRSA), was passed. The legislation was intended to provide a regulatory framework for the medicinal cannabis industry that would begin in 2018.

In 2016, the Adult-Use Marijuana Act (AUMA) was passed in a general election. AUMA created a regulatory framework for commercial cannabis activities and most notably decriminalized medicinal and recreational use.

In order to harmonize the two codes, the State adopted SB 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MACURSA). The act also amended other state codes to include provisions for cannabis, including the Food and Agriculture Code and the Health and Safety Code. (League of Cities, 2021)

Commercial Cannabis Cultivation is regulated by the State of California Business and Professions Code Division 10. Cannabis [26000-26260] which is implemented and enforced by the Department of Cannabis Control (DCC). In September of 2021, the DCC adopted updates to the Medical and Adult-Use Commercial Cannabis Regulations California Code of Regulations Title 4 Division 19. Department of Cannabis Control. In order for any business to be able to conduct any type of legal cannabis activity in the City of Fort Bragg, they must get a license from the State of California through the DCC

and comply with State law and regulations. (DCC, 2022) This includes §16304. General Environmental Protection Measures which says:

(a) All licensed cultivators shall comply with all of the following environmental protection measures:

(1) Principles, guidelines, and requirements adopted pursuant to section 13149 of the Water Code and implemented by the State Water Resources Control Board, Regional Water Quality Control Boards, or California Department of Fish and Wildlife;

(2) Any conditions of licensure included pursuant to section 26060.1(b)(1) of the Business and Professions Code;

(3) Requirements of section 7050.5(b) of the Health and Safety Code if human remains are discovered during cultivation activities;

(4) Requirements for generators pursuant to section 16306;

(5) Requirements for pesticides pursuant to section 16307;

(6) Outdoor lights used for safety or security purposes are shielded and downward facing; and

(7) Lights used for indoor or mixed-light cultivation are shielded from sunset to sunrise to reduce nighttime glare.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26060, 26066 and 26201, Business and Professions Code.

The City of Fort Bragg Municipal Code regulates Cannabis Businesses in Chapter 9.30. The Code allows for cultivation, processing, manufacturing, distribution, and retail cannabis activity with a discretionary Cannabis Business Permit. Currently, the Coastal Land Use Development Code does not allow cannabis cultivation in the coastal zone, and the proposed changes only apply to the inland zones in Fort Bragg. Commercial cannabis manufacturing is currently allowed in the industrial zones, as is wholesaling and distribution. The proposed amendments to the code will only allow for indoor commercial cannabis cultivation, outdoor commercial cultivation will not be allowed.

The City of Fort Bragg Inland General Plan describes the following Industrial Zones:

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.

Furthermore, the Inland General Plan provides the following description of Industrial Land:

The lumber and fishing industries have played an important role in the formation and growth of Fort Bragg. Both of these industries are in transition, and the local economy is evolving from a natural resource-based economy to a more service-oriented economy. Fort Bragg is the commercial, educational, medical, and professional service center for a large portion of the Mendocino coast. Future growth in the local economy is projected to occur in the retail, tourism, and service sectors.

The Inland General Plan is intended to support the growth and vitality of existing industries while ensuring that the community is prepared to actively participate in the decision-making process as new industries develop in Fort Bragg and as current industrial lands transition to other uses.

The Inland Land Use and Development Code §18.24.010 provides the following purposes for IL and IH which are consistent with the Inland General Plan:

A. 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.

B. 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.

As stated in §9.30.140(A) of the City's Municipal Code, *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.*

Commercial indoor cultivation of cannabis shall be fully contained in indoor sites. This type of cultivation is consistent with the purpose and currently allowable activities in industrial zones. It is comparable with other permissible uses (no conditional permit

required) for which industrial zoned land could be developed. For example, both fish processing is permitted by right in both Industrial Light and Industrial Heavy Zones as is light manufacturing (defined in the Inland Land Use and Development Code Chapter 10):

*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 cannabis manufacturing and processing facilities with similar operational characteristics to the examples below... (see **ATTACHMENT D** ILUDC §18.100.020 Definition for Manufacturing for complete definition.)*

ILUDC Chapter 18.72 Environmental Impact Assessment and Mitigation Monitoring implements the requirement to CEQA by providing the City with criteria, objectives, principles, and procedures for applying the requirements of CEQA to proposed projects. §18.72.040 notes that *the chapter is not intended to replace CEQA, and full compliance with CEQA is required regardless of the provisions of the chapter.*

This confirms that any project involving cannabis, which requires a cannabis business permit, is a discretionary action and subject to CEQA §21080(a) which states that:

“Except as otherwise provided in this division, this division shall apply to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits, and the approval of tentative subdivision maps unless the project is exempt from this division.”

Local Regulatory Setting for Retail and Microbusiness

The proposed amendments to cannabis retail do not change what activities are allowable, but rather makes minor modifications to existing regulations for cannabis business activities in commercial zones. While the proposed changes create a definition for a cannabis microbusiness, the original intention of the existing code was to allow this activity. The current Accessory Use description in the ILUDC §18.42.057(E) states:

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.

The proposed modification to accessory uses does not change which uses are allowed but clarify the regulation of these uses. The proposed revisions to the accessory use definition as forth in §18.42.057(C) (formerly (E)) states:

Accessory uses. *As defined in Article 10, an accessory use is customarily incidental to, related and clearly subordinate to a primary use, on the same parcel, which does not alter the primary use as defined in Article 10. A cannabis business with more than one accessory use, or with another use that does not qualify as accessory, shall be considered a microbusiness and subject to section 18.42.058. A retail business may still be considered retail with two accessory uses only if one of the uses is “onsite distribution” as defined in Article 10. Accessory uses are determined by the definitions in Article 10.*

1. *The following uses are allowable as accessory uses to cannabis retail:*

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

2. *In no instance shall cannabis manufacturing using volatile solvents be allowable as an accessory use to cannabis retail.*

The definition for “on-site distribution” is proposed for Article 10 as:

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.*

The uses are the same, so there are no new uses, the change in the section provides clarifications. The allowable accessory uses remain unchanged, rather the language is more detailed to provide necessary clarification.

In addition to clarifying the difference between a retail business with accessory uses and a cannabis microbusiness, the conditional use permit requirements originally established in §18.42.057 Cannabis Retail would be relocated to Municipal Code Chapter 9.30 Cannabis Businesses. The change reflects the fact that Cannabis Business Permits (CBP) have to be renewed annually, whereas a land use permit runs with the land in perpetuity. The relocation of this criteria does not change the existing regulations, but instead changes where they are applied and further protects the public by including these requirements in the annual inspection. By moving the regulations to Chapter 9.30, the City is better able to monitor and enforce operating standards and ensure that projects are following the rules established to protect the health and safety of the public.

Additionally, there have been two retail cannabis dispensaries approved in the City of Fort Bragg. Neither of the existing dispensaries have had impacts on the surrounding area. As reported to Community Development staff by the staff of the Police Department, there have been no elevated reported complaints, calls for service, or otherwise increased demands for city services relative to other types of businesses. The presence of the existing cannabis dispensaries demonstrate compatibility with the general plan designation and zoning for commercial activity.

The addition of §18.42.058 Cannabis Microbusinesses creates regulations for cannabis businesses in commercial and industrial zones. While this is a new classification, all uses are already in the code under Section 18.42.057(E) for retail, with the exception of the classification for industrial zones where mature cannabis cultivation is allowed. The difference, as mentioned above, is the distinction between retail with an accessory use and a microbusiness. A microbusiness may allow for a greater portion of a commercial building to be used for non-retail cannabis activity, but it also requires that there is a primary retail frontage and that the microbusiness shall not create significant noise, odor, traffic, or any other kind of public nuisance. These regulations ensure that the non-retail components of a retail cannabis business or microbusiness will not have impacts on the zone or create compatibility issues.

The proposed project will amend the City of Fort Bragg's Municipal Code Chapter 9.30 Cannabis Businesses, and Chapter 2, Chapter 4, and Chapter 10 of the Inland Land Use and Development Code to regulate commercial cannabis cultivation in the City of Fort Bragg and to make minor modifications to existing regulations for cannabis business activities in commercial zones. It will not change the physical nature (size or location) of the zones where the uses are currently or would be allowed under the proposed municipal code amendment. This project does not propose any changes to the standards established to protect the health and safety of the public, or the environment, and it does not propose any physical development.

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ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a “Potentially Significant Impact” as indicated by the checklist on the following pages.

- | | | |
|--|---|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture and Forestry Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Energy |
| <input type="checkbox"/> Geology /Soils | <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Hazards & Hazardous Materials |
| <input type="checkbox"/> Hydrology / Water Quality | <input type="checkbox"/> Land Use / Planning | <input type="checkbox"/> Mineral Resources |
| <input type="checkbox"/> Noise | <input type="checkbox"/> Population/Housing | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Recreation | <input type="checkbox"/> Transportation | <input type="checkbox"/> Tribal Cultural Resources |
| <input type="checkbox"/> Utilities Service Systems | <input type="checkbox"/> Wildfire | <input type="checkbox"/> Mandatory Findings of Significance |

DISCUSSION:

(See following document)

DETERMINATION:

On the basis of this initial evaluation:

I find that the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION** will be prepared.

I find that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.

I find that the proposed project **MAY** have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.

I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or **NEGATIVE DECLARATION** pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or **NEGATIVE DECLARATION**, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.



Signature

February 17, 2022

Date

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Aesthetics

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>i. AESTHETICS. Except as provided in Public Resources Code Section 21099, would the project:</p>				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Regulatory Setting

Visual character is a description (not evaluation) of a site, and includes attributes such as form, line, color, and texture. Visual quality is the intrinsic appeal of a landscape or scene due to the combination of natural and built features in the landscape. Visual sensitivity is the level of interest or concern that the public has for maintaining the visual quality of a particular aesthetic resource and is a measure of how noticeable proposed changes might be in a particular scene and is based on the overall clarity, distance, and relative dominance of the proposed changes in the view, as well as the duration that a particular view could be seen.

The State of California's Public Resources Code §21081.3 (CEQA Statute) provides regulatory authority for the aesthetic impacts of a proposed project. (AEP, 2021)

Additionally, for cannabis businesses the Department of Cannabis Control Medicinal and Adult Use Commercial Cannabis Regulations §16304(a)(6,7) require that *outdoor*

lights used for safety or security purposes are shielded and downward facing; and lights used for indoor or mixed-light cultivation are shielded from sunset to sunrise to reduce nighttime glare. (DCC, 2021)

The City's Inland General Plan, Inland Land Use Development Code, and Citywide Design Guidelines provide the regulatory framework for aesthetics. Specifically, the City of Fort Bragg Inland Land Use and Development Code §18.71.050 Design Review provides the regulatory framework for reviewing the visual aspects of a project. The purpose of design review is *to ensure that the design of proposed development and new land uses assist in maintaining and enhancing the small-town, coastal, historic, and rural character of the community.*

Applications for Design Review must meet the following criteria:

1. *Complies with the purpose and requirements of this Section;*
2. *Provides architectural design, building massing, and scale appropriate to and compatible with the site surroundings and the community;*
3. *Provides attractive and desirable site layout and design, including building arrangement, exterior appearance and setbacks, drainage, fences and walls, grading, landscaping, lighting, signs, etc.;*
4. *Provides efficient and safe public access, circulation, and parking;*
5. *Provides appropriate open space and landscaping, including the use of water efficient landscaping;*
6. *Is consistent with the General Plan, any applicable specific plan; and*
7. *Complies and is consistent with the City's Design Guidelines.*

The Citywide Design Guidelines complement the standards contained in the City of Fort Bragg Inland Land Use and Development Code by providing good examples of appropriate design solutions, and by providing design interpretations of the various regulations. The guidelines are less quantitative and rigid than the mandatory development standards of the Development Code, and may be interpreted with some flexibility in the application to specific projects.

Additional regulations for historic features noted in the Cultural Resources section of this document also provide additional regulations that may also regulate aesthetics.

Discussion

The adoption of the proposed ordinances would not change the design guidelines or design review process outlined in the City's Inland Land Use and Development Code 18.71.050, which is intended to ensure that the design of proposed development and redevelopment maintain and compliment the small-town, coastal, historic, and rural character of the community. Under the proposed code amendments, a new cannabis business that proposes to construct a new structure will be subject to design review and the design guidelines. If a cannabis business proposes substantial changes to the exterior of an existing building it will also be subject to design review. The proposed code specifies that the cultivation of cannabis must take place in a fully enclosed and secure structure and cannabis shall not be visible from a public right of way, and the

cultivation should not appear any different from other buildings in the same district as it will have to conform to the design guidelines or be an already existing structure.

The City's design review process requires adherence to established design guidelines and provides that the review authority can support findings demonstrating conformance with identified project review criteria. Therefore, the proposed changes to the Inland Land Use and Development Code, establishing regulation for Cannabis Cultivation, will not have a significant impact on the aesthetics of the City of Fort Bragg.

In order to reduce energy uses, some future CBP applications may propose to do a mixed-light cultivation allowing natural light to enter via a greenhouse style ceiling, clearstory, or skylights. This type of architectural design allows for indoor spaces to be readily viewable from outside, and could potentially result in "light pollution" at night if indoor lighting is used past sunset. CBP applications proposing a mixed light cultivation, will be required to address lighting through the plan review process to ensure that the project does not result in light or glare that will impact nighttime views resulting in significant environmental impacts per the CEQA Statute §21081.3(a)(5).

Each cannabis business application will be reviewed under the City's Design Review process which includes regulations on "outdoor lighting" in ILUDC §18.30.070. Further, all future proposed cannabis cultivations are subject to a conditional use permit, which is a fully discretionary process and will be subject to CEQA including an analysis of the individual project to determine whether it will adversely affect day or nighttime views in the area. Of consideration will be the proposed lighting plan including the use of artificial lights in operations, the type of lighting, and the extent of lighting. If a future Cannabis Cultivation application has the potential to conflict with the City's outdoor lighting regulation, it would be considered a potentially significantly impact due to excessive light pollution, and the project application would be required to be revised and mitigation imposed. The effectiveness of the mitigation addressing light pollution on a future CBP application would be assessed at that time. Applications that comply with the City's outdoor lighting standards would result in less than significant impacts due to light pollution.

The proposed change in the Inland Land Use and Development Code establishes regulation for commercial cannabis cultivation uses in the industrial zones and makes minor modifications to the existing regulations for cannabis business activity in the commercial zones. The new language does not alter or otherwise change the City's policies regarding lighting and screening of new development including cannabis cultivation projects. Therefore, adoption of the proposed ordinances will have a less than significant impact on the aesthetics of the City of Fort Bragg.

References

Association of Environmental Professionals (AEP). (2021). 2021 California Environmental Quality Act Statute & Guidelines.

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Agricultural and Forestry Resources

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>II. AGRICULTURE AND FORESTRY RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:</p>				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

d) Result in the loss of forest land or conversion of forest land to non-forest use?

e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

Regulatory Setting

The cultivation of cannabis was originally regulated by the California Department of Food and Agriculture (CDFA). In 2021, CDFA’s CalCannabis program merged with the Bureau of Cannabis Control to form the Department of Cannabis Control. In September of 2021, updates to the California Code of Regulations for Medicinal and Adult-Use Commercial Cannabis (CCR Title 4 Division 19) were published. The statutory authority for the regulation of cannabis cultivation is under the California Business and Professions Code Division 10 [26000-26260], which is implemented under CCR Title 4, Division 19. (DCC, 2021)

Discussion

The inland industrial and commercial zones of Fort Bragg are presented in Figure 2 below. There are no forest lands nor timberland production zones in the Inland Zone. While agriculture is allowed in all zones of the City, none of the industrial lands are designated as “Prime Farmland” and none are currently under agricultural uses. There are no sites in the City of Fort Bragg that are covered under the Williamson Act.

In the event that a cannabis business is proposed for development on a vacant parcel, it would be subject to all application regulations and review under CEQA, which would include an assessment of potential impacts on farmland and forestland. The City relies on the State of California Department of Land Conservation Mapping tool to determine if a site contains important farmland and/or forestland.

Figure 3 shows the City of Fort Bragg industrial zones in the Inland Zone of Fort Bragg with the California Department of Conservation’s Important Farmland Layer from 2018. (Department of Conservation, 2022) There are two classifications in these areas; urban/built up land and land on which the existing vegetation is suited to the grazing of livestock. While there are some portions of the industrial zone which the State indicates as suitable livestock cultivation, this is not an allowable use in the industrial zone so there is no conflict. The commercially zoned parcels in the Inland Zone are considered urban/built up.

Figure 2: Inland Industrial and Commercial Zones in the City of Fort Bragg

Fort Bragg Commercial and Inland Industrial Zoned Parcels

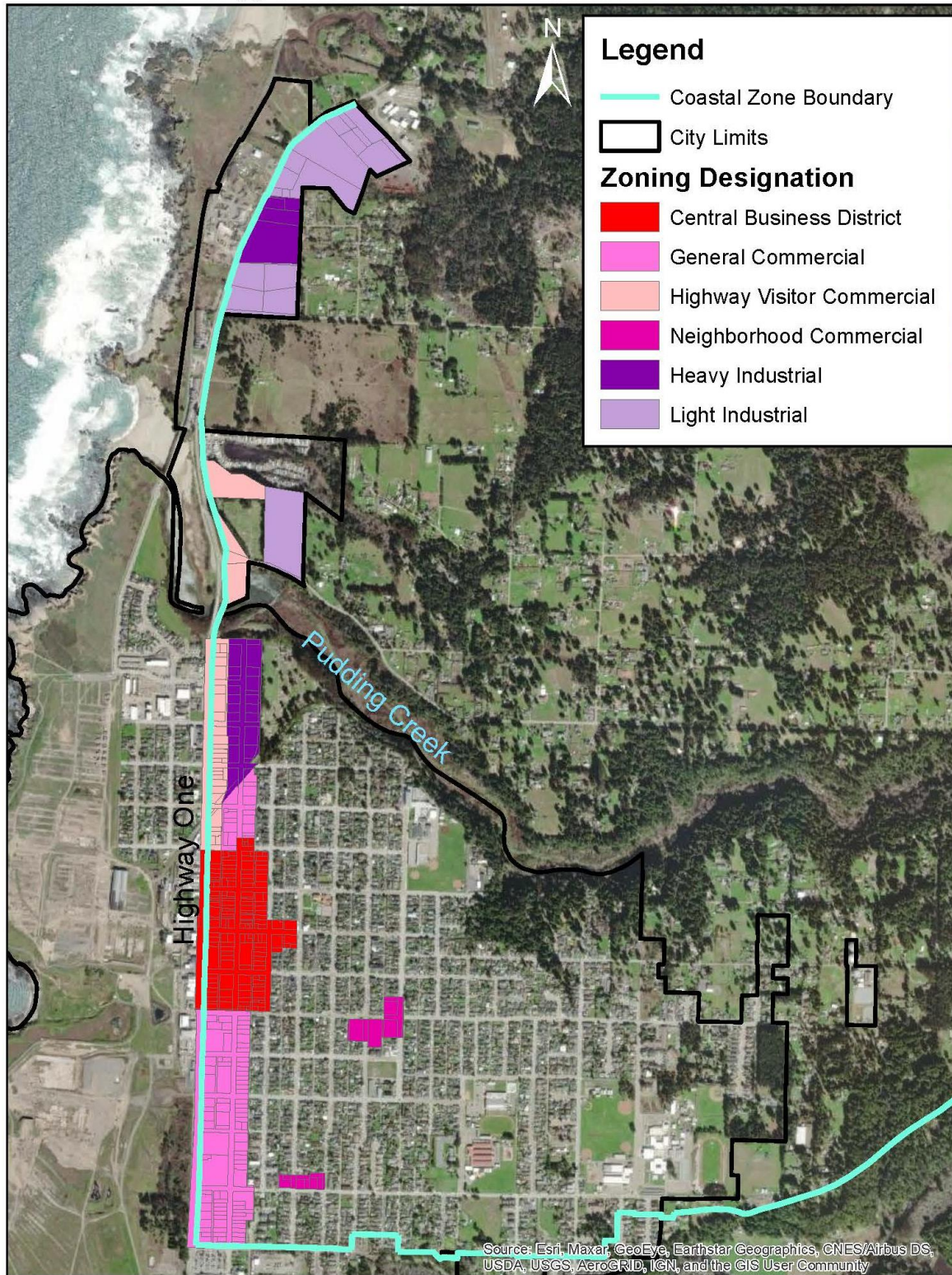
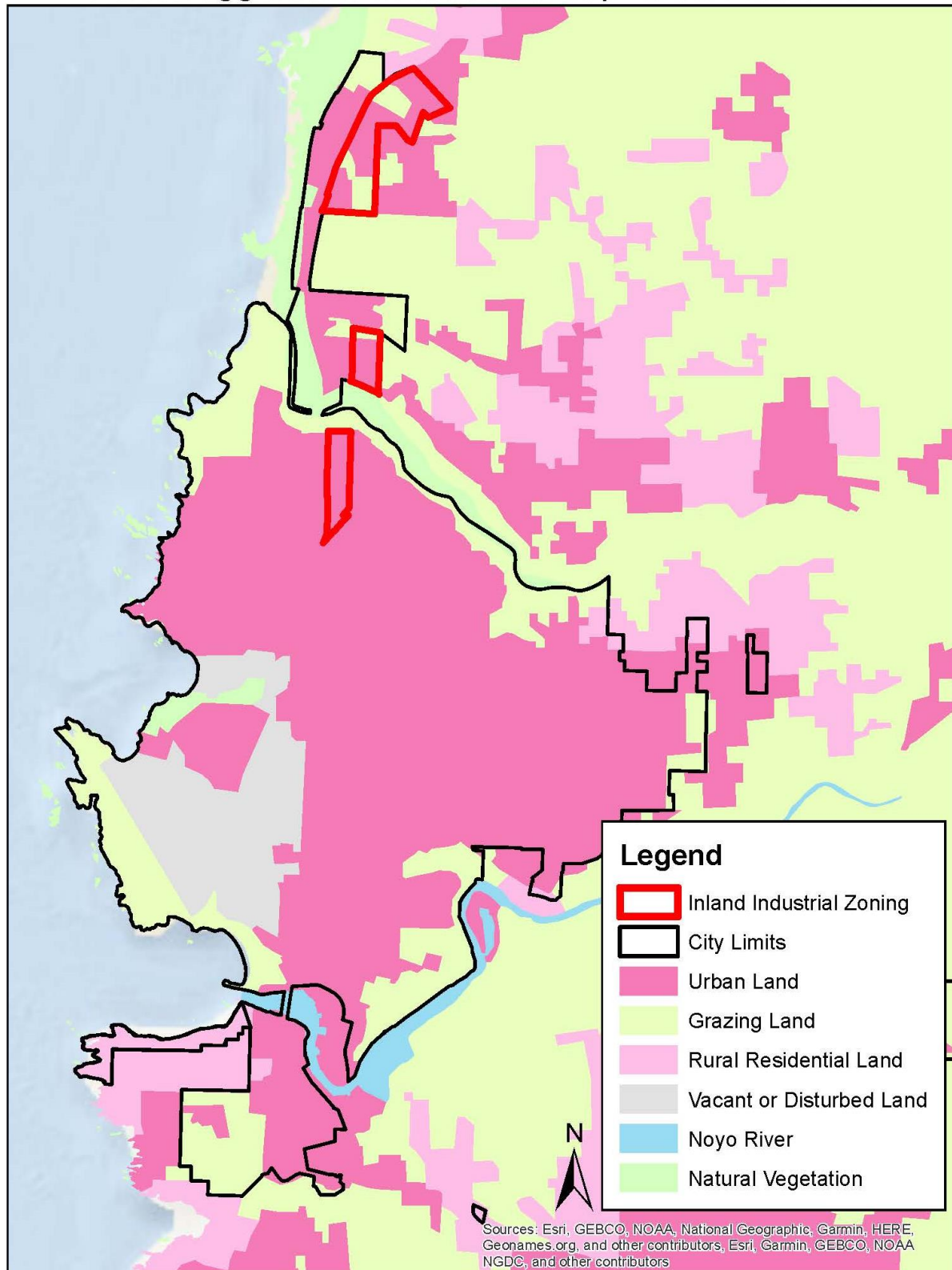


Figure 3: Industrial Zones and Important Farmland

Fort Bragg Inland Industrial & Important Farmland



The proposed change in the Inland Land Use and Development Code establishes regulation for cannabis cultivation uses in the industrial zones and makes minor modifications to uses that are currently allowable in commercial zones. The proposed change in code does not in and of itself impact agricultural or forestland and because new cannabis cultivation projects are limited to industrially zoned properties, which do not have prime agricultural or forestlands and the proposed changes do not change the size or location of industrial or commercial zones nor propose any physical development. Therefore, the proposed amendments to the Inland Land Use and Development Code will have no impact on agricultural or forestlands.

References

California Department of Conservation - CA Farmland Conservancy.(2021, August 30)

California Important Farmland Finder. Retrieved from:

<https://maps.conservation.ca.gov/DLRP/CIFF/>

California Department of Cannabis Control. *Medicinal and Adult-Use Commercial Cannabis Regulations, California Code of Regulations Title 4 Division 19*.

September, 2021.

City of Fort Bragg Zoning Map, 2016.

City of Fort Bragg “*Title 18 Inland Land Use and Development Code*.” March, 2014.

Air Quality

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>III. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. Would the project:</p>				
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Regulatory Setting

On the federal level, the Clean Air Act (CAA) and the 1990 CAA Amendments govern air quality in the United States and are administered by the Environmental Protection Agency (EPA). The EPA sets limits on concentrations of certain air pollutants and places limits on emission sources. Additionally, the EPA has established National Ambient Air Quality Standards (NAAQS) for six major air pollutants, known as criteria air pollutants including Ozone, Particulate Matter (PM10 and PM 2.5), carbon monoxide, nitrogen dioxide, sulfur dioxide, and lead.

The federal government also sets national emission standards for hazardous air pollutants in Title 40 of the Code of Federal Regulations Part 61 and Part 63. These standards regulate 194 hazardous air pollutants.

Corporate Average Fuel Economy Standards regulate car manufacturers and require that they meet established gas mileage and fuel economy standards that are set by the National Highway Traffic Safety Administration.

The California Ambient Air Quality Standards (CAAQS) are the California state equivalent of the NAAQS. An air basin is in “attainment” (compliance) when the levels of the pollutant in that air basin are below NAAQS and CAAQS thresholds shown in the table below.

Table 0-1. NAAQS and CAAQS

Pollutant	NAAQS		CAAQS		
	Averaging time	Concentration Threshold	Averaging time	Concentration Threshold	
Carbon monoxide (CO)	8 hours	9 ppm	8 hours	0.09 ppm	
	1 hour	35 ppm	1 hour	0.070 ppm	
Lead (Pb)	Rolling 3-month average	0.15 µg/m ³	1.5 hour	0.15 µg/m ³	
Nitrogen dioxide (NO ₂)	1 hour	100 ppb	1 hour	0.18 ppm	
	1 year	53 ppb	Annual mean	0.030 ppm	
Ozone (O ₃)	8 hours	0.070 ppm	8 hours	0.09 ppm	
			1 hour	0.070 ppm	
Particulate matter (PM)	PM _{2.5}	1 year	12.0 µg/m ³	Annual mean	12.0 µg/m ³
		24 hours	35 µg/m ³	n/a	n/a
	PM ₁₀	24 hours	150 µg/m ³	24 hours	50 µg/m ³
				Annual mean	20 µg/m ³
Sulfur dioxide (SO ₂)	1 hour	75 ppb	1 hour	0.25 ppm	
	3 hours	0.5 ppm	24 hours	0.04 ppm	
Visibility reducing particles	n/a	n/a	9 hours	Extinction of 0.23 per kilometer	
Sulfates	n/a	n/a	24 hours	25 µg/m ³	
Hydrogen sulfide	n/a	n/a	1 hour	0.03 ppm	
Vinyl chloride	n/a	n/a	24 hours	0.01 ppm	

Source:USEPA, 2016; CARB, 2020

ppm = parts per million, ppb = parts per billion, µg/m³ = micrograms per cubic meter, n/a = not applicable

Additionally, at the State level, the California Air Resource Board is responsible for implementing the CCAA and other air quality regulations which include:

- Truck and Bus Regulation
- Commercial Vehicle Idling Regulation
- Heavy-Duty On-Board Diagnostic System Regulations
- Heavy-Duty Vehicle Inspection Program
- California Standards for Diesel Fuel Regulations
- In-Use Off-Road Diesel Vehicle Regulation
- Assembly Bill 1803 which establishes a two-step process of risk identification and risk management to address the potential health effects from airborne toxic substances.
- Portable Engine Airborne Toxic Control Measure
- Portable Equipment Registration Program
- California Toxic Air Containment Act
- California Department of Pesticide Regulation Air Program Activities

The City of Fort Bragg is located within the North Coast Air Basin (NCAB) and is under the jurisdiction of the Mendocino County Air Quality Management District (MCAQMD).The MCAQMD is responsible for enforcing federal and state air quality

standards and establishes CEQA thresholds for Mendocino County and local jurisdictions within the County, including the City of Fort Bragg.

Mendocino County is currently in non-attainment for the State PM₁₀ standard (particulate matter less than 10 microns in size) (CARB, 2019). The primary manmade sources of PM₁₀ pollution in the County are from wood combustion (woodstoves, fireplaces and outdoor burning), fugitive dust, automobile traffic and industry (Mendocino County, 2021). Both the NCAB and Mendocino County are in attainment for all other State and Federal criteria air pollutants (US EPA 2016; CARB, 2020).

In addition to the Federal, State, and County regulations, air quality is also addressed in the City's Open Space Element of the Inland General Plan which includes the following policy and associated programs:

Open Space Goal OS-7 Policy OS-7.2 Air Quality Standards: Seek to comply with State and Federal standards for air quality
Open Space Goal OS-7 Policy OS-7.2 Program OS-7.2.1 Review new project proposals for consistency with MCAQMD regulations and guidelines
Open Space Goal OS-7 Policy OS-7.2 Program OS-7.2.2 Work with the Mendocino County Air Quality Management District to ensure that all new industrial projects include Best Available Control Technologies (BACTs) to control emissions of air pollutants to the maximum extent permitted by law.
Open Space Goal OS-7 Policy OS-7.2 Program OS-7.2.4 Prohibit unpaved driveways of more than 50 feet and unpaved roads in all new development.

Furthermore, odors are regulated in the City by ILUDC §18.30.080(J) which says: *No obnoxious odor or fumes shall be emitted that are perceptible without instruments by a reasonable person at the property line of the site.* The existing Municipal Code §9.30.050(N)(8) requires that applicants for a CBP submit *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.*

Discussion

The proposed ordinances will establish regulations for commercial cannabis cultivation in inland industrial zones and make minor modifications to existing regulations for cannabis business activity in commercial zones. Indoor cannabis cultivation as a land use is comparable in intensity to other allowable and conditionally allowed uses in the industrial zone, namely heavy manufacturing, fish processing, or agricultural product processing. The proposed amendment to the code in and of itself will not have significant impacts on air quality as it establishes regulations and does not propose any physical development.

All future proposed cannabis cultivation projects would require a Cannabis Business Permit and be subject to discretionary review to determine if it would conflict with or obstruct the implementation of an applicable air quality plan or result in cumulatively considerable net increase of any criteria air pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard.

When the City receives a discretionary project application, the project is sent for review to the MCAQMD for comments. Additionally, if an initial study is required and an air quality analysis warranted, construction and operational emissions are estimated using an acceptable modeling program, such as the California Emissions Estimator Model (CalEEMod). The results of the air quality modeling is used to determine if a proposed project would result in air quality impacts. The MCAQMD published "Adopted Air Quality CEQA Thresholds of Significance" on June 2, 2010 (see **Attachment E**). The City uses these thresholds to determine if discretionary projects would have an impact on air quality and would apply this same review process to discretionary actions under the proposed ordinances including all CBP applications.

Furthermore, if a proposed CBP application was found to have the potential to create substantial concentrations of either criteria air pollutants or Hazardous Air Pollutants, the project would be assessed to determine if it would expose sensitive receptors to substantial pollutant concentrations.

The City of Fort Bragg's Inland General Plan defines Sensitive Receptors as:

"Members of the population who are most sensitive to air quality include children, the elderly, the acutely ill, and the chronically ill. The term "sensitive receptors" can also refer to the land use categories where these people live or spend a significant amount of time. Such areas include residences, schools, playgrounds, child care centers, hospitals, retirement homes, and convalescent homes."

The existing Municipal Code Section 9.30.050(N)(8) requires that applicants for Cannabis Business Permits provide an odor prevention plan that shows how the project will comply with Chapter 18.30.080(J) which states "No obnoxious odor or fumes shall be emitted that are perceptible without instruments by a reasonable person at the property line of the site." Any project that does not comply would be subject to the City's Municipal Code for Nuisances, Chapter 6.12. Additionally, the proposed changes to Section 18.42.055(B)(4) includes the following language:

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.

The introduction of a new conditionally allowable use for cannabis cultivation in the industrial zone, in and of itself will not result in new or more severe impacts to the air quality of the area because it does not include any physical development and the conditional uses would be subject to all federal, state, and local air quality regulations. Therefore, the proposed amendments to the municipal code including the addition of commercial cannabis cultivation as a conditionally allowable use to the industrial zones and minor modifications to the existing regulations for cannabis activity in the commercial zones will have no impact to air quality.

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Biological Resources

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>IV. BIOLOGICAL RESOURCES: Would the project:</p>				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan,	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

Regulatory Setting

At the federal level, the Endangered Species Act of 1973 provides regulations for the conservation of species that are endangered or threatened throughout all or a significant portion of their range. It also protects the habitat of threatened or endangered species. The Migratory Bird Treaty Act (MBTA) provides additional protections for migratory birds. (USFW, 2022)

At the state level, the California Endangered Species Act (CESA) created the policy that State agencies should not approve projects that would jeopardize the continued existence of a species listed under CESA as endangered or threatened or result in the destruction or adverse modification of habitat essential to the continued existence of those species, if reasonable and prudent alternatives are available consistent with conserving the species or its habitat that would prevent jeopardy. (CDFW, 2022)

Sensitive biological communities include habitats that fulfill special functions or have special values, such as wetlands, streams, or riparian habitat. These habitats may be protected under federal regulations such as the Clean Water Act; state regulations such as the Porter-Cologne Act, and the California Department of Fish and Wildlife (CDFW) Streambed Alteration Program. Other sensitive biological communities include habitats that fulfill special functions or have special values. Natural communities considered sensitive are those identified by CDFW. CDFW ranks sensitive communities as “threatened” or “very threatened” and keeps records of their occurrences in its California Natural Diversity Database (CNDDDB). Sensitive plant communities are also provided in list format by CDFW. CNDDDB vegetation alliances are ranked 1 through 5 based on NatureServe’s methodology, which those alliances ranked globally (G) or statewide (S) with status of 1 through 3 considered to be of special concern as well as imperiled.

On the local level, the City of Fort Bragg Inland General Plan has the following policies that address biotic resources:

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

Land Use Goal LU-5 Policy LU-5.1 Siting New Industrial Development: Site new industrial development so that it is contiguous with, or in close proximity to, existing developed areas able to accommodate it, or where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects on natural and scenic resources, either individually or cumulatively.

Land 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.

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.
Open Space Goal OS-1 Policy OS-1.2 Preserve Natural Resources: Require that sensitive natural resources in Special Review Areas be preserved and protected to the maximum degree feasible.
Open Space Goal OS-1 Policy OS-1.2 Program OS-1.2.1: Review projects requesting discretionary approvals to determine whether the project is located in an area with potentially sensitive natural resources.
Open Space Goal OS-1 Policy OS-1.3 Biological Report Required for Special Review Areas: Permit applications for development within or adjacent to Special Review Areas which have the possibility of containing sensitive habitat shall include a biological report prepared by a qualified biologist which identifies the resources and provides recommended measures to ensure that the requirements of CEQA, the Department of Fish and Wildlife, and the City of Fort Bragg's Inland General Plan are fully met. The required content of the biological report is specified in the Inland Land Use and Development Code.
Open Space Goal OS-1 Policy OS-1.4 Maintain Open Space: Require site planning and construction to maintain adequate open space to permit effective wildlife corridors for animal movement between open spaces.
Open Space Goal OS-2: Program OS-2.4.1 Establish a tree planting and replacement program to assure continuing stands of trees throughout the City.
Open Space Goal OS-2: Policy OS-2.1 Native Landscaping: All development shall be conditioned to require that 50% of all plantings are native plants and shall prohibit the planting of any plant species that is (a) listed as problematic and/or invasive by the California Invasive Plant Council, and/or by the State of California, or (b) listed as a 'noxious weed' by the State of California or the U.S. Federal Government
Open Space Goal OS-2: Policy OS-2.2 Prohibit Invasive Species: Condition development projects requiring discretionary approval to prohibit the planting of any species of broom, pampas grass, gorse, or other species of invasive non-native plants deemed undesirable by the City
Open Space Goal OS-2: Policy OS-2.3 Preserve Native Vegetation and Trees: To the maximum extent feasible and balanced with permitted use, require that site planning, construction, and maintenance of development preserve existing healthy trees and native vegetation on the site.
Open Space Goal OS-2: Policy OS-2.4 Forested Areas: Maintain existing forested areas and reforest parks and streetscapes with new trees as needed. Projects proposed in forested areas are required to meet the requirements of the Special Review Areas.
Open Space Goal OS-5 Policy OS-5.1 Streams and Creeks: To the maximum extent feasible, preserve, protect, and restore streams and creeks to their natural state.

Open Space Goal OS-5 Policy OS-5.2 Riparian Habitat: Prevent development from destroying riparian habitat to the maximum feasible extent. Preserve, enhance, and restore existing riparian habitat in new development unless the preservation will prevent the establishment of all permitted uses on the property.

Open Space Goal OS-5 Policy OS-5.3 No Net Loss of Wetlands: Ensure no net loss of wetlands, as defined by the U.S. Army Corps of Engineers.

Open Space Goal OS-6 Policy OS-6.4 Maintain and Restore Biological Productivity and Water Quality: Development shall maintain and, where feasible, restore the biological productivity and the quality of streams and wetlands to maintain optimum populations of aquatic organisms and for the protection of human health.

General Plan Map OS-2 (see Figure 4) identifies wetlands, open space, and areas for water recharge in the City of Fort Bragg. There are some industrial sites along Highway 1 north of Pudding Creek that may have wetland/riparian habitat, but the inland industrial and commercial zoned sites south of Pudding Creek are mostly developed or ruderal.

Additionally, the City's ILUDC §18.50.050 regulates Special Review Areas: Biologically Sensitive Areas and provides the following General Development Standards:

C. General development standards.

1. Performance standards. All development adjacent to or within Biologically Sensitive Areas shall comply with the following requirements, to the maximum extent feasible.

a. New development shall be designed, sited, constructed, and maintained so as to not significantly disrupt the resource.

b. Where feasible, damaged habitats shall be restored as a condition of development approval.

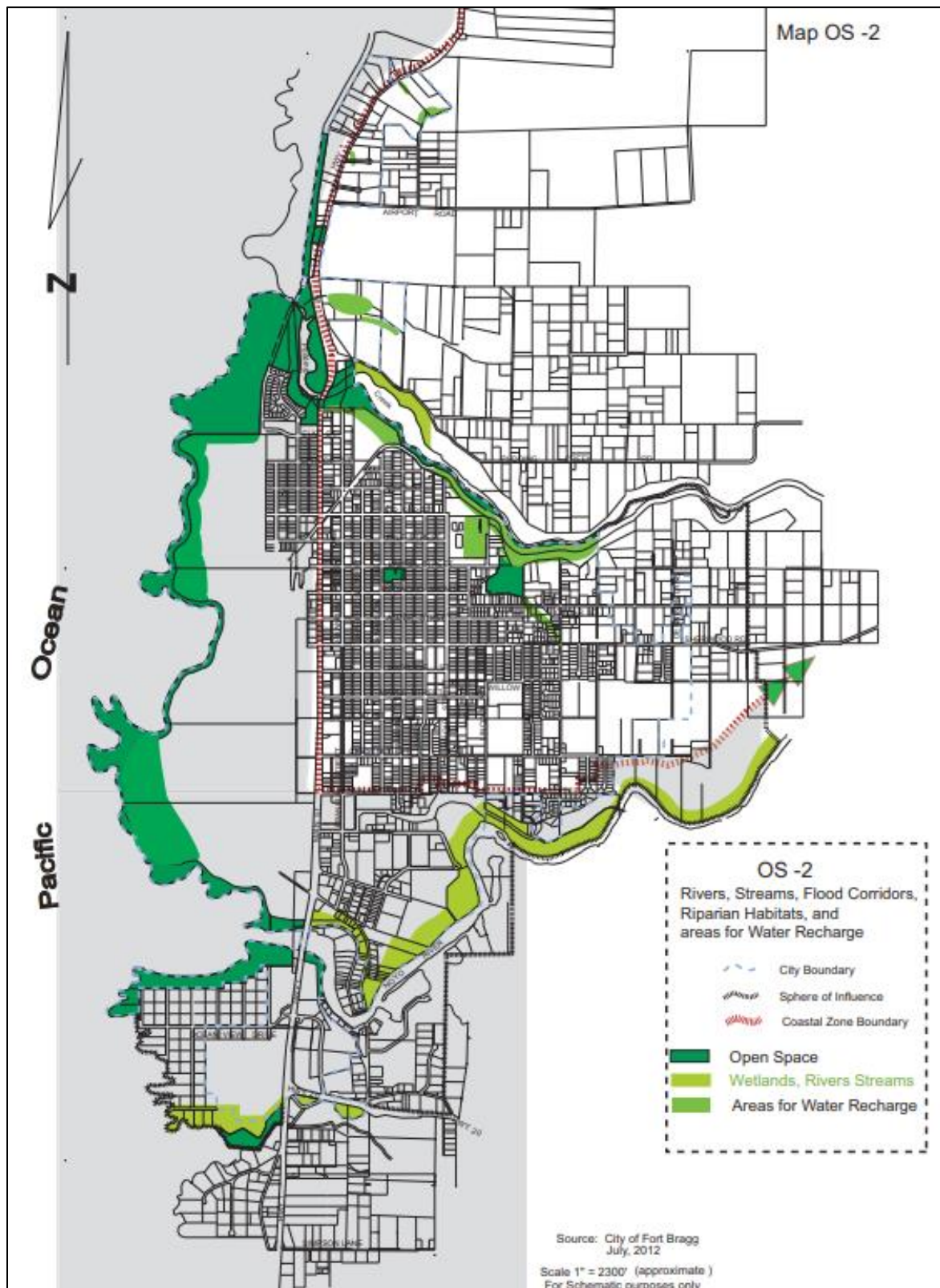
c. Development shall be consistent with the biological continuance of the habitat.

2. Vegetation removal. Existing native vegetation shall not be removed within a Biologically Sensitive Area, as part of a development project, unless authorized through Section 7, 404 permit or CEQA (California Environmental Quality Act) approval to accommodate proposed construction.

3. Landscaping. A landscaping plan shall be submitted to the City for approval prior to construction for any site where development will disturb existing or potential native plant habitat. The plan shall provide for vegetation restoration in compliance with Subsection C.2 above. Landscaping with exotic plants shall be limited to outdoor living space immediately adjacent to the proposed development. Invasive non-native plants including Pampas grass, Acacia, Genista, and non-native iceplant

pose a threat to indigenous plant communities and shall not be approved as part of any proposed landscaping.

Figure 4: Inland General Plan Map OS-2



4. *Resource protection during construction. Habitat areas containing vegetation that is essential to the maintenance of the habitat and/or rare or endangered plant or animal species shall be protected from disturbance by construction activities. Temporary wire mesh fencing shall be placed around habitat prior to construction, and protected areas shall not be used by workers or for the storage of machinery or materials. Inspections for compliance shall occur during construction.*

5. *Resource protection after construction. After construction, unpaved areas shall be replanted to provide for the reestablishment of a 100 percent vegetation cover within two years. At five years, the site should support the same habitat removed. Remedial actions (e.g., planting of native species and removal of invasive horticultural species) shall be implemented as necessary to ensure that the site will consist of at least 75 percent native species at the end of five years.*

6. *Herbicide use. The use and disposal of any herbicides for invasive species removal shall follow the written directions of the manufacturer, shall comply with all conditions imposed by the City, and shall be accomplished in a manner that will fully protect adjacent native vegetation.*

Discussion

The proposed ordinances will establish regulations for commercial cannabis cultivation in inland industrial zones and make minor modifications to existing regulations for cannabis business activity in commercial zones. Indoor cannabis cultivation as a land use is comparable in intensity to other allowable and conditionally allowed uses in the industrial zone, namely light, medium, and heavy manufacturing, fish processing, or agricultural product processing. Outdoor cultivation is not allowed, and only indoor cultivation is conditionally allowed, which will have no more significant impacts than other industrial uses that are currently allowable. The proposed amendment to the code in and of itself will not have significant impacts on biotic resources as it does not involve any physical development, changes in allowable lot coverage, or other regulations that protect biological resources, such as creek setbacks, tree replacement requirements, and construction controls. Furthermore, all CBP applications are fully discretionary and subject to CEQA review, including an evaluation of potential impacts to biological resources from the specific application.

There is one Critical Habitat area identified by the US Fish and Wildlife IPaC website. As seen in the map below the red area is critical habitat identified for the Tidewater Goby (see Figure 5). In the event that a future CBP application is located within close proximity and may impact this habitat area, the project would be subject to review and compliance with both the federal and state Endangered Species Act (ESA) and the City's Environmentally Sensitive Habitat Area (ESHA) regulations.

Discretionary projects in the inland zone are evaluated using Map OS-2 to determine if the project is in a special review area and needs to comply with Policy OS-1.3 Biological Report Required for Special Review Areas. See Figure 2 above. CBP applications that are located in a Special Review Area are required to provide a

biological Report. Biological reports for discretionary projects including CBP applications are either reviewed by staff or by an independent biologist, as warranted. If future CBP applications are determined to result in potentially significant impacts to biotic resources, redesign and mitigation will be considered to avoid or minimize impacts. The efficacy of redesign and mitigation will be assessed on the project level once a complete CBP application is received and is in process by the City.

In the case of a proposed nursery cultivations as an accessory use to a retail cannabis business in the commercial zone, even though permitted by right for land use purposes, the project would still require a discretionary Cannabis Business Permit which requires that a project comply with the Inland Land Use and Development Code and is subject to CEQA review. If the project is proposed on a site with important biotic resources, it would be subject to ILUDC §18.50.050.

The regulatory environment for biotic resources will not be changed by the proposed project. The proposed project will add a new conditionally allowable use to industrial zones and make minor modifications to existing regulations for commercial cannabis activity in commercial zones. There will be no change in the designation of industrial or commercial lands and there is no physical development proposed for this project. Therefore, the project will have no impacts on biological resources.

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[S](#)

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Figure 5: Critical Habitat of the Tidewater Goby

Fort Bragg Critical Habitat Areas



Cultural Resources

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
V. CULTURAL RESOURCES. Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource pursuant to § 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Historical Setting

Native Americans have inhabited the North Coast of Mendocino County for at least 10,000 years. The Pomo people were hunter-gatherers with a close relationship to the land and the sea. Seasonal Native American villages were located along the coast with permanent villages located north of Ten Mile River. (City of Fort Bragg, 2022)

In 1857, the Fort Bragg military post was established on the Mendocino Indian Reservation approximately 1.5 miles north of the Noyo River. Its purpose was to maintain order on the reservation. Also in 1857, a lumber mill was established on the Noyo River starting what would become the major industry of the region. The military post was short-lived. In 1865, after 300 Native Americans were marched forcibly from the Reservation to a reservation in Round Valley, and Fort Bragg as a military post was abandoned. (City of Fort Bragg Website)

On August 5, 1889, Fort Bragg was incorporated as a city. C.R. Johnson, president of the Fort Bragg Redwood Company, was the first mayor. His company laid out the town much as it exists today; with a uniform street grid and mid-block alleys. In 1893, the Union Lumber Company was created by absorbing some of the smaller lumber companies in the area.

The Great 1906 Earthquake resulted in a fire at the lumber mill that threatened the entire city. Brick buildings throughout the city were damaged, if not destroyed completely, and many frame homes were knocked off their piers. The fire burned the entire downtown area bordered by Franklin Street, Redwood Avenue, and McPherson Street. Within 12 months following the earthquake, all downtown reconstruction was

completed. The earthquake brought prosperity to Fort Bragg as the mills furnished lumber for the rebuilding of San Francisco.

By 1916, Fort Bragg had become a popular place to visit and settle. Commercial fishing also played an important role in the formation of the economic base of Fort Bragg. Noyo Harbor was once a major commercial fishing port well-known for producing quality fish products that were distributed to major metropolitan markets. (City of Fort Bragg Website)

Fort Bragg prospered in the post-World War II era as a hub for logging and fishing through the heavy extraction of natural resources. With the exhaustion of these resources and necessary environmental protections in the later years of the 20th Century, the traditional economic activity in Fort Bragg fell into a steady decline. In recent history, the City has transitioned to a service industry mainly generated by tourism.

Cannabis was officially banned by the Federal Government in 1937. Locally, the 1960's and 1970's marked a significant "Back to Land Movement" in Mendocino County. Cannabis was very much a part of the culture of the community that developed as part of the movement. Since that time, cannabis has had a complicated history in Mendocino County, characterized by the war on drugs, criminalization, and enforcement at the local, state, and federal level. While there was limited cannabis activity inside the City limits, cannabis significantly impacted the cultural development of Fort Bragg in the later 20th Century. The shift to legalized cannabis began with the adoption of the Compassionate Use Act (Proposition 215) in 1996. The City had no dispensaries during this period, and it was not until the passage of the Adult Use of Marijuana Act that the City instituted regulations allowing cannabis businesses. In 2019 regulations were adopted to allow retail cannabis and it was not until 2020 that the first commercial cannabis dispensaries were established within the City limits. For 50 years cannabis has had a presence in the City.

Regulatory Setting

Cultural Resources are archaeological and historic sites, architectural resources, and traditional cultural properties, as well as the physical evidence of past human activity on the landscape. Cultural resources, along with Native American and historic human remains and associated grave goods, must be considered under various federal, state, and local regulations, including CEQA and the National Historic Preservation Act of 1966. In general, any trace of human activity more than 50 years in age is required to be treated as a potential cultural resource.

The National Historic Preservation Act (NHPA) is the primary regulatory framework for the protection of cultural resources. The NHPA created the authority for the creation of the State Historic Preservation Office, National Register of Historic Places, and for the Secretary of the Interior Standards for Historic Preservation.

At the state level, the California Register of Historical Resources in PRC Section 5020.1(j) includes *"any object, building, structure, site, area, place, record, or manuscript which is historically or archaeologically significant, or is significant in the*

architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California.” The regulations state the criteria for eligibility and guidelines for determining historical integrity and resources of special consideration.

A cultural resource that is listed in, or eligible for inclusion in, the California Register of Historical Resources (CRHR) is referred to as an Historical Resource. A resource may be eligible for inclusion in the CRHR if it is:

- 1) *associated with events that have made a significant contribution to the broad patterns of California’s history and cultural heritage;*
- 2) *associated with the lives of persons important in our past;*
- 3) *embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or*
- 4) *has yielded, or may be likely to yield, information important in prehistory or history. (CRHR, 2022)*

On September 25, 2014, then Governor Brown signed Assembly Bill 52 (AB 52), which created a new category of environmental resources, tribal cultural resources, to be evaluated as part of the CEQA review process. Tribal cultural resources are defined as follows:

- (1) *sites, features, places cultural landscapes, sacred places and objects with cultural value to a California Native American tribe” that are included in the state register of historical resources or a local register of historical resources, or that are determined to be eligible for inclusion in the state register; or*
- (2) *resources determined by the lead agency, in its discretion, to be significant based on the criteria for listing in the state register. (AEP, 2021)*

AB 52 requires lead agencies to provide notice to tribes that are traditionally and culturally affiliated with the geographic area of a proposed project if tribal entities, organizations or individuals have requested to be notified. The City of Fort Bragg routinely issues AB 52 notifications to the following local tribes as part of the CEQA review process:

- Sherwood Valley Rancheria of Pomo Indians of California
- Coyote Valley Band of Pomo Indians of California
- Manchester Band of Pomo Indians
- Cahto Tribe of the Laytonville Rancheria
- Hopland Band of Pomo Indians
- Guidiville Rancheria
- Pinoleville Pomo Nation
- Potter Valley Tribe

At the local level, the City of Fort Bragg addresses historic resources in the General Plan, ILUDC, and in Citywide Design Guidelines. In the General Plan, the Central

Business District is identified as the civic, cultural, and commercial center of the community and the following apply: Land Use Goal LU-3 Ensure that the Central Business District remains the historic, civic, cultural, and commercial core of the community.
Land Use Goal LU-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).
Land Use Goal LU-3 Policy LU-3.1 Program LU-3.1.1: Utilize City-owned land at City Hall and Bainbridge Park for historic and cultural uses, public assembly, and entertainment.
Land Use Goal LU-3 Policy LU-3.3 Historic Buildings and Mixed Uses: In the Central Business District and in other commercial areas with historic residential structures, encourage residential uses, mixed residential, and commercial uses, and the preservation of historic structures
Land Use Goal LU-3 Policy LU-3.6 Program LU-3.6.1: Consider establishing incentives such as low-interest loans for rehabilitation and installation of fire sprinklers in buildings to encourage the reuse of upper floors of existing buildings in the Central Business District for housing, offices, and other uses.
Land Use Goal LU-4 Policy LU-4.2 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

The City maintains a list of potentially significant historic structures in the City limits. Most of the non-residential structures are concentrated in the Central Business District and ILUDC Chapter 18.74 regulates Cultural Resource Protection in the City of Fort Bragg.

Projects that will change the outward appearance of an existing non-residential building are required to undergo design review in compliance with Chapter 18.71.050.

Design Review is intended to ensure that the design of proposed development and new land uses assists in maintaining and enhancing the small-town, coastal, historic, and rural character of the community. This is applied to all new structures, any relocation, exterior addition(s), or changes of or to existing structures, and any other physical improvements shall be subject to Design Review, whether or not a Building Permit is required, unless exempt in compliance with Subsection (B)(3) of this Section (Improvements exempt from Design Review). Design Review shall be required in addition to all other planning permit or approval requirements of this Development Code and the Municipal Code. (City of Fort Bragg, 2022)

The Citywide Design Guidelines complement the standards contained in the City of Fort Bragg Inland Land Use and Development Code by providing good examples of appropriate design solutions, and by providing design interpretations of the various regulations. The guidelines are less quantitative and rigid than the mandatory

development standards of the Development Code, and may be interpreted with some flexibility in the application to specific projects.

The City's ILUDC §18.50.030 provides regulations for Archaeological Resource Preservation. *The requirements of this Section are intended to ensure that appropriate safeguards are established and followed in order to protect archaeological and paleontological resources, as well as sacred sites and/or traditional cultural properties (TCPs) whose potential location is identified, or which are discovered as a result of development activity within the City.*

ILUDC Section 18.50.030 states that before commencing any digging, grading, or any other ground disturbing activity in advance of construction of an approved development project within the following areas:

1. *Noyo River. All of the areas located adjacent to the Noyo River;*
2. *Special review Areas. Identified on map LC-2; and/or*
3. *Other areas identified by the Director. Other areas identified by the environmental review process (Chapter 18.72), or brought to the attention of the City through special studies performed after the enactment of this Section, as having the potential for containing archaeological or paleontological resources.*

Additionally, the following procedures are outlined for reporting and mitigation:

1. *Report required. Where development proposals are for an area in which there are known archaeological or paleontological resources or sacred sites or TCPs on the site or in the vicinity, or where there is a moderate to high probability for previously unidentified archaeological, paleontological, and/or TCP resources to be encountered during the development activity, and where it is determined by the Director that no adequate prior assessment of on-site resources has been completed, a report shall be prepared by a qualified archaeologist before the issuance of other discretionary permit approvals.*

- a. *At a minimum, the report shall identify and evaluate all archaeological and paleontological resources, including sacred sites and TCPs, in the areas of the site proposed to be disturbed by the project, assess the effects of the proposed development on those resources, and recommend appropriate resource preservation and/or mitigation measures to adequately address the identified effects.*

- b. *If cultural resources are identified, a copy of the report shall also be transmitted to the State Historical Preservation Officer, and any federally-recognized Native American tribes who have expressed interest in the project for review and comment.*

The Director may waive the requirement for a report if the Director determines that an existing report satisfies this requirement.

2. Mitigation measures required. Under both CEQA and NHPA, avoidance of historic resources is the preferred course of action. When avoidance of the resources is not feasible, mitigation measures shall be adopted under CEQA.

a. Where proposed development activity will adversely affect archaeological or paleontological resources, including sacred sites and/or TCPs, the City shall require reasonable and necessary mitigation measures.

b. Mitigation shall be designed in compliance with CEQA Guidelines and the guidance of the State Office of Historic Preservation, and the State Native American Heritage Commission.

ILUDC §18.50.030(D) provides requirements regarding discovery or archaeological resources. All permits issued are conditions with the following from this section:

1. When, in the course of digging, grading, or any other activity in advance of construction of an approved development project, evidence of archaeological, paleontological, or other potentially significant historic resources is discovered, all work which could potentially damage or destroy the resources shall cease immediately.

2. The Director shall be notified immediately of the discovery and engage an archaeologist to determine if the discovery is significant and the correct course of action to avoid, minimize and/or mitigate damage to the resource

3. The Director shall notify the State Historic Preservation Officer and federally-recognized Native American tribes who have expressed an interest in the project of the discovery.

4. All work which could potentially damage or destroy the resources shall be halted until appropriate avoidance, minimization, and/or mitigation measures can be developed and implemented.

Discussion

The proposed ordinances would establish regulation for cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones. The proposed regulation for cannabis cultivation would not impact known or undiscovered cultural resources since no physical development is proposed.

In the future, at the time that a cannabis cultivation project is proposed, City staff would review whether it is on a developed or undeveloped site. The discretionary nature of future cannabis cultivation projects requires a review of potential impacts to cultural resources under CEQA. If a future project is proposed for an existing structure, it would be determined whether the structure is potentially a historic resource as defined in the CEQA Guidelines Section 15064.5 and identified in the City's list of historic structures. If the future project involves a historic structure, it will have to comply with CEQA Guidelines and with the City's ILUDC Chapter 18.74.

Additionally, if a future project involves new construction, the application is referred, through the AB 52 notification process, to the Tribal Historic Preservation Officer for the Sherwood Valley Band of Pomo Indians and other tribes. A tribe may request consultation, an archaeological review, site visit, and/or tribal monitor on site during excavation and construction. In the event that a future cultivation project site has the potential for cultural resources, a cultural resources report would be required by ILUDC §18.50.030, or if requested by the tribe. As part of the discretionary review process, the City will review individual cultivation projects, as is done for all development applications, to determine if there's a potential to have significant impacts on cultural resources and to inform the environmental review process.

As noted above, the subject project is limited to revisions in the municipal code including the addition of a conditionally allowable use in the industrial zones and minor modifications to existing regulations for cannabis business activities in the commercial zones. All future cannabis cultivation applications require a discretionary permit (CBP) and future cultivation applications would be reviewed accordingly. The subject amendments to the codes do not include any physical development and do not modify, alter, or otherwise change existing regulation governing the protection and preservation of historical and cultural resources. Therefore, the project will have no impact on historic and cultural resources.

References

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Energy

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
VI. ENERGY. Would the project:				
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Regulatory Setting

The California Energy Commission (CEC) is the agency responsible for regulating energy usage and developing the Title 24, Parts 6 and 11 also known as the Building Energy Efficiency Standards in the California Code of Regulations. On August 11, 2021, the CEC adopted the 2022 Energy Code which was presented to the California Building Standards Commission (CBSC) for approval into the California Building Standards Code in December 2021. The 2022 Energy Code will go into effect on January 1, 2023. Among the recommended amendments to the code were energy efficiency standards for controlled environment horticulture which includes indoor cannabis cultivation. (CEC, 2022)

The DCC has renewable energy requirements for commercial cannabis cultivations including the State of California Department of Cannabis Control Regulations §16305. Renewable Energy Requirements (See Attachment F):

(a) Beginning January 1, 2023, all holders of indoor, tier 2 mixed-light license types of any size, and all holders of nursery licenses using indoor or tier 2 mixed-light techniques shall ensure that electrical power used for commercial cannabis activity meets the average electricity greenhouse gas emissions intensity required by their local utility provider pursuant to the California Renewables Portfolio Standard Program in division 1, part 1, chapter 2.3, article 16 (commencing with section 399.11) of the Public Utilities Code.

(b) If a licensed cultivator's average weighted greenhouse gas emission intensity, as calculated and reported upon license renewal pursuant to section 15020, is greater than the local utility provider's greenhouse gas emission intensity, the licensee shall obtain carbon offsets to cover the

excess in carbon emissions from the previous annual licensed period. The carbon offsets shall be purchased from one or more of the following recognized voluntary carbon registries:

- (1) American Carbon Registry;*
- (2) Climate Action Reserve; or*
- (3) Verified Carbon Standard. (DCC, 2021)*

Additionally, the DCC’s existing Medicinal and Adult-Use Commercial Cannabis Regulations, California Code of Regulations Title 4 Division 19 §15020 provides the following requirements for license renewals:

(f) Beginning January 1, 2022, an application for renewal of a license to engage in commercial cannabis cultivation shall include the following records, for each power source indicated on the application for licensure for the previous annual licensed period:

- (1) Total electricity supplied by local utility provider, name of local utility provider, and greenhouse gas emission intensity per kilowatt hour reported by the utility provider under section 398.4(c) of the Public Utilities Code for the most recent calendar year available at time of submission;*
- (2) Total electricity supplied by a zero net energy renewable source, as set forth in section 398.4(h)(5) of the Public Utilities Code, that is not part of a net metering or other utility benefit;*
- (3) Total electricity supplied from other unspecified sources, as defined in section 398.2(e) of the Public Utilities Code, and other onsite sources of generation not reported to the local utility provider (e.g., generators, fuel cells) and the greenhouse gas emission intensity from these sources; and*
- (4) Average weighted greenhouse gas emission intensity considering all electricity use in subsections (f)(1)-(f)(3).*

The City’s Inland General Plan has the following Goals, Policies, and Programs to address energy usage:

Sustainability Goal S-1 Policy S-1.2 Program S-1.2.3 Promote the use of building materials that maintain healthy indoor air quality in an effort to reduce irritation and exposure to toxins and allergens for building occupants. Promote the use of building materials, furniture and paint that maintain healthy indoor air quality, and discourage the use of materials that degrade indoor air quality.
Sustainability Goal S-2 Encourage development that minimizes the demand for non-renewable energy and reduces Green House Gas (GHG) emissions.
Sustainability Goal S-2 Policy S-2.1 Passive Solar Design Strategies: All building and site design shall use passive solar design strategies for space heating and lighting to reduce energy demand to the extent feasible.

Sustainability Goal S-2 Policy S-2.3 Reduce Energy Demand with a goal of Net Zero Energy in New Construction. All new construction shall minimize energy use. Net zero buildings and homes are encouraged. These homes produce as much energy (through conservation, photovoltaic panels, solar hot water, wind, and geothermal) as they consume and have a net zero impact on greenhouse gas production.
Sustainability Goal S-2 Policy S-2.4 Require passive solar design in new construction, where feasible, as part of Design Review.
Sustainability Goal S-2 Policy S-2.4 Program S-2.4.1: Modify the Citywide Design Guidelines to include guidelines that require passive solar design for residential and commercial new construction projects.
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

Additionally, the City’s current Municipal Code Chapter 9.30 Cannabis Businesses §9.30.140(D) requires that *commercial cannabis cultivation shall either enroll in a community choice aggregate energy provider or install solar panels.*

Discussion

As previously noted, the proposed project will establish regulation for cannabis cultivation in industrial zones and make minor modifications to the existing regulations for currently allowable cannabis business activities in commercial zones. The subject amendments to the code in and of itself precludes physical development and would not result in the use of energy. Therefore, there would no impacts associated with wasteful, inefficient, or unnecessary consumption of energy resources.

Any future application received for a proposed commercial cultivation project would be subject to a CBP and reviewed to determine if the project would have significant impacts on energy. While indoor cannabis cultivation typically uses significantly more energy than other commercial and industrial activities, the State’s updates to Title 24 California Energy Code provide ministerial guidelines for indoor cultivation. A building permit would be required to construct the Fully Enclosed and Secure Structure as imposed by the City of Fort Bragg Municipal Code §9.30.140(A) and any equipment would be required to meet the guidelines in Title 24. Furthermore, cannabis cultivators, are required to secure state licenses which includes review for compliance with energy regulation.

Additionally, the City’s Municipal Code §9.30.140(D) currently requires that *Commercial cannabis cultivation shall either enroll in a community choice aggregate energy provider or install solar panels.* This regulation remains applicable under the proposed updates.

Furthermore, the proposed amendments for ILUDC §18.42.055 Commercial Cannabis Cultivation subsection (B)(3)(b) states the following: *Commercial cannabis cultivations*

shall use the 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.

There are currently two energy providers for the City of Fort Bragg, Sonoma Clean Power and Pacific Gas and Electric. Under the proposed ordinances, indoor commercial cultivation projects require a discretionary permit and must obtain proof and furnish documentation to the City demonstrating that one of the local electrical utility companies can adequately serve their business.

The proposed project creates regulations for a new use in the industrial zones and makes minor modifications to existing regulations for cannabis business activities in commercial zones. It does not propose any physical development, nor does it result in the use of consumption of energy. Future projects would be reviewed in compliance with CEQA and the Department of Cannabis Control's Licensing Requirements, California Building Codes, the City's Municipal Code Chapter 9.30, the Inland General Plan, and the Inland Land Use and Development Code. Therefore, the proposed amendments to the code would have no impact on energy.

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Energy Solutions and Cultivate Energy and Optimization. "Codes and Standards Enhancement (CASE) Initiative 2022 Energy Code: Controlled Environment Horticulture." 2022-NR-COV-PROC4-F, Covered Processes, March 2021

Geology and Soils

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
VII. GEOLOGY AND SOILS. Would the project:				
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Setting

The City of Fort Bragg is located in the Coastal Range geomorphic province of California in an area of relatively steep and mountainous topography. The City itself is built on uplifted marine terrace deposits. Soils in the City of Fort Bragg are variations of sand dune, sandy loams, and the like. (See Figure 6)

There are no mines nor identified mineral resources in the City limits.

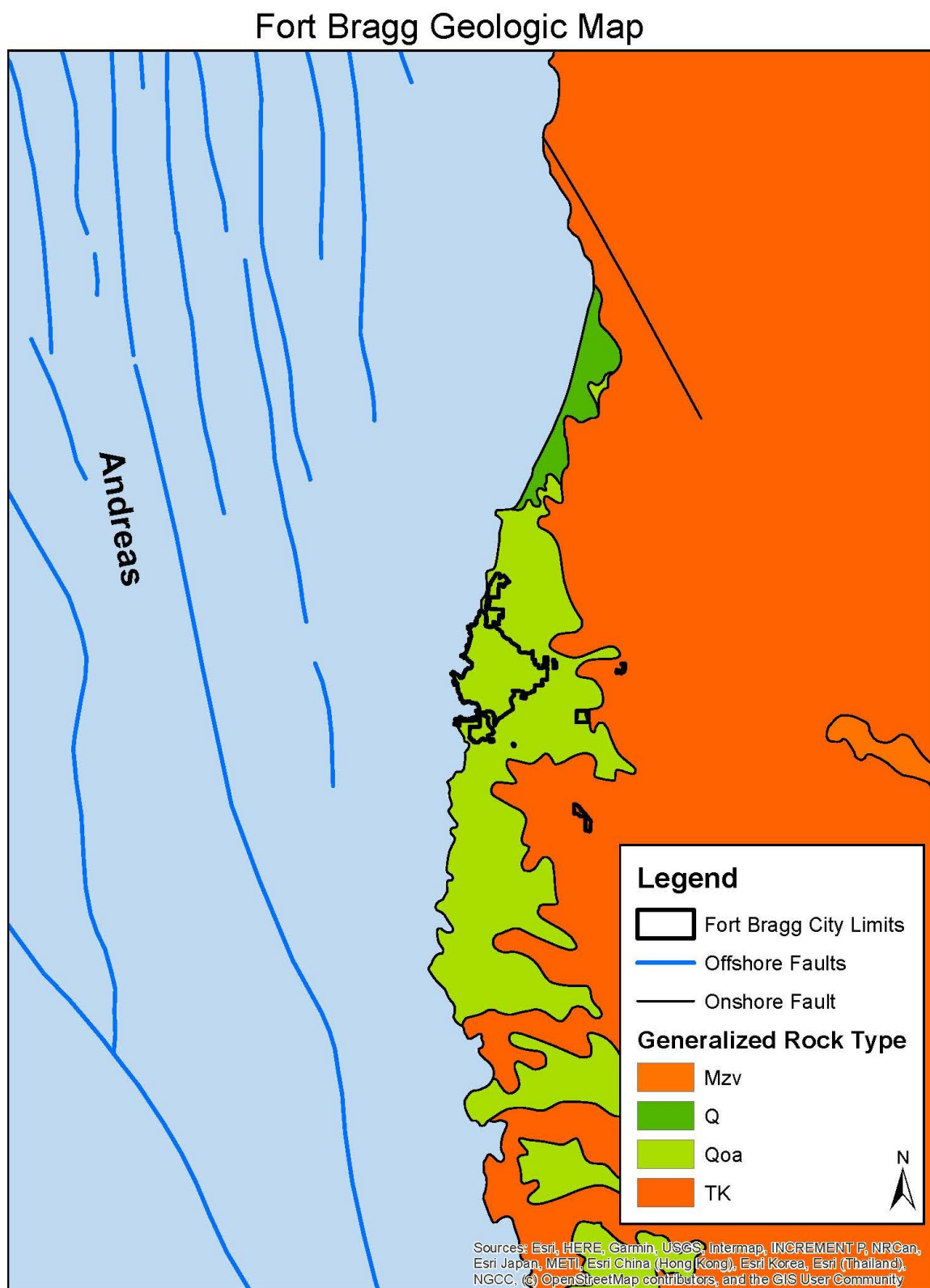
Regionally, the University of California Museum of Paleontology (UCMP) database lists 513 fossil localities within Mendocino County (UCMP, 2020). Of the known fossil localities, 63 are from the Cretaceous period and 2 are from the Jurassic Period. A review of the Mendocino County fossil record indicates that 10 early Cretaceous fossils have been discovered within the County and no late Jurassic fossils have been discovered. (UCMP, 2020)

Seismically, the City is located between two major fault systems, the Mayacamas Fault is 20 miles east of the City and runs north-south roughly along Highway 101. The San Andreas Fault network runs is approximately 5 miles offshore from the City as seen in Figure 6.

According to the Department of Conservation’s Earthquake Zones of Required Investigation (EZRI), the City of Fort Bragg does not contain any EZRIs nor any Alquist Priolo fault traces or zones. The Department of Conservation’s “Earthquake Shaking Potential for California” shows the relative intensity of ground shaking anticipated from future earthquakes. The City of Fort Bragg is shown as moderate level of intensity for 1.0 second earthquake shaking as seen in Figure 7.

The City also has some areas that have potential for landslides. There are areas along the Noyo River and Pudding Creek that may present a higher risk for landslide due to steep slopes. The landslide inventory map in Figure 8 shows the locations with solid lines and points to indicate historic slide activity. (DOC, 2022)

Figure 6: Geology of the City of Fort Bragg



Source: <https://maps.conservation.ca.gov/cgs/gmc/>

Figure 7: Earthquake Shaking Potential Map

Earthquake Shaking Potential for Fort Bragg

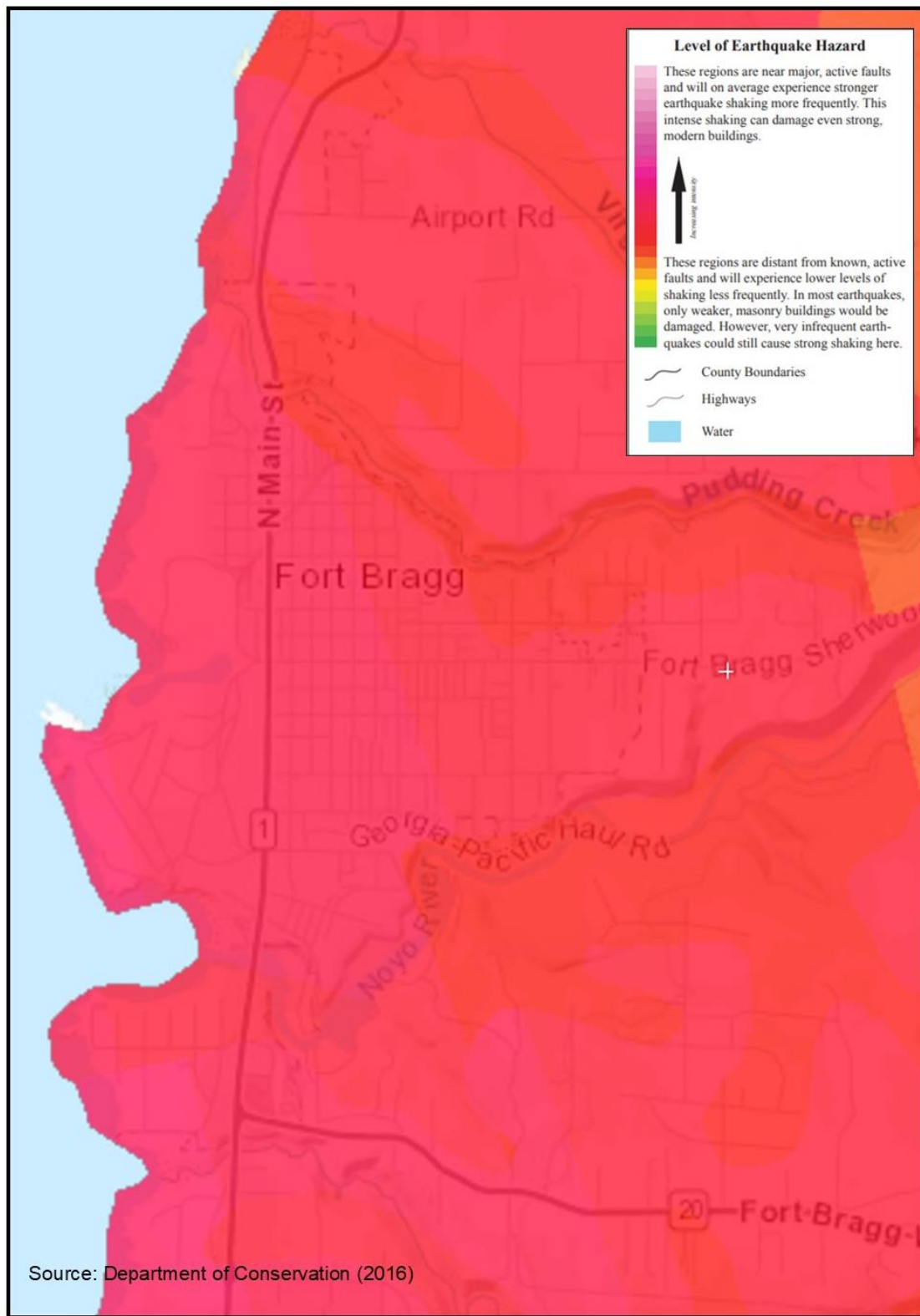
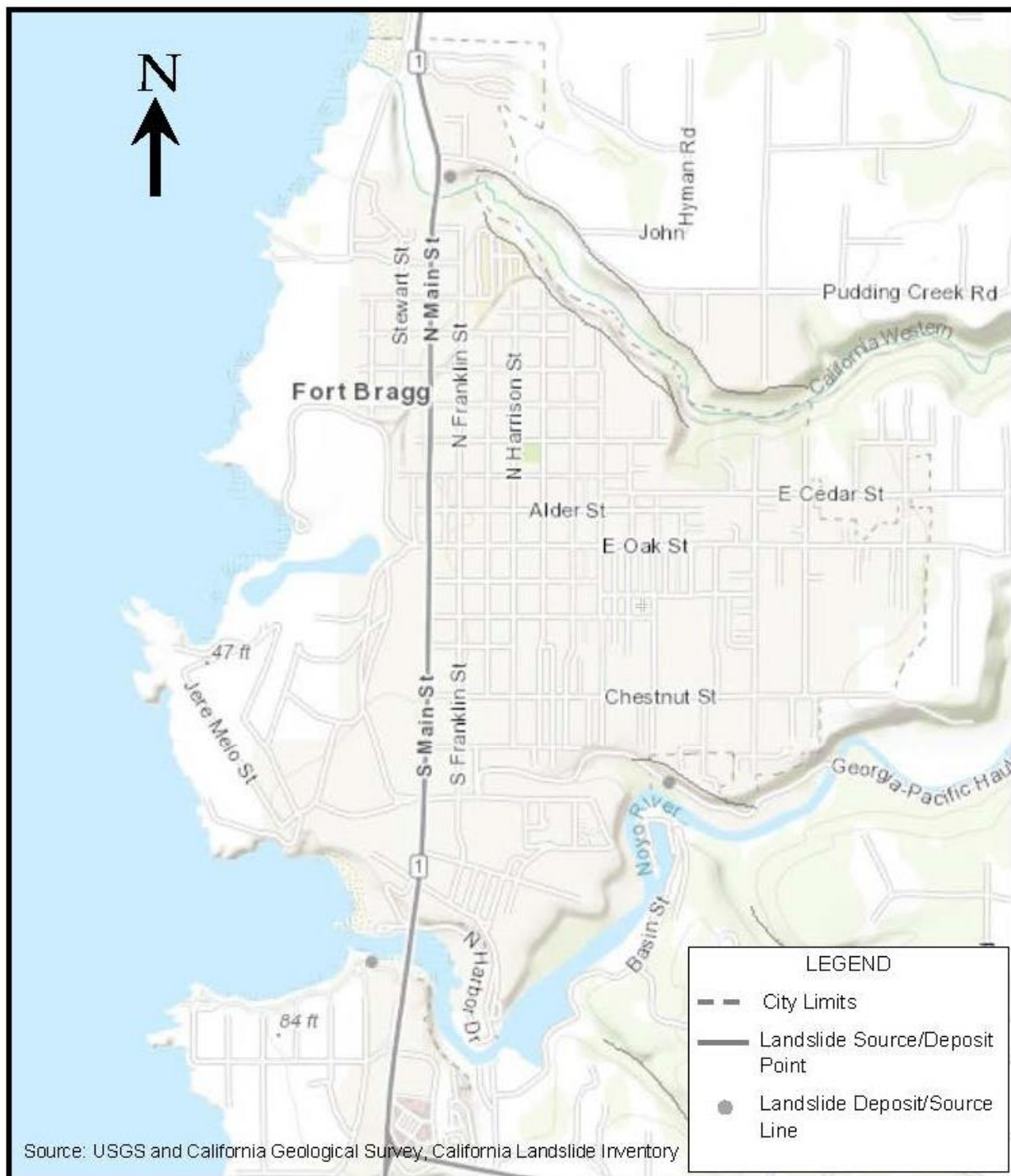


Figure 8: Map of Historic Landslides and Potential Landslide Areas in Fort Bragg

Landslides Identified by the California Landslide Inventory



Regulatory Setting

Regulations at the federal and state level require planning and development standards for seismic, geologic, and soil activity.

At the federal level, the Robert T. Stafford Disaster Relief and Emergency Assistance Act constitutes the statutory authority for most federal disaster response activities and established the presidential disaster declaration process. The Disaster Mitigation Act amended the Stafford Act and requires hazard mitigation plans as a pre-requisite for certain kinds of non-emergency disaster assistance. The Disaster Mitigation Act of 2000 also created the Pre-Disaster Mitigation Program and added incentives for states deemed “enhanced” who demonstrate increased coordination and integration of mitigation activities. In accordance with the Disaster Mitigation Act of 2000, the State of California has a Hazard Mitigation Plan that addresses earthquakes and geologic hazards. The City of Fort Bragg has a Hazard Mitigation Plan in conjunction with the County of Mendocino that addresses potential hazards related to seismic activities, landslides, and other geologic hazards.

The State of California has a long history of seismic activity. In 1972, the Alquist-Priolo Earthquake Fault Zoning Act was signed into law. The purpose of the act was to address the hazards posed by seismic activity. Amended in 1993, the Alquist Priolo Earthquake Fault Zoning Act *provides for the adoption and administration of zoning laws, ordinances, rules, and regulations by cities and counties in implementation of the general plan that is in effect in any city or county. The Legislature declares that this chapter is intended to provide policies and criteria to assist cities, counties, and state agencies in the exercise of their responsibility to prohibit the location of developments and structures for human occupancy across the trace of active faults. Further, it is the intent of this chapter to provide the citizens of the state with increased safety and to minimize the loss of life during and immediately following earthquakes by facilitating seismic retrofitting to strengthen buildings, including historical buildings, against ground shaking.*” (PRC 2621.5)

“Alquist-Priolo earthquake fault zones are regulatory zones surrounding the surface traces of active [faults](#) in California. (A trace is a line on the earth's surface defining a fault.) Wherever an active fault exists, if it has the potential for surface rupture, a structure for human occupancy cannot be placed over the fault and must be a minimum distance from the fault (generally fifty feet).

Earthquake fault zones were conceived in the [Alquist-Priolo Earthquake Fault Zoning Act](#) (Alquist-Priolo Act). The intent of the Alquist-Priolo Act is to reduce losses from surface fault rupture. California created this law following the destructive 1971 San Fernando earthquake (magnitude 6.6), which was associated with extensive surface fault ruptures that damaged numerous structures.

*An **active fault**, for the purposes of the Alquist-Priolo Act, is one that has ruptured in the last 11,000 years.”* (DOC, 2022)

Additionally, “The 2019 California Building Standards Code (CBC) (Cal. Code Regs., Title 24) was published July 1, 2019, with an effective date of January 1, 2020. Information Bulletin 19-04 and Information Bulletin 19-05 provide detailed information concerning the 2019 publication.” (Building Standards Commission, 2021) The CBC regulates the construction of buildings to ensure public safety in the event of seismic activity.

At the local level, the Inland General Plan policies and programs that address geology and soils include:

<p>Safety Goal SF-1 Policy SF-1.1 Minimize Hazards: New development shall: (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard; and (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs</p>
<p>Safety Goal SF-1 Policy SF-1.1 Program SF-1.1.1 Continue to comply with the provisions of the State Alquist-Priolo Act.</p>
<p>Safety Goal SF-1 Policy SF-1.1 Program SF-1.1.2 Require professional inspection of foundations and excavations, earthwork, and other geotechnical aspects of site development during construction on those sites specified in soils, geologic, and geotechnical studies as being prone to moderate or high levels of seismic hazard.</p>
<p>Safety Goal SF-1 Policy SF-1.1 Program SF-1.1.3 Monitor and review existing critical, high priority buildings to ensure structural compliance with seismic safety standards.</p>
<p>Safety Goal SF-1 Policy SF-1.1 Program SF-1.1.7 Continue to comply with State law regarding reinforcement of unreinforced masonry structures.</p>
<p>Safety Goal SF-1 Policy SF-1.2 Geotechnical report required: Applications for development located in or near an area subject to geologic hazards, including but not limited to areas of geologic hazard shown on Map SF-1, shall be required to submit a geologic/soils/geotechnical study that identifies all potential geologic hazards affecting the proposed project site, all necessary mitigation measures, and demonstrates that the project site is suitable for the proposed development and that the development will be safe from geologic hazard. Such study shall be conducted by a licensed Certified Engineering Geologist (CEG) or Geotechnical Engineer (GE). Refer to Map SF-1: Geologic Hazards. Refer to the General Plan Glossary for definitions of these terms.</p>
<p>Safety Goal SF-1 Policy SF-1.4 Identify Potential Hazards: Identify potential hazards relating to geologic and soils conditions during review of development applications.</p>
<p>Safety Goal SF-1 Policy SF-1.4 Program SF-1.4.1 Evaluate slopes over 15 percent, unstable land, and areas susceptible to liquefaction, settlement, and/or soil expansion for safety hazards prior to issuance of any discretionary approvals and require appropriate measures to reduce any identified hazards.</p>

Safety Goal SF-1 Policy SF-1.4 Program SF-1.4.2 Require that development in areas with identified slope stability constraints as shown on Map SF-1 or other areas where City staff determines there is potential slope stability issues be supervised and certified by a geologist, geotechnical engineer, or engineering geologist.

Safety Goal SF-1 Policy SF-1.4 Program SF-1.4.3 Require repair, stabilization, or avoidance of active or potentially active landslides, areas of soil creep, or areas with possible debris flow as a condition of project approval.

As referenced in Map SF-1 in the Inland General Plan shows the known Geologic Hazards in the City of Fort Bragg. (See Figure 9)

The ILUDC Chapter 18.62 provides standards for grading, erosion, and sediment control. A proposed project that creates ground disturbance would have to be in compliance with any applicable section of this chapter including §18.62.030 Erosion and Sediment Control, §18.62.070 Revegetation and Slope Surface Stabilization, §18.62.090 Setbacks for Cut and Fill Slopes, and any other section that regulates erosion.

Also of relevance to this section, paleontological resources are the fossilized evidence of organisms preserved in the geologic (rocks) record. Fossils are considered nonrenewable resources that are protected by federal, state, and local environmental laws and regulations.

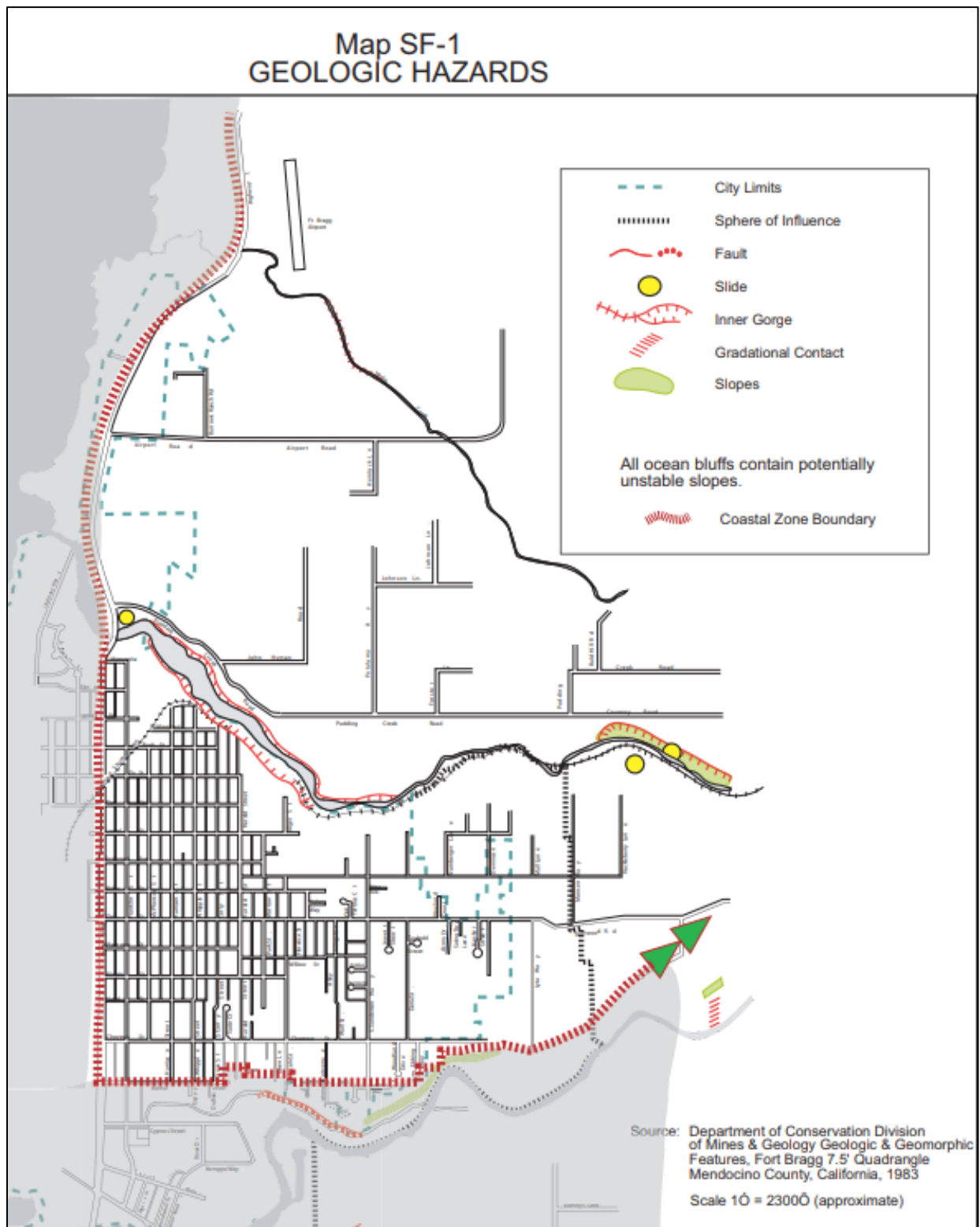
Discussion

As previously noted, the proposed amendments to the Municipal Code and the Inland Land Use and Development Code will not change the general requirements for development in the City. The project would establish regulations for a new use, commercial cannabis cultivation in the industrial zone and make minor modifications to existing regulations for cannabis business activities in the commercial zone. All existing and future CBP applications are subject to discretionary review and must comply with CEQA.

The construction of any new facilities and any structural changes to existing commercial or industrial buildings received under as part of a CBP application under the proposed ordinances, would require a building permit and demonstrate compliance with the Title 24 Building Code and meet current seismic standards, and the City's regulations for grading, erosion, and sediment control.

The proposed the project, changes to the City's codes regulating cannabis cultivation, would not result in any new buildings or structures and does not involve any physical development. Further, there are no changes proposed that would alter the City's established regulation governing the protection of public health and safety related to geology and soils. Therefore, the proposed project will have no impact on geologic and soil resources in the City of Fort Bragg.

Figure 9: General Plan Map SF-1 Geologic Hazards in the City of Fort Bragg



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Greenhouse Gases

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
VIII. GREENHOUSE GAS EMISSIONS.				
Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Regulatory Setting

Greenhouse Gas (GHG) is used to describe atmospheric gases naturally contained within the earth's atmosphere that absorb solar radiation and subsequently emit radiation in the thermal infrared region of the energy spectrum, trapping heat in the Earth's atmosphere. These gases include carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), and water vapor, among others. A growing body of research attributes long-term changes in temperature, precipitation, and other elements of the earth's climate to large increases in GHG emissions since the mid-nineteenth century, particularly from human activity related to fossil fuel combustion. Anthropogenic GHG emissions of particular interest include CO₂, CH₄, N₂O, and fluorinated gases. CO₂e represents CO₂ plus the additional warming potential from CH₄ and N₂O. The common unit of measurement for CO₂e is metric tons (MTCO₂e).

In 2007, the United States Supreme Court ruled that Greenhouse Gas Emissions (GHGs) are air pollutants under the Clean Air Act. In 2009, the National Highway Traffic Safety Administration and US EPA issued the first Corporate Fuel Economy (CAFE) Standards to improve fuel economy and reduce GHGs. These standards were updated in 2021 and expected to be updated again in the coming year(s).

The State of California regulates GHGs through the California Air Resources Board (CARB) and has permitting and reporting requirements for large stationary producers of GHGs. However, emissions related to cultivation are typically below the level that requires mandatory reporting.

California Assembly Bill 1493 was passed in 2002 which required CARB to develop and implement regulations to reduce automobile and light truck GHG emissions. Also, the Governor's Executive Order S-03-05 in 2005 called for reductions of GHGs to 2000 levels by 2010 and 1990 levels by 2020, and 80% of 1990 levels by 2050. These goals

were affirmed by Executive Order B-16-2012 in 2012 and an additional target was established for 40% below 1990 levels by 2030 via Executive Order B-30-15.

Additionally, the State of California passed AB 32, the Global Warming Solutions Act in 2006 to set a statewide target to reduce emissions to 1990 levels by 2020. An update to the plan to achieve the reductions was updated by CARB in 2017 which aims at achieving goals by 2030. Currently, CARB is developing a 2022 Scoping Plan Update which aims at achieving Carbon Neutrality by 2045.

The State of California has continued to develop rules and regulations on GHGs including:

- Senate Bill 32 and Assembly Bill 197 – follow ups to the California Global Warming Solutions Act.
- Executive Order S-1-07 - Low Carbon Fuel Standard
- Senate Bill 375 – Sustainable Communities and Climate Protection Act of 2008
- Renewable Portfolio Standards established by SB 1078, Executive Order S-14-08, SB X1-2 and SB 350.

Specifically for cannabis cultivation, the Department of Cannabis Control's Medicinal and Adult-Use Commercial Cannabis Regulations, California Code of Regulations Title 4 Division 19 §15020 provides the following requirements for cannabis businesses:

(f) Beginning January 1, 2022, an application for renewal of a license to engage in commercial cannabis cultivation shall include the following records, for each power source indicated on the application for licensure for the previous annual licensed period:

(1) Total electricity supplied by local utility provider, name of local utility provider, and greenhouse gas emission intensity per kilowatt hour reported by the utility provider under section 398.4(c) of the Public Utilities Code for the most recent calendar year available at time of submission;

(2) Total electricity supplied by a zero net energy renewable source, as set forth in section 398.4(h)(5) of the Public Utilities Code, that is not part of a net metering or other utility benefit;

(3) Total electricity supplied from other unspecified sources, as defined in section 398.2(e) of the Public Utilities Code, and other onsite sources of generation not reported to the local utility provider (e.g., generators, fuel cells) and the greenhouse gas emission intensity from these sources; and

(4) Average weighted greenhouse gas emission intensity considering all electricity use in subsections (f)(1)-(f)(3).

Also, the State of California Department of Cannabis Control Regulations §16305. Renewable Energy Requirements (**See Attachment F**):

(a) Beginning January 1, 2023, all holders of indoor, tier 2 mixed-light license types of any size, and all holders of nursery licenses using indoor or tier 2 mixed-light techniques shall ensure that electrical power used for commercial cannabis activity meets the average electricity greenhouse gas

emissions intensity required by their local utility provider pursuant to the California Renewables Portfolio Standard Program in division 1, part 1, chapter 2.3, article 16 (commencing with section 399.11) of the Public Utilities Code.

(b) If a licensed cultivator’s average weighted greenhouse gas emission intensity, as calculated and reported upon license renewal pursuant to section 15020, is greater than the local utility provider’s greenhouse gas emission intensity, the licensee shall obtain carbon offsets to cover the excess in carbon emissions from the previous annual licensed period. The carbon offsets shall be purchased from one or more of the following recognized voluntary carbon registries:

- (1) American Carbon Registry;*
- (2) Climate Action Reserve; or*
- (3) Verified Carbon Standard.*

Locally, the City of Fort Bragg’s Inland General Plan Element 9 - Sustainability provides goals and policies on GHG reductions. These include:

Sustainability Goal S-2 Encourage development that minimizes the demand for non-renewable energy and reduces Green House Gas (GHG) emissions.
Sustainability Goal S-2 Policy S-2.1 Passive Solar Design Strategies: All building and site design shall use passive solar design strategies for space heating and lighting to reduce energy demand to the extent feasible.
Sustainability Goal S-2 Policy S-2.3 Reduce Energy Demand with a goal of Net Zero Energy in New Construction. All new construction shall minimize energy use. Net zero buildings and homes are encouraged. These homes produce as much energy (through conservation, photovoltaic panels, solar hot water, wind, and geothermal) as they consume and have a net zero impact on greenhouse gas production.
Sustainability Goal S-2 Policy S-2.4 Require passive solar design in new construction, where feasible, as part of Design Review.
Sustainability Goal S-2 Policy S-2.4 Program S-2.4.1: Modify the Citywide Design Guidelines to include guidelines that require passive solar design for residential and commercial new construction projects.
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

Furthermore, in the City’s Municipal Code, Chapter 9.30 Cannabis Business §9.30.140(D) currently says that “*the Commercial cannabis cultivation shall either enroll in a community choice aggregate energy provider or install solar panels.*”

Discussion

As previously noted, the proposed ordinances would establish regulations for commercial cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones. This project in and of itself does not propose any physical development and any future proposed cultivation application would be subject to discretionary review, at which time it would be determined if the project would have significant impacts on Greenhouse Gas Emissions. The proposed amendments do not change the land use designations for any properties and conditionally allows the introduction of cannabis cultivation in industrial zones and makes minor modifications to existing regulations for commercial zones. It does not change any of the plans or regulations for reducing greenhouse gas emissions. Therefore, the proposed project, limited to the proposed amendments to the Municipal Code and Inland Land Use and Development Code, will have no impacts on Greenhouse Gas Emissions.

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Hazards and Hazardous Materials

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
IX. HAZARDS AND HAZARDOUS MATERIALS. Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Regulatory Setting

Hazardous materials, including hazardous substances and wastes are regulated by state and federal laws. Statutes govern the generation, treatment, storage and disposal of hazardous materials, substances, and waste, and also the investigation and mitigation of waste releases, air and water quality, human health and land use.

Federally, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) regulates the effects of past hazardous waste disposal activities and new hazardous spills. It created a tax on chemical and petroleum industries to support funding for clean-up of abandoned or uncontrolled hazardous waste sites with no responsible party. This was amended in 1986 by Superfund Amendments and Reauthorization Act to increase the focus on human health problems posed by hazardous waste.

The Resource Conservation and Recovery Act (RCRA) was adopted in 1976. This provided national goals for protecting human health and the environment from the potential hazards related to waste disposal. It also provided for conservation of energy and natural resources, reductions in the amount of waste generated, and ensured that waste is managed in an environmentally sound manner.

Additionally, the Emergency Planning and Community Right-to-Know Act included Section 313, the Toxic Release Inventory (TRI). This is a publicly available database that contains information on disposal and other releases of toxic chemicals from industrial facilities. Facilities that release toxic chemicals above a certain threshold are required to submit information through the TRI database.

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) was adopted in 1947 and amended in 1972 and 1996. It mandates that the EPA regulate the use and sale of pesticides.

To create workplace safety and protect the health of workers, the Occupational Safety and Health Act was adopted in 1970. It created the Occupational Safety and Health Administration (OSHA) which creates and enforces regulations on worker safety.

Other federal laws regulating hazardous materials include:

- Community Environmental Response Facilitation Act (CERFA) of 1992
- Clean Water Act
- Clean Air Act
- Safe Drinking Water Act
- Atomic Energy Act
- Toxic Substances Control Act (TSCA)

In addition to the acts listed above, Executive Order (EO) 12088, Federal Compliance with Pollution Control Standards, mandates that necessary actions be taken to prevent and control environmental pollution when federal activities or federal facilities are involved.

At the state level, California regulates hazardous materials, waste, and substances under the authority of the California Health and Safety Code and is also authorized by the federal government to implement RCRA. California law also addresses specific handling, storage, transportation, disposal, treatment, reduction, cleanup and emergency planning of hazardous waste. The Porter-Cologne Water Quality Control Act also restricts disposal of wastes and requires clean-up of wastes that are below hazardous waste concentrations but could impact ground and surface water quality. California regulations that address waste management and prevention and clean up contamination include Title 22 Division 4.5 Environmental Health Standards for the Management of Hazardous Waste, Title 23 Waters, and Title 27 Environmental Protection.

The California Department of Toxic Control Substances regulates toxic substances in California. Additionally, the North Coast Regional Water Quality Control Board regulates the cleanup of contaminated sites.

Under 3 CCR Division 6, the California Department of Pesticide Regulation (CDPR) oversees state and federal laws for regulating pesticides. Under MACURSA, CDPR is responsible for:

1. *Providing statewide guidance on the use of pesticides in the cultivation of cannabis*
2. *Providing guidance to the Bureau of Cannabis Control on testing for pesticides*
3. *Requiring that pesticides being applied to cannabis comply with food and agriculture standards* (California Department of Pesticide Regulation, 2022)

Additionally, the following state laws regulate hazards and hazardous waste:

- California Accidental Release Prevention Program (CalARP) (CCR Title 19, Division 2, Chapter 4.5) provides requirements for businesses that handle more than a threshold quantity of regulated substances.
- California Fire Code—Hazardous Materials Management Plans and Hazardous Materials Inventory Statements – California Fire Code (29 CCR Part 9) provides requirements and regulations for businesses that handle more than a threshold quantity of hazardous material(s).
- California Emergency Services Act – requires the state to develop a statewide toxic disaster contingency plan that can facilitate an effective, multi-agency response to a situation in which toxic substances are dispersed.
- Pesticide Contamination Prevention Act (Sections 13145-13152 of the Food and Agricultural Code)

- Safe Drinking Water and Toxic Enforcement Act (Proposition 65)
- The California Fire Code (24 CCR Part 9) – minimum requirements to safeguard the public health, safety, and general welfare from the hazards of fire, explosion, or dangerous conditions in new and existing buildings.

The State of California Department of Cannabis Control (DCC) has specific waste management regulations for cannabis businesses in §17223 of the Medicinal and Adult-Use Commercial Cannabis Regulations, California Code of Regulations.

§15011. Additional Information. (a) A commercial cannabis business applying for a license to cultivate cannabis shall provide the following information:... (12) For all cultivator license types except processor, a signed attestation that states the commercial cannabis business shall contact the appropriate County Agricultural Commissioner regarding requirements for legal use of pesticides on cannabis prior to using any of the active ingredients or products included in the pest management plan and shall comply with all pesticide laws.

§15408. Sale of Live Plants and Seeds... (b) A licensed retailer shall not apply or use any pesticide on live plants. A licensed retailer shall not cause any pesticide to be applied or used on live plants.

§16307. Pesticide Use Requirements

§17209. Grounds, Building, and Manufacturing Premises. (C) Poisonous or toxic materials such as cleaning compounds, sanitizing agents, and pesticide chemicals that are necessary for premises and equipment maintenance and operation shall be handled and stored in a manner that meets the requirements of Health and Safety Code sections 114254.1, 114254.2 and 114254.3

At the local level, the following policies and programs from the Inland General Plan address hazards and hazardous waste:

Safety Goal SF-4 Policy SF-4.1 Minimize Fire Risk in New Development: Review all development proposals for fire risk and require mitigation measures to reduce the probability of fire.
Safety Goal SF-4 Policy SF-4.1 Program SF-4.1.1: Continue to consult the Fort Bragg Fire Protection Authority in the review of development proposals to identify the projected demand for fire protection services and implement measures to maintain adequate fire protection services. Mitigation measures may include levying fire protection impact fees for capital facilities, if warranted.
Safety Goal SF-7 Policy SF-7.1 Protection from Hazardous Waste and Materials: Provide measures to protect the public health from the hazards associated with the transportation, storage, and disposal of hazardous wastes (TSD Facilities).

Safety Goal SF-7 Policy SF-7.1 Program SF-7.1.1 Continue to ensure that use, transportation, and disposal of hazardous materials are in accordance with the local, State, and Federal safety standards.
Safety Goal SF-7 Policy SF-7.1 Program SF-7.1.2 Continue to support and participate in Mendocino County's Hazardous Materials Business Plan which requires all businesses using hazardous materials to list the types, quantities, and locations of hazardous materials with the County's Department of Environmental Health.
Safety Goal SF-7 Policy SF-7.1 Program SF-7.1.3 Require, as a condition of City approvals of non-residential projects, that the Fire Protection Authority be notified of all hazardous substances that are transported, stored, treated, or could be released accidentally into the environment.
Safety Goal SF-7 Policy SF-7.1 Program SF-7.1.4 Require that applications for discretionary development projects that will generate hazardous waste or utilize hazardous materials include detailed information on hazardous waste reduction, recycling, transportation, and storage, and prepare a plan for emergency response to a release or threatened release of a hazardous material.
Safety Goal SF-7 Policy SF-7.1 Program SF-7.1.5 Revise the Zoning Ordinance to require secondary containment facilities and a buffer zone adequate to protect public health and safety on properties with hazardous materials storage and/or processing activities.
Safety Goal SF-7 Policy SF-7.2 Support Environmental Review of Hazardous Waste Transportation, Storage and Disposal Facilities: Support a thorough environmental review for Hazardous Waste Transportation, Storage and Disposal (TSD) Facilities, including waste to energy projects, proposed in the Fort Bragg area
Safety Goal SF-7 Policy SF-7.2 Program SF-7.2.1 Require that the environmental review of proposed Hazardous Waste TSD facilities shall, at a minimum, contain the following analysis and information:

The City's Municipal Code Title 6 Health and Sanitation Chapter 6.24 regulates hazardous materials in the City Limits and Municipal Code Chapter 14.16 Sanitary Code, regulates potential introduction of pollutants into the sanitary sewer network and storm drains. §14.16.090 prohibits pollutants and provides a list. §14.16.090(A)(21) lists a table of toxicants and the maximum allowable concentration in milligrams/liter.

Discussion

The proposed ordinances would establish regulation for cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones. Indoor cannabis cultivation as a land use is comparable in intensity to other allowable/conditionally allowed uses in the industrial zone, namely manufacturing, fish processing, or agricultural product processing. The proposed ordinances do not change the regulatory environment for hazardous materials, nor does it expand the size or locations of zones for industrial or commercial land uses.

All future cultivation applications would be subject to discretionary review and subject to CEQA, including an evaluation of potential hazards and hazardous waste. The current Municipal Code §9.30.050(N) requires detailed operating procedures for:

- How the business will comply with applicable state regulations;
- Product safety and quality assurances;

If a future application is received for a proposed commercial cannabis cultivation it would be reviewed to determine if the project would be 1) located on an existing site requiring remediation and/or 2) using substances or materials that may be hazardous. If a proposed application were to have either of these situations potential impacts would be evaluated through the CEQA review process.

The proposed code amendments do not change the regulatory framework or procedures for conducting development review and ensure that future cultivation application are discretionary and subject to CEQA. As an amendment to the existing codes, the project does not propose any physical development and would not result in environmental impact. Therefore, the proposed project will have no impact on hazards and hazardous materials.

References

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Hydrology and Water Quality

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>X. HYDROLOGY AND WATER QUALITY. Would the project:</p>				
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) result in substantial erosion or siltation on- or off-site;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Setting

The City of Fort Bragg is located along the Pacific Ocean, in the Mendocino Coast Hydrologic Unit in the Noyo River Hydrologic Area (NCRWQCB, 2022). The City of Fort Bragg spans three watersheds, including the Pudding Creek Watershed, and the Hare Creek Watershed.

The City of Fort Bragg’s water supply comes from three main sources including Waterfall Gulch, Newman Gulch, and the Noyo River. Raw water from the Noyo River is conveyed from the Madsen Hole intake structure, located to the east of the water treatment plant (WTP), and is pumped via 10-inch and 14-inch diameter pipelines directly to the WTP.

According to OPR’s General Plan Guideline Tools, both Pudding Creek, the Noyo River, and the river mouth at Hare Creek are all listed as 303d Waters (see Figure 10). *These waters on the list do not meet water quality standards, even after point sources of pollution have installed the minimum required levels of pollution control technology.* (OPR, 2022)

Flood Zones

Figure 11 shows the areas of the City at risk for flooding. There are no inland industrial or commercial lands in these areas.

Tsunami Zones

There are areas of the City of Fort Bragg that are potentially within a Tsunami Hazard Zone as seen in Figure 12. However, as seen in this map, the areas subject to Tsunami Hazard are not in the inland zones of the City of Fort Bragg.

Figure 10: 303d Listed Waterways in the City of Fort Bragg

Fort Bragg 303d Impaired Waters



Figure 11: Flood Risk Map of the City of Fort Bragg

Fort Bragg 100 Year Flood Map

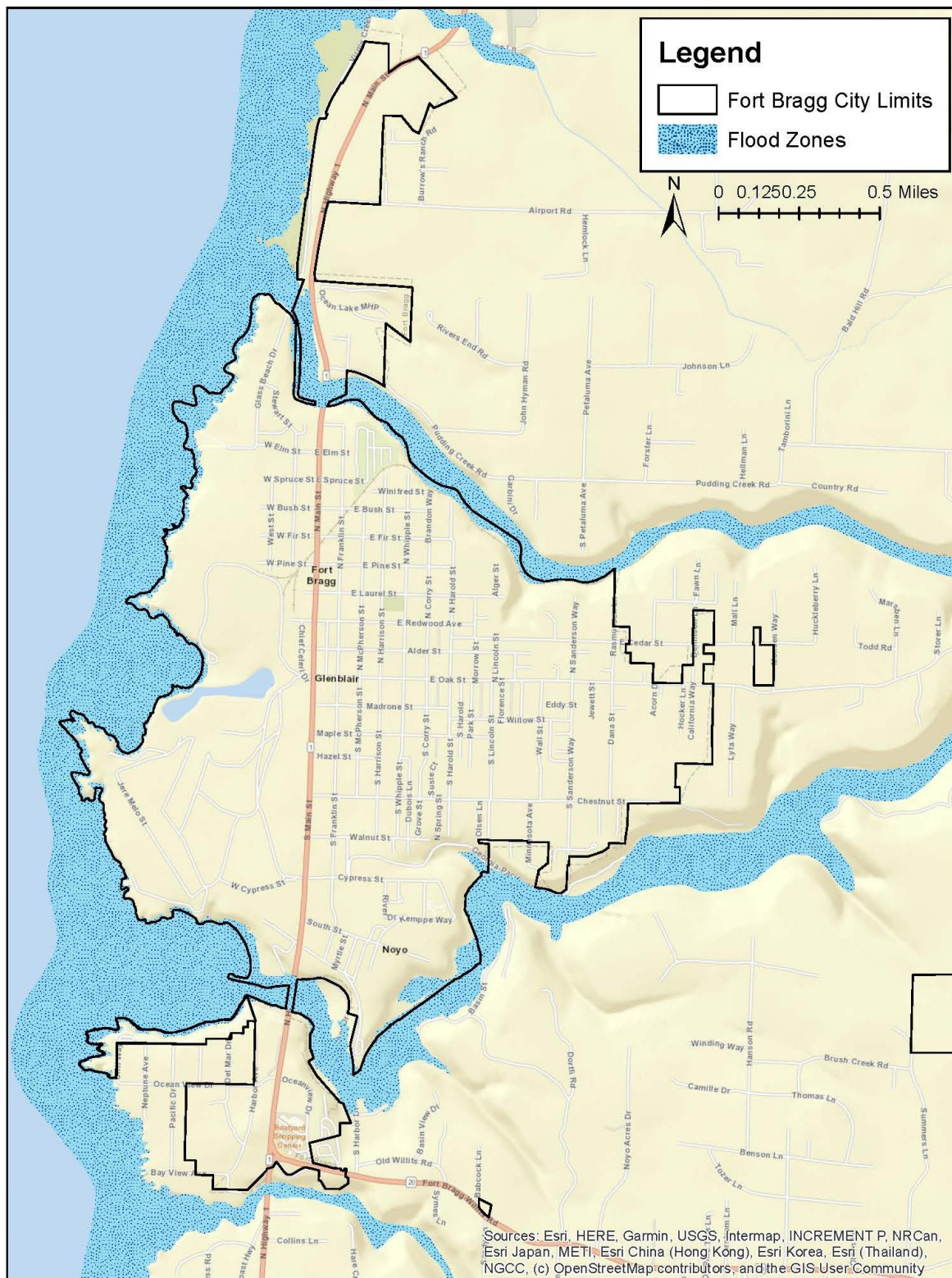
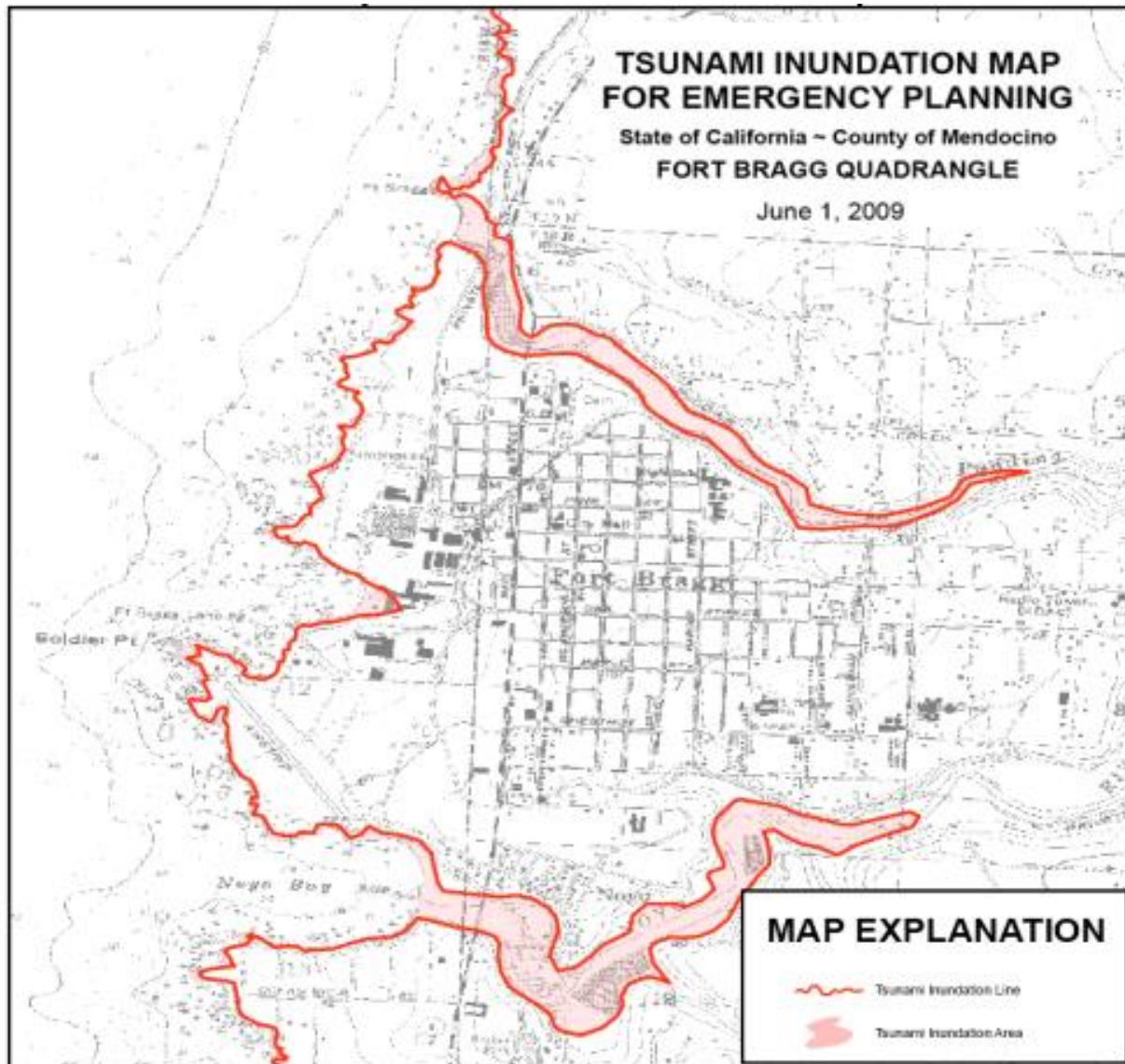


Figure 12: General Plan Map SF-3 Tsunami Inundation Map for Emergency Planning



Source: City of Fort Bragg Inland General Plan

Regulatory Setting

In 1972 Congress amended the Federal Water Pollution Control Act, making the addition of pollutants to the waters of the United States (U.S.) from any point source unlawful unless the discharge is in compliance with a NPDES permit. Known today as the Clean Water Act (CWA), Congress has amended it several times. In the 1987 amendments, Congress directed dischargers of stormwater from municipal and industrial/construction point sources to comply with the NPDES permit program. Important CWA sections are:

- Sections 303 and 304 require states to promulgate water quality standards, criteria, and guidelines.
- Section 401 requires an applicant for a federal license or permit to conduct any activity, which may result in a discharge to waters of the U.S., to obtain certification from the State that the discharge will comply with other provisions of the act. (Most frequently required in tandem with a Section 404 permit request. See below).
- Section 402 establishes the NPDES, a permitting system for the discharges (except for dredge or fill material) of any pollutant into waters of the U.S. The Federal Environmental Protection Agency delegated to the California State Water Resources Control Board (SWRCB) the implementation and administration of the NPDES program in California. The SWRCB established nine RWQCBs. The SWRCB enacts and enforces the Federal NPDES program and all water quality programs and regulations that cross Regional boundaries. The nine RWQCBs enact, administer and enforce all programs, including NPDES permitting, within their jurisdictional boundaries. Section 402(p) requires permits for discharges of stormwater from industrial, construction, and Municipal Separate Storm Sewer Systems (MS4s).
- Section 404 establishes a permit program for the discharge of dredge or fill material into waters of the U.S, including wetlands. This permit program is administered by the U.S. Army Corps of Engineers (Corps).

The objective of the CWA is “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.”

At the State level, the California’s Porter-Cologne Water Quality Control Act, enacted in 1969, provides the legal basis for water quality regulation within California. This Act requires a “Report of Waste Discharge” for any discharge of waste (liquid, solid, or gaseous) to land or surface waters that may impair beneficial uses for surface and/or groundwater of the State. It predates the CWA and regulates discharges to waters of the State. Waters of the State include more than just waters of the U.S., such as groundwater and surface waters not considered waters of the U.S. Additionally, it prohibits discharges of “waste” as defined and this definition is broader than the CWA definition of “pollutant”. Discharges under the Porter-Cologne Act are permitted by WDRs and may be required even when the discharge is already permitted or exempt under the CWA.

The State Water Resources Control Board (SWRCB) adjudicates water rights, sets water pollution control policy, and issues water board orders on matters of statewide application, and oversees water quality functions throughout the state by approving Basin Plans, TMDLs, and NPDES permits. RWCQBs are responsible for protecting beneficial uses of water resources within their regional jurisdiction using planning, permitting, and enforcement authorities to meet this responsibility. (SWRCB, 2022)

The SWRCB and for Fort Bragg, the North Coast Regional Water Quality Control Board (NCRWQCB) are responsible for establishing the water quality standards (objectives and beneficial uses) as required by the CWA and regulating discharges to protect beneficial uses of water bodies. Details regarding water quality standards in a project

area are contained in the applicable NCRWQCB Basin Plan. The NCRWQCB designates beneficial uses for all water body segments in the North Coast Region, and then set standards necessary to protect these uses. Consequently, the water quality standards developed for particular water body segments are based on the designated use and vary depending on such use. Water body segments that fail to meet standards for specific pollutants are included in a Statewide List in accordance with CWA Section 303(d). In the case of the Noyo River, the listing is because of sediment and temperature. Hare Creek is listed due to the presence of indicator bacteria, and Pudding creek is listed because of indicator bacteria and temperature. (NCRWQCB, 2018)

Under the National Pollutant Discharge Elimination System (NPDES) Program is the Municipal Separate Storm Sewer Systems (MS4). Section 402(p) of the CWA requires the issuance of NPDES permits for five categories of stormwater dischargers, including MS4s. The U.S. EPA defines an MS4 as “any conveyance or system of conveyances (roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels, and storm drains) owned or operated by a state, city, town, county, or other public body having jurisdiction over storm water, that are designed or used for collecting or conveying stormwater.”

Construction General Permit (CGP) (NPDES No. CAS000002, SWRCB Order No. 2009-0009-DWQ, adopted on November 16, 2010) became effective on February 14, 2011 and was amended by Order No. 2010-0014-DWQ and Order No. 2012-0006-DWQ. The permit regulates stormwater discharges from construction sites which result in a disturbed soil area of one acre or greater, and/or are smaller sites that are part of a larger common plan of development.

For all projects subject to the CGP, the applicant is required to hire a Qualified Storm Water Pollution Prevention Plan (SWPPP) Developer (QSD) to develop and implement an effective SWPPP. All Project Registration Documents, including the SWPPP, are required to be uploaded into the SWRCB’s on-line Stormwater Multiple Application and Report Tracking System (SMARTS), at least 30 days prior to construction.

Projects that disturb over 1.0 acre but less than 5 acres of soil, may qualify for waiver of CGP coverage. This occurs whenever the R factor of the Watershed Erosion Estimate ($=R \times K \times LS$) in tons/acre is less than 5. Within this CGP formula, there is a factor related to when and where the construction will take place. This factor, the ‘R’ factor, may be low, medium or high. When the R factor is below the numeric value of 5, projects can be waived from coverage under the CGP, and are instead covered by the Caltrans Statewide MS4.

Construction activity that results in soil disturbances of less than one acre is subject to this CGP if there is potential for significant water quality impairment resulting from the activity as determined by the NCRWQCB. Operators of regulated construction sites are required to develop a SWPPP, to implement soil erosion and pollution prevention control measures, and to obtain coverage under the CGP. (SWRCB, 2022)

In some cases, the NCRWQCB may have specific concerns with discharges associated with a project. As a result, the NCRWQCB may prescribe a set of requirements known

as WDRs under the State Water Code (Porter-Cologne Act). WDRs may specify the inclusion of additional project features, effluent limitations, monitoring, and plan submittals that are to be implemented for protecting or benefiting water quality. WDRs can be issued to address both permanent and temporary discharges of a project. The project would need CWA Section 404 permit for construction of various Segments of the project.

Also at the state level, CDFW Lake and Streambed Alteration Program or Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following:

- *Substantially divert or obstruct the natural flow of any river, stream or lake.*
- *Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or*
- *Deposit debris, waste or other materials that could pass into any river, stream or lake.* (CDFW, 2022)

According to CDFW, "any river, stream or lake" includes those that are episodic (they are dry for periods of time) as well as those that are perennial (they flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water.

CDFW requires a Lake or Streambed Alteration (LSA) Agreement when it determines that the activity, as described in a complete LSA Notification, may substantially adversely affect existing fish or wildlife resources. An LSA Agreement includes measures necessary to protect existing fish and wildlife resources. CDFW may suggest ways to modify your project that would eliminate or reduce harmful impacts to fish and wildlife resources. Before issuing an LSA Agreement, CDFW must comply with the CEQA. (CDFW, 2022)

The City's Inland General Plan Open Space Element contains the following relevant policies:

Open Space Goal OS-6 Policy OS-6.3 Minimize Increases in Stormwater Runoff: Development shall be designed and managed to minimize post project increases in stormwater runoff volume and peak runoff rate, to the extent feasible.
Open Space Goal OS-6 Policy OS-6.3 Program OS-6.3.1: Develop and implement Low Impact Development requirements in the Inland Land Use and Development Code. Remove regulatory barriers to Low Impact Development from the Inland LUDC where feasible.
Open Space Goal OS-6 Policy OS-6.4 Maintain and Restore Biological Productivity and Water Quality: Development shall maintain and, where feasible, restore the biological productivity and the quality of streams and wetlands to maintain optimum populations of aquatic organisms and for the protection of human health.

<p>Open Space Goal OS-6 Policy OS-6.5 Municipal Activities to Protect and Restore Water Quality: The City shall promote both the protection and restoration of water quality. Water quality degradation can result from a variety of factors, including but not limited to the introduction of pollutants, increases in runoff volume and rate, generation of non-stormwater runoff, and alteration of physical, chemical, or biological features of the landscape.</p>
<p>Open Space Goal OS-6 Policy OS-6.5 Program OS-6.5.2 BMPS for Municipal Maintenance Activities. The City shall ensure that municipal maintenance activities and other public projects integrate appropriate BMPs to protect water quality.</p>
<p>Safety Goal SF-2 Policy SF-2.1 Flood Hazards: Ensure adequate standards for development in the 100-year floodplain.</p>
<p>Safety Goal SF-2 Policy SF-2.1 Program SF-2.1.1 Maintain and update as necessary the zoning and building code standards and restrictions for development in identified floodplains and areas subject to inundation by a 100-year flood. Use the Federal Emergency Management Agency's Flood Insurance Rate Map (FIRM) in the review of development proposals</p>
<p>Safety Goal SF-2 Policy SF-2.1 Program SF-2.1.2: Ensure all development in flood prone areas meet Federal, State, and local requirements.</p>
<p>Safety Goal SF-2 Policy SF-2.2 Storm Drainage: Continue to maintain effective flood drainage systems and regulate construction to minimize flood hazards.</p>
<p>Safety Goal SF-2 Policy SF-2.2 Program SF-2.2.1: Continue to update the City's Storm Drain Master Plan.</p>
<p>Safety Goal SF-2 Policy SF-2.3 Require development to pay for the costs of drainage facilities needed to drain project-generated runoff.</p>
<p>Safety Goal SF-2 Policy SF-2.3 Program SF-2.3.1 Update and utilize the City's Drainage Development Impact Fees to ensure that development pays for its proportional share of drainage facilities.</p>
<p>Safety Goal SF-2 Policy SF-2.4 Require, where necessary, the construction of siltation/detention basins to be incorporated into the design of development projects.</p>
<p>Safety Goal SF-2 Policy SF-2.5 Require, as determined by City staff, analysis of the cumulative effects of development upon runoff, discharge into natural watercourses, and increased volumes and velocities in watercourses and their impacts on downstream properties. Include clear and comprehensive mitigation measures as part of project approvals to ensure that new development does not cause downstream flooding of other properties.</p>

Safety Goal SF-2 Policy SF-2.6 Analyze the impacts of and potential flooding issues resulting from Climate Change and rising sea levels on proposed projects located within the 100-year Sea-Level Rise Inundation Area (see Map SF-4).

Additionally, Article 5 Resource Protection of the ILUDC contains Chapter 18.52 which provides standards for the protection of watercourse and riparian resources within the City and Chapter 18.58 Wetland Protection and Restoration.

Discussion

There are numerous laws in place at the federal, state, and local level that regulate and protect hydrology and water quality from construction, development, and ongoing municipal and private operating activities. The proposed ordinances would establish regulation for commercial cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones. The proposed ordinances would not change regulatory setting for hydrology or water quality and no physical development is proposed.

Any future CBP applications proposed in compliance with the proposed amended codes would require a discretionary permit subject to review under CEQA. When a proposed project application is received, it would be reviewed for compliance with all state, regional, and local regulations regarding hydrology and water quality. Activities that involve actions that could potentially affect Waters of the State are subject to discretionary review by the NCRWQCB and compliance with the National Pollution Discharge Elimination System (NPDES) provisions. At the time future cannabis cultivation applications are received, the City's Public Works/Engineering Department will review proposals and impose conditions or refinements to demonstrate compliance with hydrology and water quality regulation, as warranted.

The project at hand is limited to updating the City's Municipal Code and Inland Land Use and Development Code to include regulation for commercial cannabis cultivation use in areas of the City where similar types of industrial and commercial uses are conditionally allowed. All existing development standards for industrial and commercial uses established to protect the environment including hydrology and water quality will remain applicable. There is no physical development or other physical changes to the environment that would occur under the proposed code amendments. Therefore, the proposed project will have no impacts on water quality or hydrology.

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DWR. 2004. Fort Bragg Terrace Area Groundwater Basin. California's Groundwater Bulletin. Bulletin 118. North Coast Hydrologic Region.

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Land Use and Planning

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XI. LAND USE AND PLANNING. Would the project:				
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Regulatory Setting

Land use planning is the long-range planning for the desirable use of land in a City (or other jurisdiction) for the purpose of guiding the development and changes in the use of lands to protect the community health, well-being, and enjoyment of private property. Early land-use planning authority came from a local government's ability to enforce nuisance laws until the US Department of Commerce published the States Zoning Enabling Act published in 1924 and the Standard City Planning Enabling Act (SCPEA) published in 1928.

The SZEA had nine sections. It included a grant of power, a provision that the legislative body could divide the local government's territory into districts, a statement of purpose for the zoning regulations, and procedures for establishing and amending the zoning regulations. A legislative body was required to establish a zoning commission to advise it on the initial development of zoning regulations...

The SCPEA covered six subjects:

- 1. the organization and power of the planning commission, which was directed to prepare and adopt a "master plan"*
- 2. the content of the master plan for the physical development of the territory*
- 3. provision for adoption of a master street plan by the governing body*
- 4. provision for approval of all public improvements by the planning commission*
- 5. control of private subdivision of land*
- 6. provision for the establishment of a regional planning commission and a regional plan (APA, 2022)*

In addition to Land Use Planning, there are other types of planning enabled through federal legislation mentioned in the appropriate corresponding sections of this report such as hazard mitigation planning and the housing element of the general plan.

At the State level, Planning and Land Use authorities and regulations are detailed in the California Government Code Title 7 Planning and Land Use [65000 - 66499.58] (Heading of Title 7 amended by Stats. 1974, Ch. 1536.) The Governor's Office of Planning and Research is the responsible state agency for regulating and enforcing this code. (OPR, 2022)

California state regulation SB 94 allows for local jurisdiction in California to regulate land use and zoning in relation to cannabis. The Medicinal and Adult-Use Cannabis Regulation and Safety Act provides the authority to control and regulate cultivation, distribution, transport, storage, manufacturing, and processing of cannabis. (CCR, 2022) The Department of Cannabis Control (DCC) is responsible for regulating cannabis businesses to ensure that operations are safe, products are contaminant free and labeled appropriately. (DCC, 2021)

The City of Fort Bragg's inland zones are under the jurisdiction of the City's Inland General Plan and Title 18 Inland Land Use and Development Code(ILUDC). The inland zones consist of areas outside of the City's coastal zone and are not under the jurisdiction of the California Coastal Commission.

Element 2 of the Inland General Plan (IGP) is the Land Use Element. The IGP *establishes goals, policies and programs to maintain the existing pattern of land uses within the City's Inland Area while anticipating and providing for future growth and development.* (IGP, 2013) The IGP identifies the physical locations of the zones on Map LU-1 (see Figure 13).

The City's goals, policies, and programs are implemented through the standards and regulations established in the ILUDC. The city's commercial, industrial, residential, and other zones are established in Article 2 which also provides the land use tables that describe allowable uses, conditionally allowable uses, and uses that are not allowed. Standards for specific land uses are regulated by Article 4 and Article 10 provides definitions and terminology necessary for interpreting the code.

The City's Municipal Code and ILUDC currently provide regulation for cannabis retail uses in §18.22.030 and §18.42.057 of the ILUDC which allows for retail cannabis with accessory uses. While the City's Municipal Code Chapter 9.30 allows for cannabis cultivation, it is not currently defined in the ILUDC or listed as a use in Article 2. Retail cannabis activity currently requires a Cannabis Business Permit and a conditional Minor Use or Use Permit.

Site planning, design standards, and development, resource protection, and the planning permit process are all regulated by the ILUDC. The City's Zoning Map designates the zoning of all parcels located within the inland zone of the City (See Figure 14).

Figure 13: General Plan Map LU-1 Land Use Designations

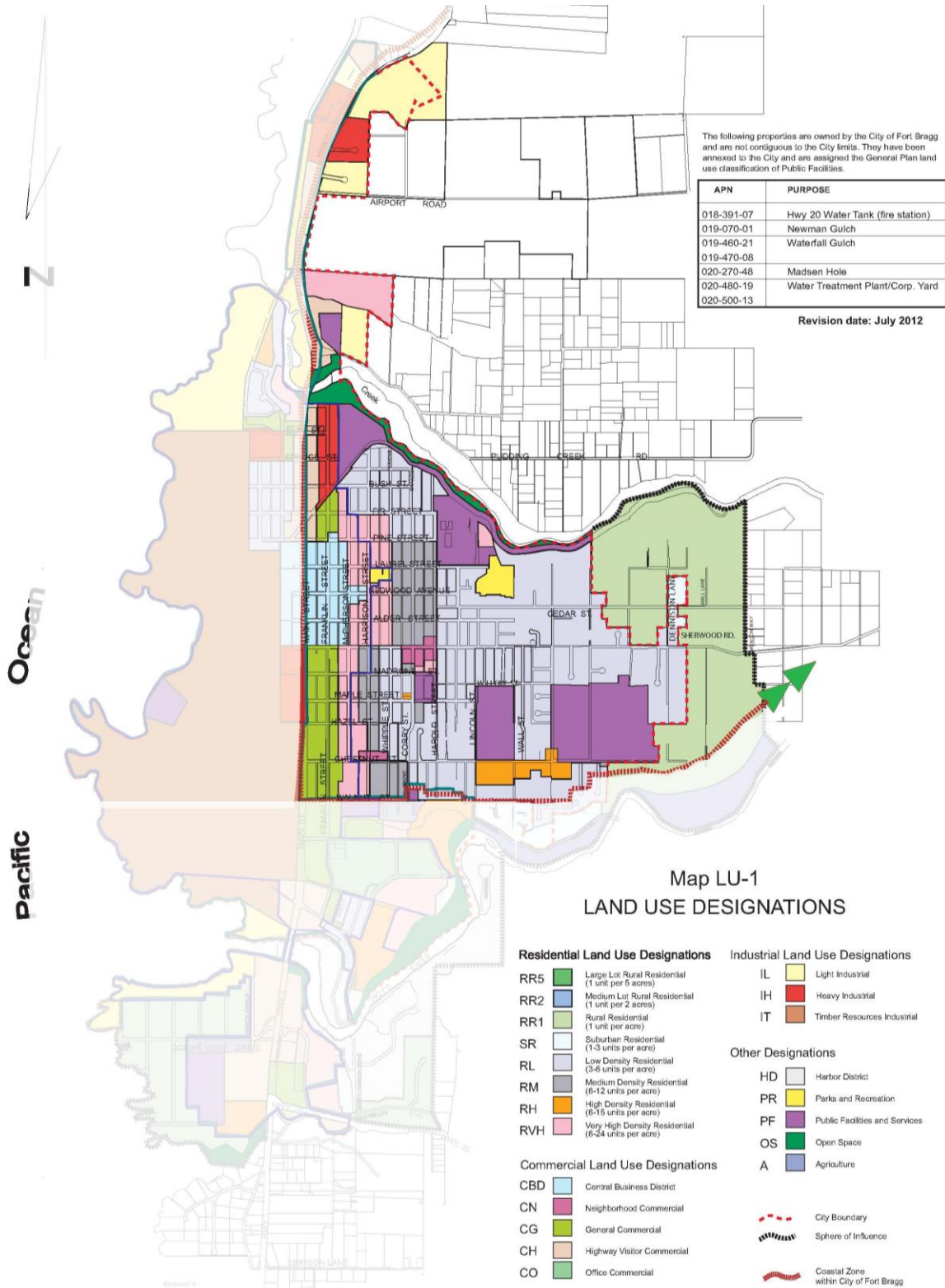
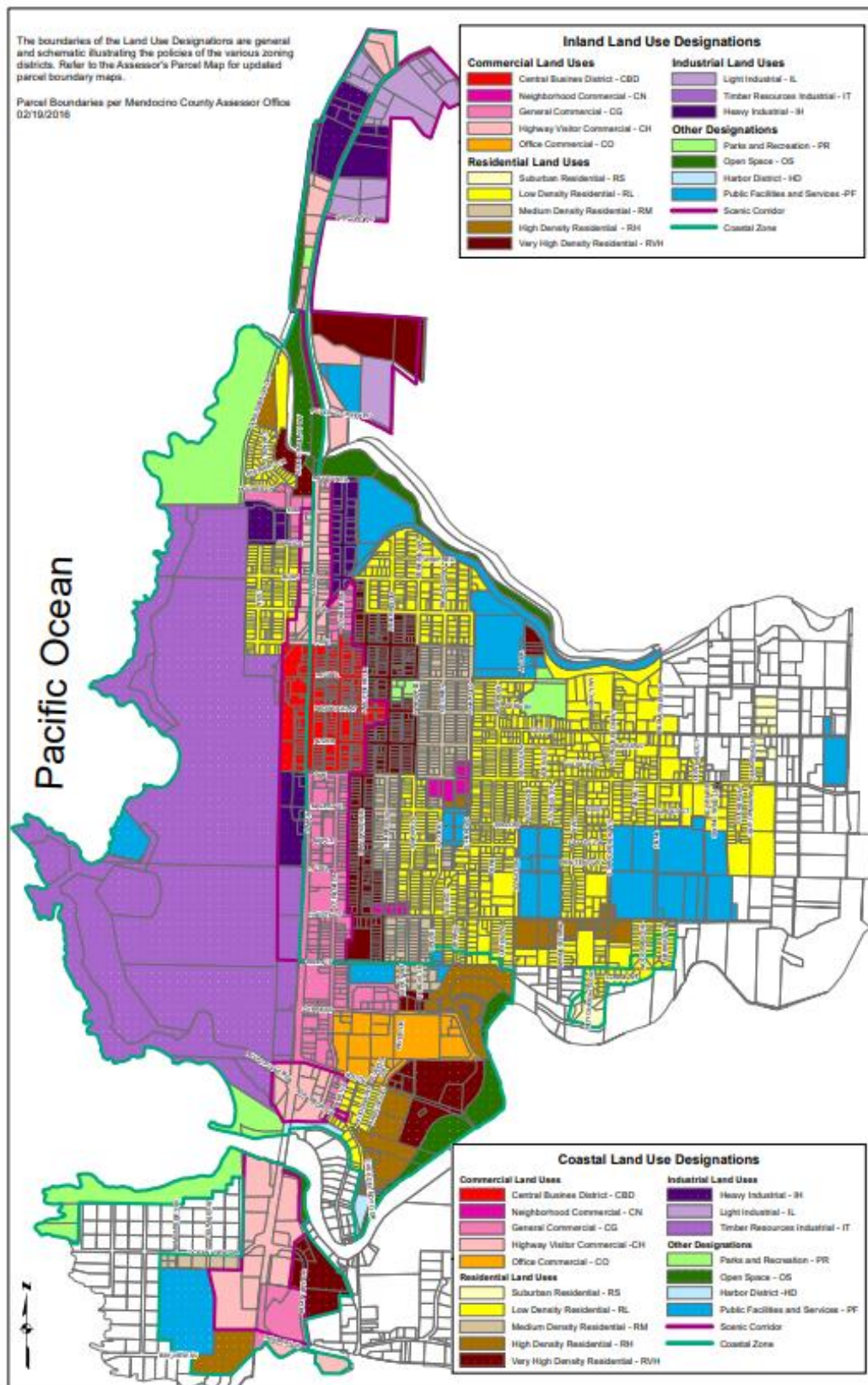


Figure 14: City of Fort Bragg Land Use Zoning Map



Cannabis Retail is currently allowed with a Minor Use Permit only in the Central Business District, General Commercial, and the Visitor Highway Commercial in the inland zones and Cannabis Retail – Delivery Only is allowed with a minor use permit as an accessory use in the Light and Heavy Industrial Zones. Currently, §18.42.057(E) says that cannabis retail accessory uses may include manufacturing, distribution, cultivation, and/or processing. While the existing code does not specifically state whether a microbusiness is allowed or not, it states that: *accessory uses may include activities that require multiple State cannabis licenses*. While this is not well defined, the only way that a cannabis business can have more than one license for the same site is if they have a State cannabis microbusiness license, which is defined by the state as: *a licensee that is authorized to engage in cultivation of cannabis on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer under this division, provided such licensee can demonstrate compliance with all requirements imposed by this division on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities*. (DCC, 2022)

Discussion

The proposed ordinances would establish regulation for cannabis cultivation in industrial zones and makes minor modifications to the existing regulations for cannabis business activities in commercial zones, pursuant to SB 94. As noted in the project description commercial indoor cannabis cultivation is comparable to other allowable uses in the industrial zone and will be consistent with the intention, purpose, and activities that are currently allowable.

Cannabis Cultivation

The majority of the City’s industrial land is located in the coastal zone and is currently zoned Timber Industrial (TI), a zoning designation 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 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:

Table 1: 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:

	Light Manufacturing	Medium Manufacturing	Heavy Manufacturing
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 characteristics of the manufacturing processes and the materials used are unlikely to cause significant impacts on surrounding land uses or the community.	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.
Examples	<ul style="list-style-type: none"> • Clothing/Fabric • Electronics, equipment, and appliances • Food and beverage (including breweries and bottling plants) 	<ul style="list-style-type: none"> • Lumber/wood product • Machinery • Motor vehicle/transport • Stone and cut stone 	<ul style="list-style-type: none"> • Chemical Product • Glass Product • Concrete/plaster • Petroleum • Paving/roofing • Plastics • Primary metal

	<ul style="list-style-type: none"> • Furniture • Small-scale manufacturing • Metal fabrication/machine shops • Paper products 	<ul style="list-style-type: none"> • Structural clay and pottery 	<ul style="list-style-type: none"> • Pulp (Product) • textile
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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 provides information about compatibility of fully licensed dispensaries in 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 ordinances, 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 allowable accessory uses with a table and specify the difference between a microbusiness and a retail business with an accessory use. (see **ATTACHMENT C**).

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 code amendment 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.

The proposed project adds a new conditionally allowable use, indoor commercial cannabis cultivation to the industrial zone and makes minor modifications to the existing regulations for cannabis business activity in commercial zones. It will not modify the size or location of the zoning districts and does not involve any physical changes to the environment. The proposed changes to the municipal code and Inland Land Use and Development Code regulating cannabis are consistent with the goals, policies, and programs in the Inland General Plan. The proposed municipal code and Inland Land Use and Development Code amendments would not conflict with any land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect. Therefore, the proposed project will have no impact on land use planning.

References

American Planning Association. (2022, January 21). Standard State Zoning Enabling Act and Standard City Planning Enabling Act. Retrieved from:
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Mineral Resources

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XII. MINERAL RESOURCES. Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

The state of California hosts a rich variety of minerals and rocks. The California Geological Survey provides objective geologic expertise and information about California's diverse non-fuel mineral resources, producing maps, reports, and other data products to assist governmental agencies. (DOC, 2022) However, as noted in the Geology and Soils Section, the City of Fort Bragg does not have any of these mineral resources that are of either state, regional, or local importance.

Discussion

The proposed ordinances would establish regulation for cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones. Because there are no mineral resources of state, regional, or local importance, the proposed project will have no impact on mineral resources.

References

California Department of Conservation (DOC). (2022, January 21). California's Mineral Resources. Retrieved from California Department of Conservation: <https://www.conservation.ca.gov/cgs/minerals>

Noise

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XIII. NOISE. Would the project result in:				
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Regulatory Setting

Noise is defined as unwanted sound, and thus is a subjective reaction to characteristics of a physical phenomenon. A frequency weighting measure that simulates human perception is commonly used to describe noise environments and to assess impacts on noise-sensitive areas. It has been found that A-weighting of sound levels best reflects the human ear's reduced sensitivity to low frequencies, and correlates well with human perceptions of the annoying aspects of noise. The A-weighted decibel scale (dBA) is cited in most noise criteria. The decibel notation used for sound levels describes a logarithmic relationship of acoustical energy, for example, a doubling of acoustical energy results in an increase of three dB, which is considered barely perceptible. A ten-fold increase in acoustical energy equals a ten dB change, which is subjectively like a doubling of loudness.

Several time-averaged scales represent noise environments and consequences of human activities. The most commonly used noise descriptors are equivalent A-weighted sound level over a given time period (Leq); average day-night 24-hour average sound level with a nighttime increase of ten dBA to account for sensitivity to noise during the nighttime; and community noise equivalent level (CNEL), also a 24-

hour average that includes both an evening and a nighttime weighting. Noise levels are generally considered low when ambient levels are below 45 dBA, moderate in the 45 to 60 dBA range, and high above 60 dBA. Although people often accept the higher levels associated with very noisy urban residential and residential-commercial zones, they nevertheless are considered to be adverse levels of noise with respect to public health because of sleep interference.

The City is the primary agency responsible for regulating noise. The City’s Noise Element in the Inland General Plan includes maximum allowable noise level thresholds for non-transportation projects in Table N-5 from the General plan as shown below:

Table N-5 .Noise Level Performance Standards for New Projects Affected by or Including Non-Transportation Noise Sources

Noise Level Descriptor	Daytime (7 A.M. to 10 P.M.)	Nighttime (10 P.M. to 7 A.M.)
Hourly Leq dB	55	45
Maximum level, dB	75	65

Note: These noise levels apply to the residential property line nearest the project. Each of the noise levels shall be lowered by five dB for simple tone noises, noises consisting primarily of speech or music, or for recurring impulsive noises. These noise level standards do not apply to residential units established in conjunction with industrial or commercial uses (e.g., caretaker dwellings).

The City’s Municipal Code Chapter 9.44 regulates noise in the City. And, the ILUDC §18.30.050(F)(2) provides screening requirements for mechanical equipment loading docks, and refuse areas. ILUDC §18.30.050(F)(1) provides additional criteria for screening between nonresidential and residential land uses.

Discussion

The proposed ordinances would establish regulation for cannabis cultivation in industrial zones and make minor modifications to the regulations for cannabis business activities in commercial zones. No changes are proposed to Chapter 9.44, which regulates noise, nor screening regulations in 18.30.050.

Commercial cannabis cultivation may utilize equipment that generates exterior noise, such as fans and HVAC systems but these are not expected to be any noisier than other equipment that would ventilate other industrial uses that are allowable or conditionally allowable in both light and heavy industrial. All cannabis related applications would continue to be subject to discretionary review.

All uses within City limits are subject to Chapter 9.44 including new cannabis businesses. At the time a cannabis business permit application is received, it would be reviewed for consistency with the General Plan, zoning, and municipal code, including Chapter 9.44.

Furthermore, CBPs are fully discretionary and all future applications related to cannabis would be subject to review in accordance with CEQA including consideration of changes to the noise environment from construction and operations. With full discretion, the City may impose conditions to regulate noise levels or require refinements of a

project's design to comply with the City noise standards, similar to other commercial and industrial activities within city limits.

The proposed ordinances do not change the location or size of the industrial or commercial zones, does not change the noise requirements for discretionary projects, and precludes physical development. Therefore, the project would have no impacts on noise.

References

City of Fort Bragg, "Inland General Plan." 2013.

City of Fort Bragg. (2022, January). Municipal Code. City of Fort Bragg. Retrieved from <https://www.codepublishing.com/CA/FortBragg/#!/FortBraggNT.html>

Population and Housing

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XIV. POPULATION AND HOUSING.				
Would the project:				
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

According to the 2019 American Community Survey (ACS) Demographic and Housing Estimates, the City of Fort Bragg has a total population of 7,302 individuals and a total of 3,148 housing units (US Census Bureau, 2019). As of 2019, the City supported approximately 2.56 people per household (US Census Bureau, 2020). The median household income in 2019 dollars was \$44,276 and approximately 59.2% of the population ages 16 and older were in the civilian labor force.

In 2019, the City updated the Housing Element (2019 HE) of the General Plan. *The primary goals of the 2019 Fort Bragg Housing Element are to encourage, facilitate, support and help fund:*

1. *New market rate and affordable housing that serves our residents and businesses in Fort Bragg;*
2. *New affordable housing that serves our community's special needs populations;*
3. *Preservation of our existing housing stock; and*
4. *New housing that meets our Regional Housing Needs Allocation. (City of Fort Bragg, 2019)*

The 2019 HE sets quantified objectives for housing development in the City as required by State law as shown in Table 1.1 from the Housing Element:

Table 1.1: Quantified Objectives, City of Fort Bragg, 2019-2024				
Income Category	New Construction	Rehabilitation	Conservation/ Preservation	Total
Extremely Low Income	60	4	10	74
Very Low-Income	31	8	15	54
Low-Income	50	8	10	68
Moderate-Income	30	20	0	50
Above Moderate	30	20	0	50
Total	201	60	35	296
Source: City of Fort Bragg Community Development Department, 2019				

As noted in the table above, the 2019 HE also sets a goal of developing 200 new housing units within 8 years. Like many places in California, there is a shortage of housing. According to Healthy Mendocino, the home ownership rate in Fort Bragg is 32.8% which is low in comparison to the County (56.2%), the State of California (50.5%) and the United States (56.2%).

Discussion

The proposed ordinances would establish regulation for cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones. The proposed ordinances will not change any land that is currently zoned residential to commercial or industrial. It does not include any proposed physical development and would induce substantial unplanned population growth in the City nor displace substantial numbers of existing people or housing. Housing (with the exception of caretaker quarters and live/work units) is not a permitted use in industrial zones. Adding commercial cannabis cultivation as a conditionally allowable use in the industrial zone would not displace housing.

While the proposed amendment adds a new conditionally allowable use to the ILUDC, it is important to recognize that cannabis cultivation has been occurring in the region for over 50 years. While it is possible that new businesses may be interested in relocating to Fort Bragg, the use is already allowable and well established in the unincorporated areas of the County and many other places in California. Given the remote nature of Fort Bragg, and the number of states and localities that allow commercial cannabis cultivation, it is highly unlikely that there would be enough industry generated to indirectly induce substantial unplanned growth. Further, under the proposed regulation commercial cannabis cultivation proposals require a discretionary permit and would be evaluated at the time an application is received to determine the potential to have either direct or indirect impacts on growth and housing.

The proposed changes to the ordinances will not change the size or location of existing zones and it will not result in physical development. Proposed regulations apply exclusively to commercial and industrial zones and would not change zoning regulation

for residential uses. Therefore, the proposed project will have no impact on population and housing.

References

City of Fort Bragg, Inland General Plan Element 10 - Housing Element. 2019

US Census Bureau. (2022, January) QuickFacts Fort Bragg City, California. Retrieved from: <https://www.census.gov/quickfacts/fortbraggcitycalifornia>

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Public Services

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XV. PUBLIC SERVICES.				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

The Fort Bragg Fire Department (FBFD) provides fire services within the City of Fort Bragg and outlying rural areas. The FBFD responds to approximately 500 to 600 calls per year, varying from structure fires to public assists. The Fort Bragg Fire Protection Authority is responsible for funding, directing, and overseeing the fire department. The FBFD consists of 36 volunteer fire fighters and four auxiliary members. There are three fires stations, located at:

- Main Street Fire Station, 141 N. Main Street
- Highway 20 Substation, 32270 Highway 20 (outside City limits)
- Little Valley Fire Company, 33680 Little Valley Road (outside City limits)

The Fort Bragg Police Department (FBPD) serves the City of Fort Bragg and outlying rural areas. In 2021, FBPD responded to a total of 15,448 calls for service and wrote 991 Crime Reports associated with those calls for service, resulting in 432 arrests (City of Fort Bragg, 2022). The FBPD headquarters is located at 250 Cypress Street.

The City is served by the Fort Bragg Unified School District (FBUSD) which includes Redwood Elementary School, Dana Gray Elementary School, Fort Bragg Middle School, Fort Bragg High School, Coastal Adult School, and the Alternative Education program. It is also served by Mendocino Community College District.

Additional (non-recreational) public facilities in the inland zone of the City of Fort Bragg relevant to this section includes:

- Fort Bragg Public Library - a branch of the Mendocino County library
- Cemetery – there are two cemeteries in the City of Fort Bragg, one north of Pudding Creek and one to the south
- Mendocino Coast District Hospital

Discussion

The proposed ordinances would establish regulation for cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones. All future cannabis application received under the proposed ordinances would be subject to discretionary review, including an evaluation for impacts to public services. In addition, all cannabis business permits undergo a public safety review in which the police department reviews the security plan for the premise.

All new construction or commercial remodel require a building permit. Any future application received for a commercial cannabis business would have to either construct a new building or change an existing commercial or industrial building. Both of which would require a building permit and would have to comply with California Building Codes and the City's Municipal Code Title 15 Buildings and Construction. (City of Fort Bragg, 2022) The location of future cannabis businesses under the proposed ordinances would be in areas that are already planned for either commercial or industrial development and would similarly be subject to review of capacity for public services to maintain acceptable service ratios, response times or other performance objectives consistent with the City's General Plan.

The proposed ordinances would establish regulations for a new use in an industrial zone and make minor modifications to existing regulations for cannabis business activity in commercial zones. It would not change the regulatory environment in a manner that would affect policies established for the protection of public health and safety and no physical development is proposed. Therefore, the proposed project will have no impact on public services.

References

Association of Environmental Professionals. (2021). 2021 California Environmental Quality Act Statute & Guidelines. AEP.

Fort Bragg Police Department, (2022). "Fort Bragg Police Department Biennial Report 2020-2021." City of Fort Bragg Police Department.

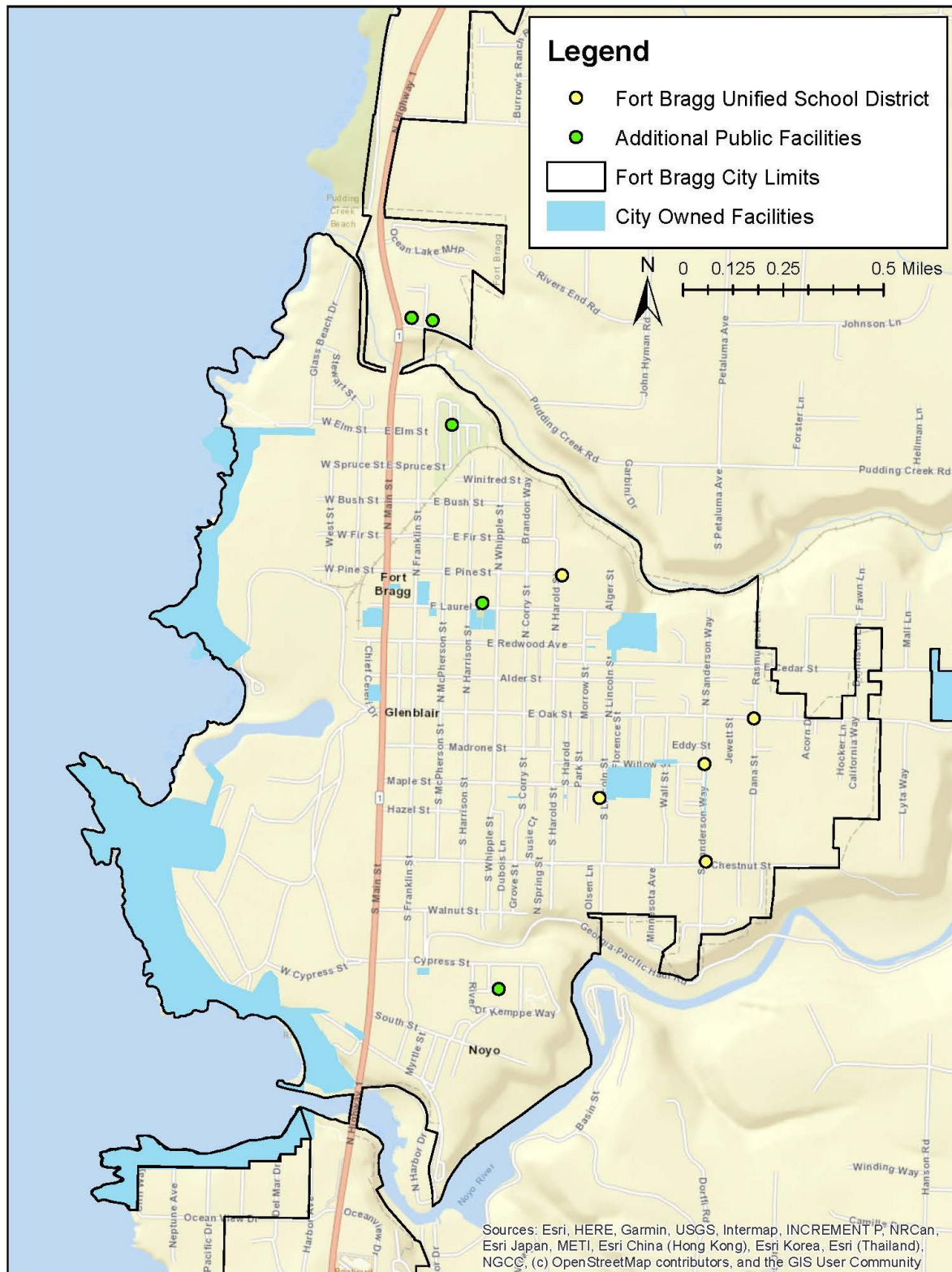
California Department of Cannabis Control, "Medicinal and Adult-Use Commercial Cannabis Regulations, California Code of Regulations Title 4 Division 19."

Department of Cannabis Control, 2021. <https://cannabis.ca.gov/wp-content/uploads/sites/2/2021/10/DCC-Cannabis-Regulations-Sept.-2021.pdf>

City of Fort Bragg Municipal Code. (2022, January) Title 15. Retrieved from: <https://www.codepublishing.com/CA/FortBragg/#!/FortBragg15/FortBragg15.html>

Figure 15: Map of Public Facilities in the City of Fort Bragg

Fort Bragg Public Facilities Map



Recreation

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XVI. RECREATION.				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

The City of Fort Bragg has two public parks in the inland zone; Otis Johnson Park, a 6-acre riparian zone park with hiking trails and Bainbridge Park, a 2-acre park in the City with an 11,000 square foot playground, basketball court, and tennis court.

Additionally, the City owns the CV Starr Center, an aquatic facility with a leisure pool and competition lap pool and fitness rooms (operated by the Mendocino Parks and Recreation District) and the City Hall Gym, a historic gym located behind city hall.

In the City's Coastal Zone, the 3.5 mile Coastal Trail stretches from Glass Beach to the Noyo Harbor on 104 acres of land. The City's coastal parks also include Noyo Beach and Pomo Bluffs Park on the southern bluffs overlooking Noyo Harbor.

Discussion

The proposed ordinances would establish regulation for commercial cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones. The proposed ordinances will not change size or zoning of commercial or industrial land and does not propose any physical development. Any future applications received for proposed cannabis related activities would be conditionally allowable under the proposed code amendments and would require a discretionary permit. Discretionary review would include an assessment of potential impacts to recreation and conditioned accordingly. The proposed ordinances do not alter any established goal, policy, program relating to recreation. Therefore, the proposed changes to the Municipal Code Chapter 9.30 and the Inland Land Use and Development Code, will have no impact on recreation.

References

City of Fort Bragg, (2022, January). Local Parks and Aquatic Center. Retrieved from:
<https://www.city.fortbragg.com/services/local-parks-aquatic-center>

Transportation

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XVII. TRANSPORTATION. Would the project:				
a) Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

The City of Fort Bragg has two state highways, Highway 20 which connects the City to Willits, and Highway 1 which connects the City to southern and northern coastal areas. All other roads in the City are local or private roads.

The Mendocino Transit Authority (MTA) is responsible for public transportation in and out of Fort Bragg. MTA provides daily service (one bus each direction) from Fort Bragg to inland Mendocino County and Santa Rosa Airport where passengers can transfer to various services that go to the Bay Area and beyond. The MTA's Coaster also provides service from Fort Bragg south on Highway 1 to Navarro Junction. There are five bus stops in the City limits located for convenience of access to Highway 1, downtown, and Highway 20. Additionally, on-demand, door-to-door service is available in Fort Bragg and Ukiah on MTA buses specially outfitted to meet the transportation needs of paratransit customers. In Fort Bragg, Dial-A-Ride is open to the general public and discounted fares are provided for seniors (62+) and persons with disabilities. MTA customers in Fort Bragg can reserve a Dial-A-Ride bus up to two weeks in advance and at least 24 hours in advance for a guaranteed scheduled ride. (MTA, 2022)

The City is also home to the Mendocino Railway dba Skunk Train. Historically, the Skunk Train provided rail service from Fort Bragg to Willits carrying passengers and lumber. With the introduction of the modern vehicle, the development of Highway 20, and the abandonment of connecting rail lines from Willits to Eureka, the Skunk Train transitioned from a functional transportation route to a novelty/tourist attraction. In 2013, a tunnel collapse just a few miles east of Fort Bragg eliminated the possibility of the route being used as a means to transporting goods and passengers to and from the Coast. Currently, Mendocino Railway operates a train that travels between Fort Bragg to the tunnel collapse where it turns around and returns to Fort Bragg.

In addition to land transportation, the Noyo Harbor is an all-weather port located mostly outside the City limits in unincorporated Mendocino County. It is the busiest Harbor between Bodega Bay and Humboldt Bay. (Noyo Harbor District, 2019)

There is no airport inside the City limits, but the Fort Bragg Airport is a private airport located 2 miles north of the City center and less than a half mile from the most northern boundary of the City limits on North Highway 1. The airport is private use only and requires permission prior to landing. The airport is locally owned with an average of 68 aircraft operating per month made up of 98% local general aviation. The Fort Bragg Airport is regulated by the Federal Aviation Administration. (FAA, 2022)

Regulatory Setting

The Federal Government regulates and supports the development of transportation through the Department of Transportation. The State regulates and manages transportation through the California Department of Transportation and the State of California Transportation Commission.

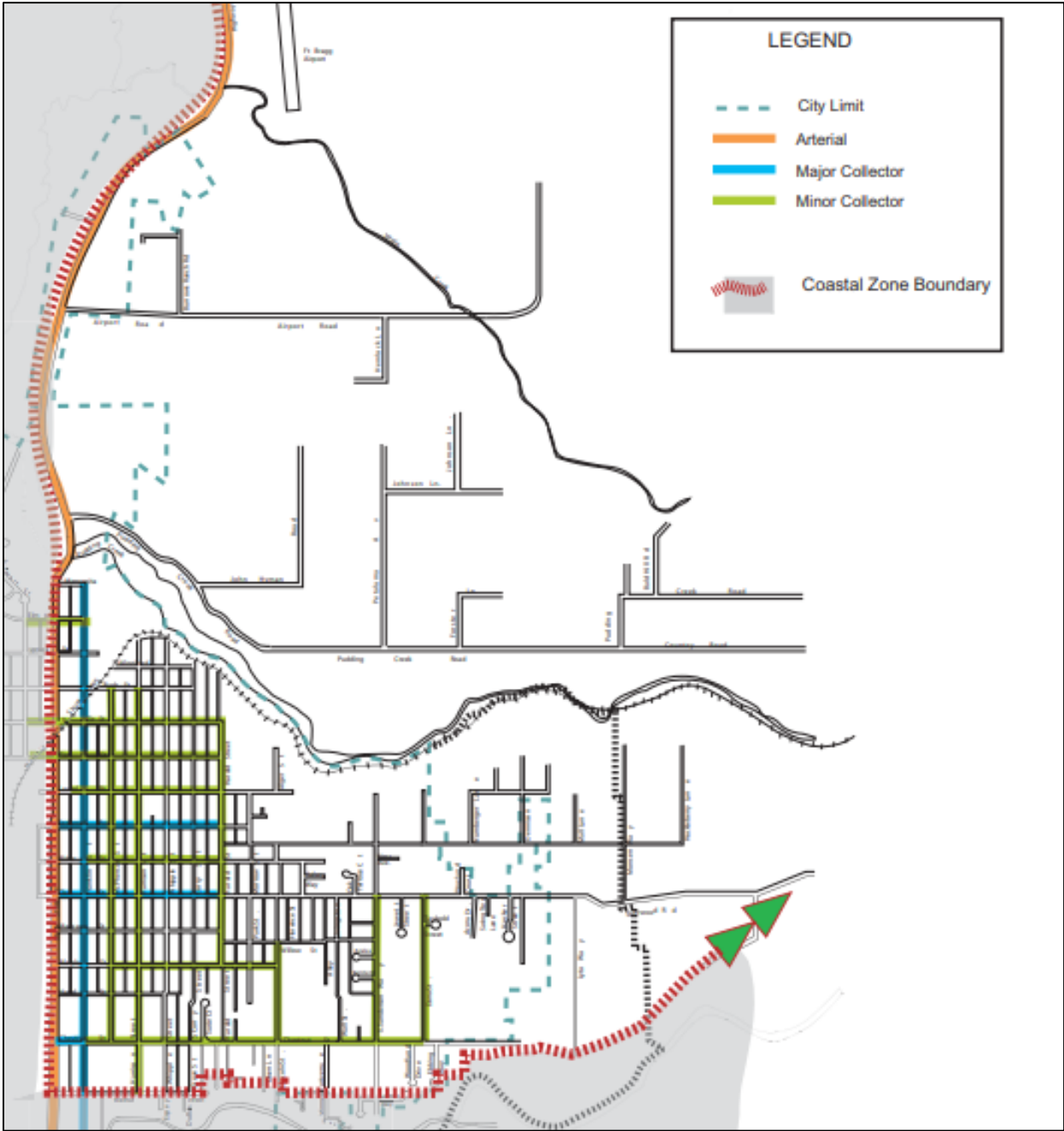
At the state level, a significant change took place on the evaluation of transportation impacts with the passage of SB 743 in 2013. The law required a change from using Level of Service (LOS) as the metric to determine if a project would have significant impacts to the Vehicle Miles Traveled (VMT). (OPR, 2022)

Transportation planning is coordinated at the regional level by the Mendocino Council of Governments (MCOG) who prepares the Regional Transportation Plan (RTP) which includes projects in the City of Fort Bragg. The MCOG's Board of Directors also adopt an Overall Work Program (OWP) which typically comprises of 14 work elements including transportation planning projects in the City of Fort Bragg. (MCOG, 2022)

The City also sets standards for transportation in the Inland General Plan Element 5 – Circulation. While the State now requires that the metric for transportation related impacts be based on VMT, the City uses Level of Service to determine consistency with the Inland General Plan. This means that projects must meet both criteria when undergoing discretionary review to ensure compliance with the state CEQA process and to be consistent with the City's General Plan.

Figure 16 shows the Inland General Plan Map of the City Roadway System.

Figure 16: General Plan Map C-1 Existing Roadway System



The roads in the City follow a standard system of determining Level of Serve (LOS) on a scale of A (free flowing) to F (excessive delays) as noted in Table C-2 of the Inland General Plan:

**Table C-2
Level of Service Definitions**

Level of Service	Description	V/C Ratio*
Free Flowing LOS A	Relatively free-flow. No restrictions to vehicle maneuverability or speed. Very slight delay.	0.00-0.60
Minimal Delays LOS B	Stable Flow. Some slight reduction in maneuverability and speed. Vehicle platoons form. This is a suitable level of operation for rural design. Slight delay	0.61-0.70
Acceptable Delays LOS C	Stable flow operation. Higher volumes. More restrictions on maneuverability and speed. Acceptable delay.	0.71-0.80
Tolerable Delays LOS D	Approaching unstable flow operation. Queues develop. Little freedom to maneuver. Tolerable delays for short periods.	0.81-0.90
Significant Delays LOS E	Unstable flow or operation. Low operating speed; momentary stoppages. This condition is not uncommon in peak hours. Congestion and intolerable delays.	0.91-1.00
Excessive Delays LOS F	Forced flow or operation. There are many stoppages. The highway acts as a vehicle storage area. Jammed. Gridlock.	1.00+

Source: Highway Capacity Manual, HRB Special Report 87.

Some of the applicable goals, policies, and programs in the Circulation element might include:

Circulation Goal C-1 Policy C-1.3 Complete Streets: New development, that includes new streets or street segments, shall build multi-modal “complete streets” that are designed for the safety and comfort of cyclists and pedestrians, including children, the elderly, and people with disabilities, consistent with US Department of Transportation complete streets guidelines
Circulation Goal C-1 Policy C-1.3 Program C1.3.2 Through the Capital Improvement Plan and related impact fees, the City shall ensure that adequate funds are provided to maintain the existing circulation network, and where feasible upgrade it to “complete street” design.
Circulation Goal C-2 Policy C-2.2 Coordinate Land Use and Transportation: Ensure that the amount and phasing of development can be adequately served by transportation facilities.
Circulation Goal C-2 Policy C-2.3 Do not permit new development that would result in the exceedance of roadway and intersection Levels of Service standards unless one of the following conditions is met: <ul style="list-style-type: none"> a) Revisions are incorporated in the proposed development project which prevent the Level of Service from deteriorating below the adopted Level of Service standards; or b) Funding of pro rata share of the cost of circulation improvements and/or the construction of roadway improvements needed to maintain the established Level of Service is included as a condition or development standard of project approval.
Circulation Goal C-3 Policy C-3.3 High Trip Generating Uses: Traffic studies shall be required for all major development proposals that require a conditional approval, including but not limited to, drive-through facilities, fast food outlets, convenience markets, major tourist accommodations, shopping centers, commercial development, residential subdivisions, and other generators of high traffic volumes that would affect a Level of Service. Traffic studies shall identify, at a minimum: <ul style="list-style-type: none"> a) The amount of traffic to be added to the street system by the proposed development; b) Other known and foreseeable projects and their effects on the street system;

<ul style="list-style-type: none"> c) The direct, indirect, and cumulative adverse impacts of project traffic on street system operations, safety, and public access to the coast; d) Mitigation measures necessary to provide for project traffic while maintaining City Level of Service standards; e) The responsibility of the developer to provide improvements; and f) The timing of all improvements.
<p>Circulation Goal C-3 Policy C-3.4 Program C-3.4.1 Review site plans for new development to facilitate the continuation of streets to improve local circulation. Where streets are not feasible, priority shall be given to providing pedestrian and bicycle trails that establish bicycle and pedestrian connections to streets wherever possible.</p>
<p>Circulation Goal C-3 Policy C-3.5 Right-of-Way Acquisition: Require right-of-way dedications for new development to meet the City's roadway width standards</p>
<p>Circulation Goal C-4 Policy C-4.1 Reduce Through-Traffic on Local Streets: Reduce through-traffic on local streets to preserve the peace and quiet of residential areas.</p>

Additionally, ILUDC §18.36.090 and §18.36.100 provide standards for parking design and development and driveways. These standards are intended to ensure safety of the ingress/egress for traffic and sufficient parking to avert traffic hazards or the creation of hazards due to geometric design features.

Discussion

The proposed ordinances would establish regulation for cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones and does not include any physical development. All cannabis related proposals that would be conditionally allowable under the new regulations would be discretionary. While some projects may qualify for a CEQA exemption, such as a fully conforming dispensary in an existing commercial building, all cannabis related projects would be reviewed at the time they are proposed to determine if they would have transportation impacts. All future applications involving cannabis would be evaluated for consistency with the City's Inland General Plan and the above noted regulations and requirements for transportation. The subject zoning code amendment makes minor modifications to cannabis activities in commercial zones and establishes regulation for commercial cannabis cultivation in industrial zones. There is no physical development under the proposed project and no changes to transportation or circulation. Therefore, the proposed project will have no impact on transportation.

References

City of Fort Bragg, "Inland General Plan." 2013.

Federal Aviation Administration. (2022, February 8) (82CL) *Fort Bragg*. Retrieved from: <https://adip.faa.gov/agis/public/#/airportData/82CL>

Governor's Office of Planning and Research (OPR). (2022, January 24). Background and Purpose What is SB 743? Retrieved from: <https://opr.ca.gov/ceqa/sb-743/faq.html#:~:text=Background%20and%20Purpose-,What%20is%20SB%20743%3F,significant%20impact%20on%20the%20environment.&text=VMT%20measures%20how%20much%20actual,would%20create%20On%20California%20roads.>

Mendocino Council of Governments. 2020 Regional Transportation Improvement Program. Adopted December 2, 2019.

Mendocino Transit Authority (MTA). (2022, January 24). Mendocino Transit Authority. Retrieved from: <https://mendocinotransit.org/>

Tribal Cultural Resources

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>XVIII. TRIBAL CULTURAL RESOURCES. Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:</p>				
<p>a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

The area in and around the City was traditionally inhabited by the Mato Pomo, a division of the Hokan language-speaking Northern Pomo (Kroeber 1976:222). What anthropologists know of Northern Pomo ethno-geography comes from interviews recorded from Native descendants fifty to one hundred years or more after the contact period with the colonizing Euro-Americans, and the subsequent displacement of these Pomo people from their homelands. Barrett (1908), Kroeber (1925), Heizer (1978), Stewart (1943), Harrington (1942-3), and others provide published anthropological reference sources for the Mato Pomo.

The contact period with the Euro-Americans in northern California was violent and oppressive, as it was for many Native people in California. In 1855, an exploration party

from the Bureau of Indian Affairs visited the area in search of a site on which to establish a reservation and, the following year, the Mendocino Indian Reservation was established. It spanned an area from the south side of the Noyo River to north of the Ten Mile River, and east to Little Valley and Glen Blair.

In 1857, the Fort Bragg military post was established on the Mendocino Indian Reservation approximately 1.5 miles north of the Noyo River, its purpose was to maintain order on the reservation. Also in 1857, a lumber mill was established on the Noyo River starting what would become the major industry of the region. In 1865, after 300 Native Americans were marched forcibly from the Mendocino Indian Reservation to a reservation in Round Valley, Fort Bragg as a military post was abandoned. (City of Fort Bragg, 2022)

In Sherwood Valley, about thirty miles to the east of the City, the modern day Sherwood Valley Band of Pomo Rancheria includes descendants from the Mato and Little Lake (Willits) Mitom tribelets and villages. Other descendants may also be part of other tribes identified in the Cultural Resources Section of this document.

Regulatory Setting

A tribal cultural resource (TCR) is defined as a site, feature, place, cultural landscape, or sacred place or object that has cultural value to California Native American tribes. In order to be considered a TCR, the resource must be included in or determined eligible for inclusion in the CRHR or is included in a local register of historical resources. Pursuant to Public Resource Code [PRC] §2107, a TCR is defined as either:

1. *A site, feature, place, cultural landscape, sacred place, or object that has cultural value to California Native American Tribes that is included or determined to be eligible for inclusion in the California Register of Historical Resources (California Register) or a local register of historical resources.*
2. *A resources determined by the lead agency to be significant and is supported by substantial evidence.*
3. *A geographically defined cultural landscape that meets the criteria set forth in PRC §21074.*
4. *A historical resource described in PRC §21084.1, a unique archeological resource or “nonunique archaeological resource” described in PRC §21083.2 (g) and (h).*

The CEQA Guidelines state that California Native American tribes traditionally and culturally affiliated with a geographic area may have expertise concerning their TCRs. Lead agencies shall consult with these tribes who respond in writing and requests the consultation within 30 days of receipt of the formal notification of the project (PRC §21080.3.1). Traditionally and culturally affiliated tribes of a project area may suggest mitigation measures, including, but not limited to, those recommended in §21084.3.

Additionally, the City regulates the discovery, treatment, and preservation of archaeological resources in ILUDC §18.50.030 as detailed in the Cultural Resources discussion of this document.

Discussion

The proposed ordinances would establish regulation for cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones and does not propose any physical development. All future cannabis related proposals would continue be conditionally allowable under the new regulations and subject to review under CEQA. While some future CBP applications may be exempt, all CBP applications would be reviewed at the time they are proposed to determine if they would have a significant impact on Tribal Cultural Resources.

When an application for a discretionary permit is received, it is evaluated to determine if the project is located in an area with the potential for archaeological resources as noted in the above cultural resources section. Discretionary projects are referred to local tribal governments, individuals, and entities, and are invited to comment. A tribe may request an archaeological review, site visit, and/or that a tribal monitor be present on site during ground disturbance, excavation, and construction. The City of Fort Bragg is committed to working with tribes through the AB 52 notice and consultation process to ensure that known and undiscovered tribal cultural resources are protected and any concerns raised through the AB 52 process are adequately addressed.

The proposed code amendments do not change any goals, policies or programs established for the protection of tribal cultural resources, and the proposed amendments do not include any physical development, ground disturbance or other activities that could directly or indirectly affect tribal cultural resources. Therefore, the proposed ordinances will have no impacts on Tribal Cultural Resources.

References

City of Fort Bragg, "*Inland Land Use Development Code.*" March, 2014.

City of Fort Bragg. (2022, January) City History. Retrieved from:
<https://www.city.fortbragg.com/departments/city-clerk/city-history#ad-image-11>

State of California, "*California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000– 15387, CEQA Guidelines.*" Updated January 1, 2021.
<http://leginfo.legislature.ca.gov/faces/home.xhtml>

Utilities and Service Systems

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XIX. UTILITIES AND SERVICE SYSTEMS. Would the project:				
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

Water

The City's water system is comprised of three surface water sources; two raw water transmission mains, totaling about 6 miles in length; two raw water storage ponds located at the Water Treatment Plant (WTP); three 1.5 million gallon (MG) steel storage

tanks, and one 300,000 gallon storage tank; over 30 miles of distribution lines that deliver water throughout Fort Bragg; and one booster pump station for the East Fort Bragg pressure zone. The WTP was originally constructed in the 1950's, and upgraded in the 1980's, and has a capacity of 2.2 million gallons per day (MGD).

The City's water supply system draws raw water primarily from the Noyo River, which has a limitation that pumping does not exceed 3.0 cubic feet per second (cfs). The Noyo River direct diversion flows by gravity into a 5,000 gallon wet well, and is then pumped via pipeline to the WTP from a pump station located on the river bank. The Newman Reservoir is an on-stream reservoir located on a 54-acre parcel owned by the City of Fort Bragg, and impounds water from Newman Gulch. Summers Lane Reservoir (SLR) was constructed in 2016 and has a capacity of 45 acre-feet (AF). It is located on the same property as Newman Reservoir, and draws its water from Waterfall Gulch. Approximately 20% of the City's water supply during the summer months is stored water drawn from the Newman and Summers Lane Reservoirs. Water from Newman and Waterfall Gulch is gravity fed through a single six- to ten-inch pipeline to the raw water storage ponds at the WTP.

SLR provides an additional 15 million gallons MG of raw water storage to help ensure a reliable water supply during the late summer months when flows are low at the City's three water sources (Fort Bragg, December 2019). This additional storage assists in ensuring an adequate water supply during severe drought years. Additionally, in 2021, the City purchased a mobile desalination unit to ensure adequate water supply in severe drought years. (City of Fort Bragg, 2021)

Wastewater System

Sewage treatment and disposal are provided by the Fort Bragg Municipal Improvement District No. 1 (MID). The MID is somewhat larger than the City; it includes some of the Local Agency Formation Commission (LaFCO) proposed Sphere of Influence. The MID accepts wastewater from residences and businesses outside the City boundaries but within the MID boundaries.

The MID wastewater system is comprised of over 25 miles of gravity-fed pipelines and pressure force mains, six sewage lift stations, the Wastewater Treatment Plant (WWTP), and an ocean outfall pipeline that extends 690 feet into the Pacific Ocean. The WWTP was constructed in 1971 and recently underwent a substantial upgrade which was completed in 2020. It has a secondary treatment level capacity of 0.8 million gallons per day (MGD) for average dry weather flow (ADWF) and 4.9 MGD Peak Hydraulic Flow. The MID completed upgrades to the pump stations in 2020. The City ensures functionality of sewer piping through Cure in Place Projects every other year as part of the Capital Improvement Program.

Storm Drain System

While some of the priority storm drain improvements in the 2004 Storm Drain Master Plan have been implemented, there are additional problems identified in that report that still need to be addressed. In addition, many of the areas north of Pudding Creek and south of the Noyo River generally do not have improved drainage systems in place. Drainage in these areas is generally provided by natural channels. New development in

the City is required to either make or pay for improvements necessary to ensure adequate capacity within the storm drain system.

Solid Waste

The City of Fort Bragg has a franchise agreement with a private service provider for the residential and commercial collection, transportation, and disposal of solid waste. This includes recycling and green waste services. Historically, the services have been provided to the City by Waste Management Inc. However, the City put the service out to bid in 2021 and a new provider was selected. Beginning on July 1, 2022, C&S Waste Solutions, which is a subsidiary of Waste Connections will provide the service.

Energy

There are currently two energy providers in the City of Fort Bragg, Pacific Gas and Electric and Sonoma Clean Power (SCP) which is the community choice aggregate energy provider. Both companies offer 100% renewable energy packages in addition to their standard energy portfolios. The City does not have a natural gas pipeline. Propane is available through several independent companies that provide propane tanks and propane gas delivery.

Regulatory Setting

Water

In California, water rights law is administered by the State Water Resources Control Board (SWRCB), it is the only agency with authority to administer water rights in California, but shares the authority to enforce water right laws with the state courts. The SWRCB defines a water right as legal permission to use a reasonable amount of water for a beneficial purpose such as swimming, fishing, farming or industry. The North Coast Regional Water Quality Control Board (NCRWQCB) is the regional agency that regulates water quality for drinking water, ocean discharge, and stormwater. Applicable laws are mentioned in the discussion of hydrology and water quality. (SWRCB, 2022)

Waste

In 1989, the State of California passed the Integrated Waste Management Act which is in statute as Division 30 of the Public Resources Code [40000-49654]. The State Agency responsible for regulating and permitting waste management is Cal Recycle which operates under Title 14 and Title 27 of the California Code of Regulations. (CalRecycle, 2022)

The California Department of Cannabis Control (DCC) also regulates waste management specific to cannabis businesses under California Code of Regulations Title 4, Division 19, Chapter 9 [§17223].

At the local level, the City's Municipal Code regulates solid waste under Chapter 6.08 Refuse and Recyclable Collection. Specific regulations in the current Chapter 9.30 ((§9.30.050(N)(6)) require that cannabis businesses provide 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.

Energy

Public Utilities, including electrical service providers fall under the authority of the California Public Utilities Commission. The CPUC investigates alleged violations of the Public Utilities Code, CPUC regulations, and other California statutes involving stationary utilities, including telephone (both wireline and wireless), electric, gas and water companies. These investigations generally involve consumer fraud, marketing abuse and other utility misconduct. (CPUC, 2022)

Local Regulations

The Public Facilities Element of the Inland General Plan has goals, policies and programs to manage the impacts of growth on the City's infrastructure. These can be found in Page 3-3 through 3-6 of the City's General Plan. Included in these policies are:

Public Facilities Goal PF-1 Ensure that new development is served by adequate public services and infrastructure.
Public Facilities Goal PF-1 Policy PF-1.1 Ensure Adequate Services and Infrastructure for New Development: Review new development proposals to ensure that the development can be served with adequate potable water; wastewater collection, treatment, and disposal; storm drainage; fire and emergency medical response; police protection; transportation; schools; and solid waste collection and disposal.
Public Facilities Goal PF-1 Policy PF-1.2 All new development proposals shall be reviewed and conditioned to ensure that adequate public services and infrastructure can be provided to the development without substantially reducing the services provided to existing residents and businesses.
Public Facilities Goal PF-1 Policy PF-1.2 Program PF-1.2.1: New development shall be responsible for any improvements or extensions of infrastructure or the service capacity necessary to serve the development.

Discussion

The proposed ordinances would establish regulation for commercial cannabis cultivation in industrial zones and make minor modifications to the existing regulations for allowable cannabis business activities in commercial zones. As an amendment to the zoning code, the subject project does not include any physical development. There would be no substantial changes to demands on utilities and services systems relative to the existing code, which currently allows for industrial and commercial business that would generate demand for services and no change in the size or location of where commercial and industrial activities are allowed.

All future cannabis related applications received under the proposed code amendments would be conditionally allowable and subject to discretionary review. Depending on the methods employed, indoor commercial cannabis cultivation can be resource intensive in terms of water and power. A small efficient cultivation may have negligible resource demands whereas a very large inefficient cultivation may result in significant demands for utilities and services. In order to determine whether a project would have an impact

on water and energy usage, cannabis applicants are currently required under Municipal Code to include the following:

§9.30.050(O)(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;

§9.30.050(O)(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, a community choice aggregate energy provider, or other methods to reduce energy consumption;

The proposed changes to the ILUDC, §18.42.055(B)(3)(b) will require that an applicant provide proof of the utility provider's ability to provide reliable power to the cultivation. This will be similar to the current requirement in Municipal Code 9.30.050(N)(6) for waste disposal and is typically received in the form of a letter from the utility provider.

The City's Public Works/Engineering Department would review the operating plans including an evaluation of both potable and wastewater capacity. The City's Municipal Code establishes regulation for the efficient use of utilities and service systems including Chapter 14.06 Water Conservation, Chapter 14.17 Wastewater, and Chapter 12.14 Drainage Facility Improvements. As part of the cannabis business permit review process, the City would review applications for consistency with the General Plan and Municipal Code including the capacity of utility and services systems to serve the proposed project. Furthermore, in addition to design standard for new construction, as required in the General Plan, development impacts fees are collected to fund the maintenance of the water and wastewater systems as it is built out.

As stated previously, the proposed code amendment adds cannabis cultivation as a conditionally allowable use to the industrial zones and make minor modifications to existing regulations for cannabis business activities in commercial zones. There is no change to the location or size of the zones and there is no proposed physical development. Therefore, the project will have no impacts on utilities and service systems.

References

California Public Utilities Commission (CPUC). (2022, January 26). Utility Enforcement Branch. Retrieved from California Public Utilities Commission (CPUC): <https://www.cpuc.ca.gov/regulatory-services/enforcement-and-citations/utility-enforcement-branch>

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California State Water Resources Control Board. (2022, January 25). California Waterboards. Retrieved from California Waterboards:
https://www.waterboards.ca.gov/water_issues/programs/

City of Fort Bragg. (2022, January 24). Municipal Code. City of Fort Bragg:
<https://www.codepublishing.com/CA/FortBragg/#!/FortBraggNT.html>

City of Fort Bragg (2013). Inland General Plan. City of Fort Bragg.

City of Fort Bragg. "News Release: Water Desalination System Ribbon Cutting Ceremony." October 6, 2021.

Wildfire

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XX. WILDFIRE. If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:				
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Wildfire Setting

Most of the City of Fort Brag is located outside of high fire risk zones but there are some areas showing high risk in Figure 17 and in Figure 18.

The City of Fort Bragg has an evacuation map (see Figure 19) which would be used in the event of a wildfire or other emergency to evacuate the City.

Figure 17: CalFire Fire Threat in the City of Fort Bragg

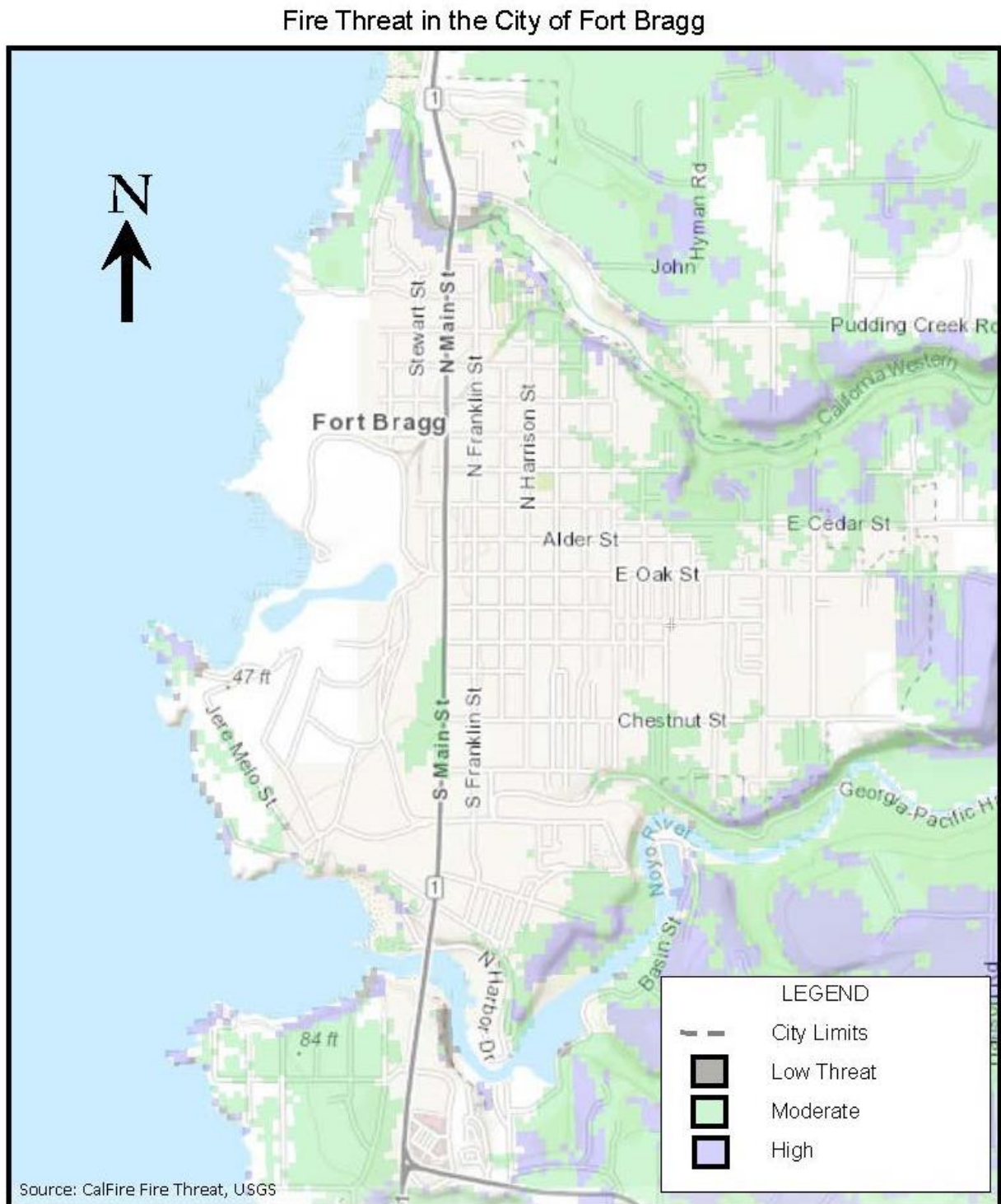
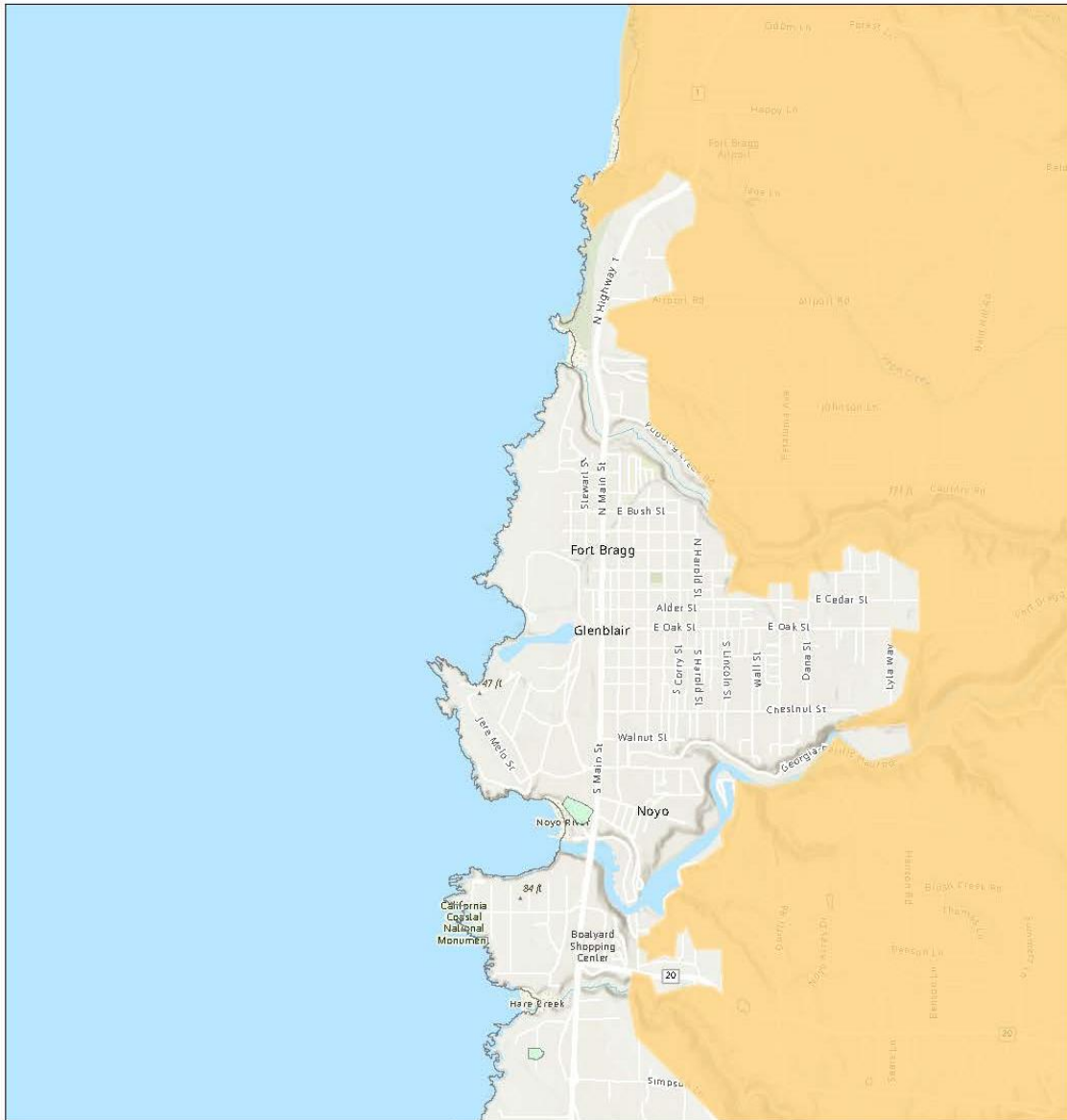


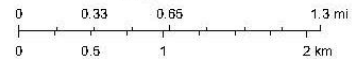
Figure 18: California Public Utilities Commission High Fire Threat Map
Fort Bragg Fire Threat Map



2/3/2022, 2:39:25 PM

- CPUC High Fire Threat District - Tier 2
- CPUC HFTD-Zone 1 (CAL FIRE High Hazard Zones Tier 1)
- California County Boundaries

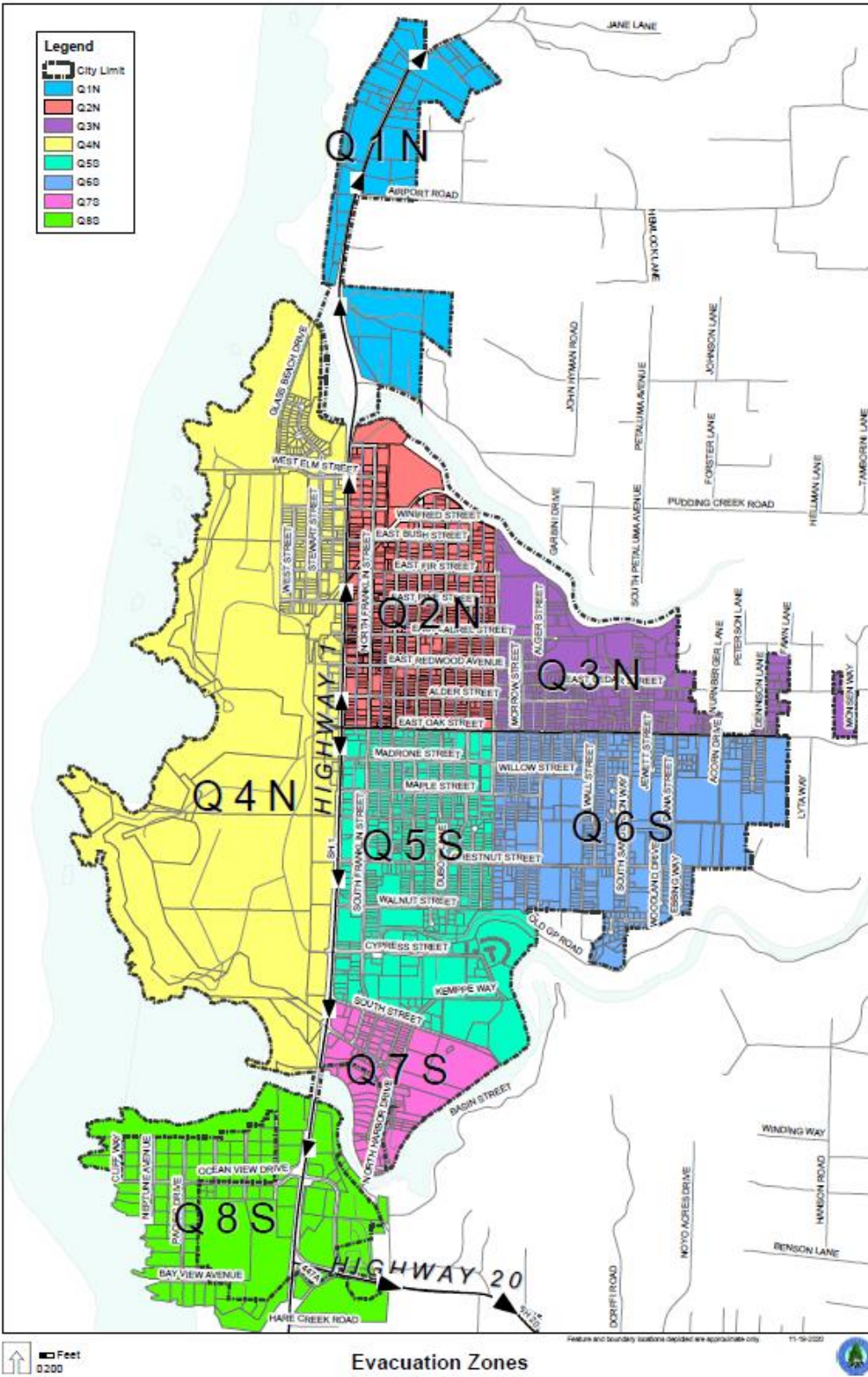
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Esri, NASA, NGA, USGS, FEMA, California State Parks, Esri, HERE, Garmin, SafeGraph, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, US Census Bureau, USDA

CPUC-SED
Esri, NASA, NGA, USGS, FEMA | Esri Community Maps Contributors, California State Parks, Esri, HERE, Garmin, SafeGraph, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, US Census Bureau, USDA |

Figure 19: City of Fort Bragg Evacuation Map



Regulatory Setting

Wildfires are a hazard and fall under the same authority at the federal level as other hazards (see above Hazards and Hazardous Materials section).

Since 1995, the Office of the State Fire Marshal (OSFM) supports the CAL FIRE mission to protect life and property through fire prevention engineering programs, law and code enforcement and education. The OSFM provides for fire prevention by enforcing fire-related laws in state-owned or operated buildings, investigating arson fires in California, licensing those who inspect and service fire protection systems, approving fireworks as safe and sane for use in California, regulating the use of chemical flame retardants, evaluating building materials against fire safety standards, regulating hazardous liquid pipelines, and tracking incident statistics for local and state government emergency response agencies. (Cal Fire, 2022) Cal Fire has a local station at 802 N Main St. in the City limits.

The City is also part of the Fort Bragg Fire Protection Authority. Goal SF-4 - Reduce fire hazards of the Inland General Plan Element 7- Safety has specific policies and programs to reduce fire hazards:

Safety Goal SF-4 Policy SF-4.1 Minimize Fire Risk in New Development: Review all development proposals for fire risk and require mitigation measures to reduce the probability of fire.
Safety Goal SF-4 Policy SF-4.1 Program SF-4.1.1: Continue to consult the Fort Bragg Fire Protection Authority in the review of development proposals to identify the projected demand for fire protection services and implement measures to maintain adequate fire protection services. Mitigation measures may include levying fire protection impact fees for capital facilities, if warranted.
Safety Goal SF-4 Policy SF-4.2 Maintain a High Level of Fire Protection: Work with the Fire Protection Authority to ensure a continued high level of fire protection.
Safety Goal SF-4 Policy SF-4.2 Program SF-4.2.1: Increase water main sizes or loop existing water mains where necessary to provide adequate flows for fire protection. The standard for water flow for fire protection purposes in commercial uses should be a minimum of 1,000 gallons per minute for 2 hours with 20 pounds per square inch residual pressure.
Safety Goal SF-4 Policy SF-4.2 Program SF-4.2.2 Develop a plan to provide sprinklers for commercial structures in the Central Business District. The plan shall include consideration of City funding to construct risers for this area.
Safety Goal SF-4 Policy SF-4.2 Program SF-4.2.3 Work with the Fort Bragg Fire Protection Authority to establish a regular schedule for periodic inspections of commercial and industrial premises by the Fire Prevention Officer.

The City regulates fire safety through the Municipal Code Title 15 Building and Construction Chapter 15.05 California Fire Code, Chapter 15.06 Fire Sprinklers, as well as Chapter 6.20 Burning Regulations and Restrictions of the Health and Sanitation Code. Additionally, §6.12.040(E)(3) of the Municipal Code declares that overgrown

vegetation causing a fire hazard is subject to abatement requirements and violation penalties in Chapter 6.12 Nuisances.

Discussion

The proposed ordinances would establish regulation for cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones and precludes any physical development.

All future CBP applications would be conditionally allowable under the new regulations and would be subject to discretionary review, including an assessment of wildfire risk. All commercial/industrial remodel or new construction projects require a building permit, all of which are reviewed by the Fire Marshall at the Fort Bragg Fire Department. The Fire Marshall is responsible for placing conditions on projects to ensure that it meets the City's Fire Code, California Fire Code, and does not increase the risk of fire in the City. All new and remodeled construction are further subject to review by the building official including compliance with the California Building Code.

The proposed ordinances will not change the rules or regulations that protect the community from wildfire. The proposed ordinances do not propose any physical development and applies exclusively to properties that are already zoned to allow for commercial or industrial uses. All future development projects would be subject to the existing regulations, compliance with the California Building Code and the Fire Code. Therefore, the proposed project would have no impact on wildfire hazards.

References

CA Governor's Office of Planning and Research. (2022, January 21). OPR General Plan Guidelines Tool. Retrieved from: <http://maps.gis.ca.gov/cageneralplan/map.aspx>

California Public Utilities Commission (CPUC). (2022, January 26). Fire Threat Map. Retrieved from California Public Utilities Commission (CPUC): <https://capuc.maps.arcgis.com/apps/webappviewer/index.html?id=5bdb921d747a46929d9f00dbdb6d0fa2>

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City of Fort Bragg. (2022, January 24). Municipal Code. City of Fort Bragg: <https://www.codepublishing.com/CA/FortBragg/#!/FortBraggNT.html>

City of Fort Bragg (2013). Inland General Plan. City of Fort Bragg.

Mandatory Findings of Significance

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XXI. MANDATORY FINDINGS OF SIGNIFICANCE.				
a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Regulatory Setting

The federal, state, and City governments have existing laws and regulations in place that regulate and manage development to define, prevent, and/or mitigate environmental impacts. Cannabis business activity is heavily regulated by the State of California Department of Cannabis Control (DCC). As discretionary projects, all projects proposed in the City limits are subject to review under CEQA, though some projects (such as a cannabis dispensary in an existing retail building) may be found to

be exempt. Any proposed project is subject to the City's regulations in the Municipal Code and Inland Land Use Development Code.

And, as previously noted, the Department of Cannabis Control Regulations include §16304. General Environmental Protection Measures which says:

(a) All licensed cultivators shall comply with all of the following environmental protection measures:

(1) Principles, guidelines, and requirements adopted pursuant to section 13149 of the Water Code and implemented by the State Water Resources Control Board, Regional Water Quality Control Boards, or California Department of Fish and Wildlife;

(2) Any conditions of licensure included pursuant to section 26060.1(b)(1) of the Business and Professions Code;

(3) Requirements of section 7050.5(b) of the Health and Safety Code if human remains are discovered during cultivation activities;

(4) Requirements for generators pursuant to section 16306;

(5) Requirements for pesticides pursuant to section 16307;

(6) Outdoor lights used for safety or security purposes are shielded and downward facing; and

(7) Lights used for indoor or mixed-light cultivation are shielded from sunset to sunrise to reduce nighttime glare.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26060, 26066 and 26201, Business and Professions Code.

Discussion

The proposed code amendments do not change the environmental protections established in the City's codes for the protection of habitat, cultural resources, and public health and safety. There is no proposed change to the size or location of the industrial or commercial zones and as a zoning text amendment, the project does not include any physical development. The proposed code amendments will add regulations for a conditionally allowable use to the industrial zones and make minor modifications to existing regulations for cannabis businesses in the commercial zones. All proposed cannabis business activity is subject to a cannabis business permit, which is fully discretionary. Because these regulations are in place and will apply to future projects, the addition of a new conditional use and the minor modifications to existing regulations for cannabis business activity in commercial zones will not have cumulative impacts on the environment, directly or indirectly. Therefore, there would be no impacts under the proposed zoning text amendment relative to the existing zoning code.

Attachments

Attachment A	Proposed Amendments to City of Fort Bragg Municipal Code Chapter 9.30 Cannabis Businesses
Attachment 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
Attachment C	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
Attachment D	Proposed Amendment to ILUDC Chapter 10 Definitions Including New and Revised Definitions in §18.100.020
Attachment E	MCAQMD Adopted Air Quality CEQA Thresholds of Significance
Attachment F	State of California Department of Cannabis Control Regulations

Adopted Air Quality CEQA thresholds of Significance – June 2, 2010			
POLLUTANT	CONSTRUCTION RELATED	OPERATIONAL RELATED	
Criteria Pollutants and Precursors (Regional)	Average Daily Emissions (lb/day)	Indirect Average Daily Emissions (lb/day)	Stationary Maximum Annual Emissions (tpy)
ROG	54 (Bay Area AQMD)	180	40
NOx	54 (Bay Area AQMD)	42	40
PM ₁₀	82	82	15
PM _{2.5}	54	54	10
Fugitive Dust - PM ₁₀ /PM _{2.5}	Best Management Practices	Same as Above	
Local CO	None	125 tpy	
GHG's Projects other than Stationary Sources	None	1,100 Metric Tons of CO ₂ e/yr OR 4.6 Metric Tons CO ₂ e/SP/yr (residents + employees)	
GHG's Stationary Sources	None	10,000 MT/yr	
Risk & Hazards – New Source	Same as Operational Thresholds	Increased cancer risk >10 in a million Increased non-cancer risk >1.0 Hazard Index (<i>Chronic or Acute</i>) Ambient PM _{2.5} increase >3.0 µg/m ³ annual average <u>Zone of Influence:</u> 1,000-foot radius from fence line of source or receptor	
Risk & Hazards – New Receptor (Individual Project)	Same as Operational Thresholds	Increased cancer risk >10 in a million Increased non-cancer risk >1.0 Hazard Index (<i>Chronic or Acute</i>) Ambient PM _{2.5} increase >3.0 µg/m ³ annual average <u>Zone of Influence:</u> 1,000-foot radius from fence line of source or receptor	

Air District policy is that adopted thresholds apply to projects for which a Notice of Preparation is published, or environmental analysis begins, on or after the applicable effective date. The adopted CEQA thresholds – except for the risk and hazards thresholds for new receptors – are effective June 2, 2010. The risk and hazards threshold for new receptors are effective January 1, 2011.

The District recommends that for construction projects that are less than one year duration, Lead Agencies should annualize impacts over the scope of actual days that peak impacts are to occur, rather than the full year.

CO= carbon monoxide; CO₂e= carbon dioxide equivalent; GHGs= greenhouse gases; lb/day= pounds per day; MT= metric tons; NOx= oxides of nitrogen; PM_{2.5}= fine particulate matter with aerodynamic resistance diameter of 2.5 microns or less; PM₁₀= respirable particulate matter with aerodynamic resistance diameter of 10 microns or less; PPM= parts per million; ROG= reactive organic gases; SP= service population; tpy= Tons per year; yr= year

Adopted Air Quality CEQA thresholds of Significance – June 2, 2010		
POLLUTANT	CONSTRUCTION RELATED	OPERATIONAL RELATED
Risk & Hazards – New Source (Cumulative Thresholds)	Same as Operational Thresholds	Cancer > 100 in million (from all local sources) Non-Cancer >10.0 Hazard Index (chronic) (from all local sources) PM _{2.5} >0.8 µg/m ³ annual average (from all sources) <u>Zone of Influence:</u> 1,000-foot radius from fence line of source or receptor
Risk & Hazards – New Receptor (Cumulative Thresholds)	Same as Operational Thresholds	Cancer > 100 in million (from all local sources) Non-Cancer >10.0 Hazard Index (chronic) (from all local sources) PM _{2.5} >0.8 µg/m ³ annual average (from all sources) <u>Zone of Influence:</u> 1,000-foot radius from fence line of source or receptor
Accidental Release of Acutely Hazardous Air Pollutants	None	Storage or use of acutely hazardous materials located near receptors or receptors located near stored or used acutely hazardous materials considered significant
Odors	None	District determination
Plan Level		
Criteria Pollutants & precursors	None	1. Consistency with current Air Quality Plan control measures 2. Projected VMT or vehicle Trip increase is ≤ projected population increase
GHG's	None	Compliance with Qualified Greenhouse Gas Reduction Strategy (or similar criteria included in General Plan) OR 6.6 MT Co2e/SP/yr (Residents + employees)
Risks & Hazards	None	Overlay zones around existing and planned sources of TACs
Odors	None	Identify locations of odor sources in general plan
Accidental Release of Acutely Hazardous Air Pollutants	None	None
Regional Plans (Transportation & Air Quality Plans)		
GHG's, Criteria Air Pollutants and Precursors, and Toxic Air Contaminants	None	No net increase in emissions

CO= carbon monoxide; CO₂e= carbon dioxide equivalent; GHGs= greenhouse gases; lb/day= pounds per day; MT= metric tons; NO_x= oxides of nitrogen; PM_{2.5}= fine particulate matter with aerodynamic resistance diameter of 2.5 microns or less; PM₁₀= respirable particulate matter with aerodynamic resistance diameter of 10 microns or less; PPM= parts per million; ROG= reactive organic gases; SP= service population; tpy= Tons per year; yr= year

RESOLUTION NO. PC 12-2021

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 1X, 2022.

WHEREAS, on February 23, 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;

NOW, THEREFORE, BE IT RESOLVED that 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:

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.

BE IT FURTHER RESOLVED that this Resolution shall become effective immediately upon its passage and adoption.

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 23rd day of February 2022, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:

Jeremy Logan, Chair

ATTEST:

Sarah Peters, Administrative Assistant



ILUDC Amendment 1-22 Cannabis Land Use Updates

HEATHER GUREWITZ, MCRP, AICP
ASSOCIATE PLANNER
COMMUNITY DEVELOPMENT DEPARTMENT



Process



- ▶ Community Development Committee Deferral to Council
- ▶ Council Direction Provided
- ▶ Council Direction Confirmed
- ▶ Staff Prepared Draft Ordinance and Initial Study
- ▶ Initial Study circulated
- ▶ **Planning Commission - review and recommendation**
- ▶ City Council (possible revisions and) Introduction
- ▶ City Council Adoption
- ▶ Amended Codes take effect

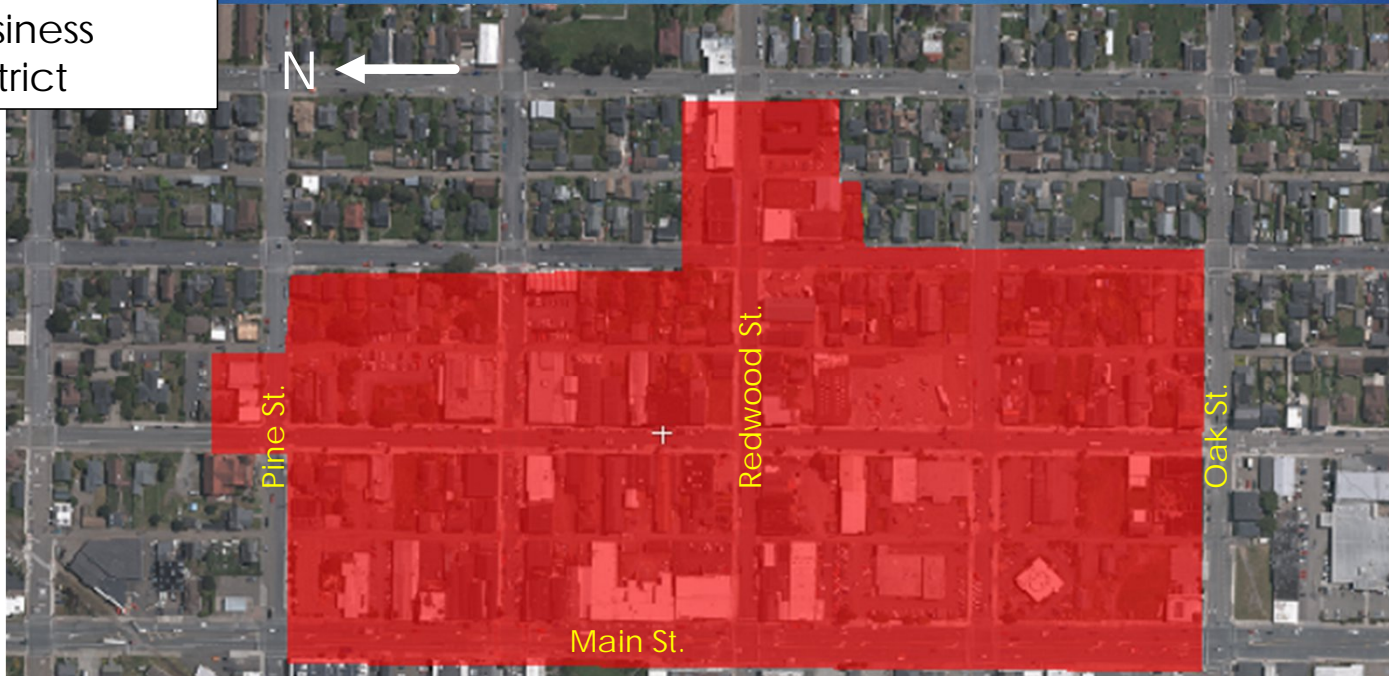
Project Scope



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 amendment Chapter 9.30 are provided for reference purposes only because they are integral to the regulation of cannabis businesses in the City limits.



Inland
Central
Business
District



The core of the downtown which is the civic, cultural, and commercial center of the City. The CBD zone is intended to accommodate retail stores, government and professional offices, theaters, and other similar and related uses in the context of pedestrian-oriented development.

Inland
Highway
Visitor
Commercial



CH - Applied to sites along Highway 1 and arterials at the entry points to the community. Allowable land uses include lodging, restaurants, and retail stores.



Inland
General
Commercial



Less compact and intensive commercial uses than those accommodated within the CBD zone... more auto-oriented than pedestrian-oriented, and may include automotive and service-related uses, a wide range of retail stores, including those selling large products

Inland
Industrial
Zones



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. 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.

Existing (not changing) Cannabis Retail



- ▶ Must have a (discretionary) Cannabis Business Permit
- ▶ State requires that IDs are checked to confirm 21 and over
- ▶ No on-site consumption of cannabis allowed
- ▶ No consumption allowed within parking lot or the public right of way
- ▶ Must leave the store in sealed opaque packaging
- ▶ Must provide a security plan and pass a background check

Existing Cannabis Cultivation



- ▶ Requires state license and discretionary City Cannabis Business Permit
- ▶ Indoor only – requires fully enclosed and secure structure
- ▶ Must provide a water usage plan and use on-site recycling
- ▶ Shall either enroll in a community choice aggregate energy provider or install solar panels
- ▶ Subject to CEQA

Commercial Cultivation and Retail



- ▶ Commercial Cultivation of Mature Plants in Industrial Areas only with provisions for water and energy usage.
 - ▶ Accessory store front retail allowed
- ▶ Retail Cannabis
 - ▶ 100 ft buffer zone around schools and youth centers
 - ▶ Cannabis dispensaries (with one accessory use) allowed by right in Commercial with a discretionary Cannabis Business Permit
 - ▶ Maximum of three dispensaries in the CBD, no limit elsewhere

Commercial Cultivation



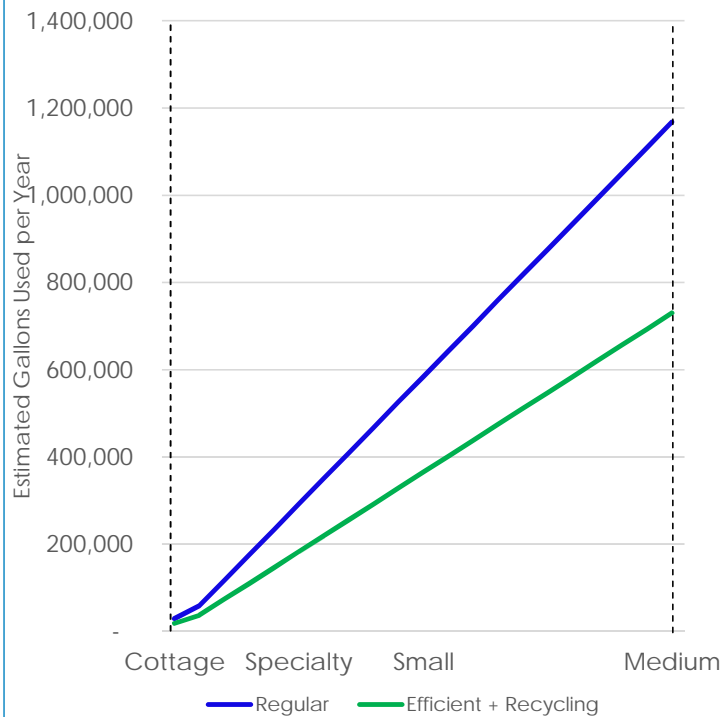
- ▶ Outdoor is prohibited
 - ▶ Includes plastic sheeting green houses or hoop houses
- ▶ Indoor allowable with Minor Use Permit in the industrial zone



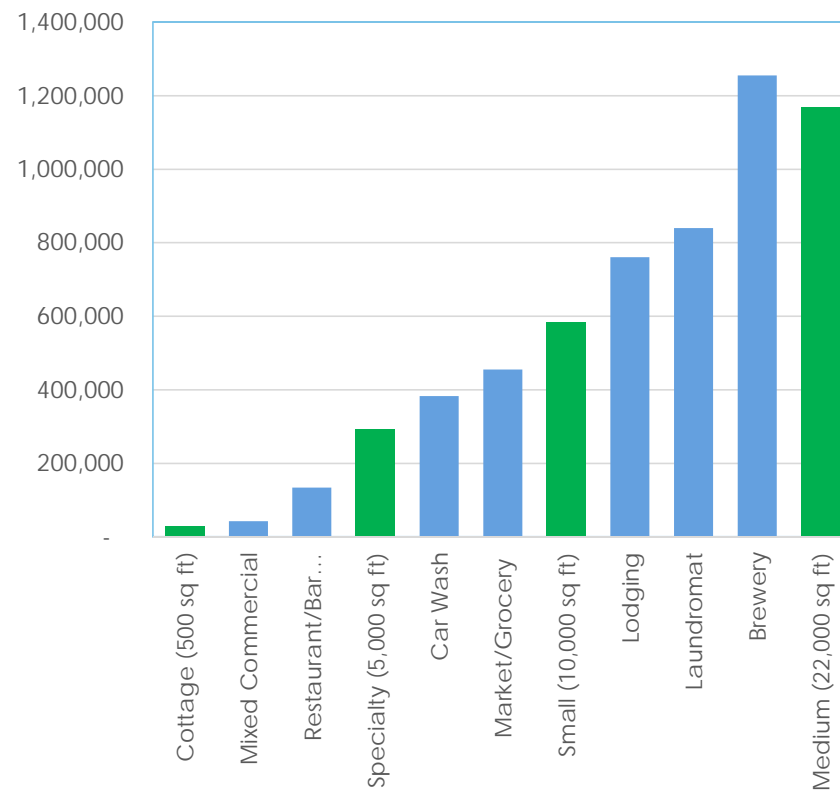


Cannabis Cultivation - Water Usage

Range of Potential Water Usage by Cannabis Cultivation



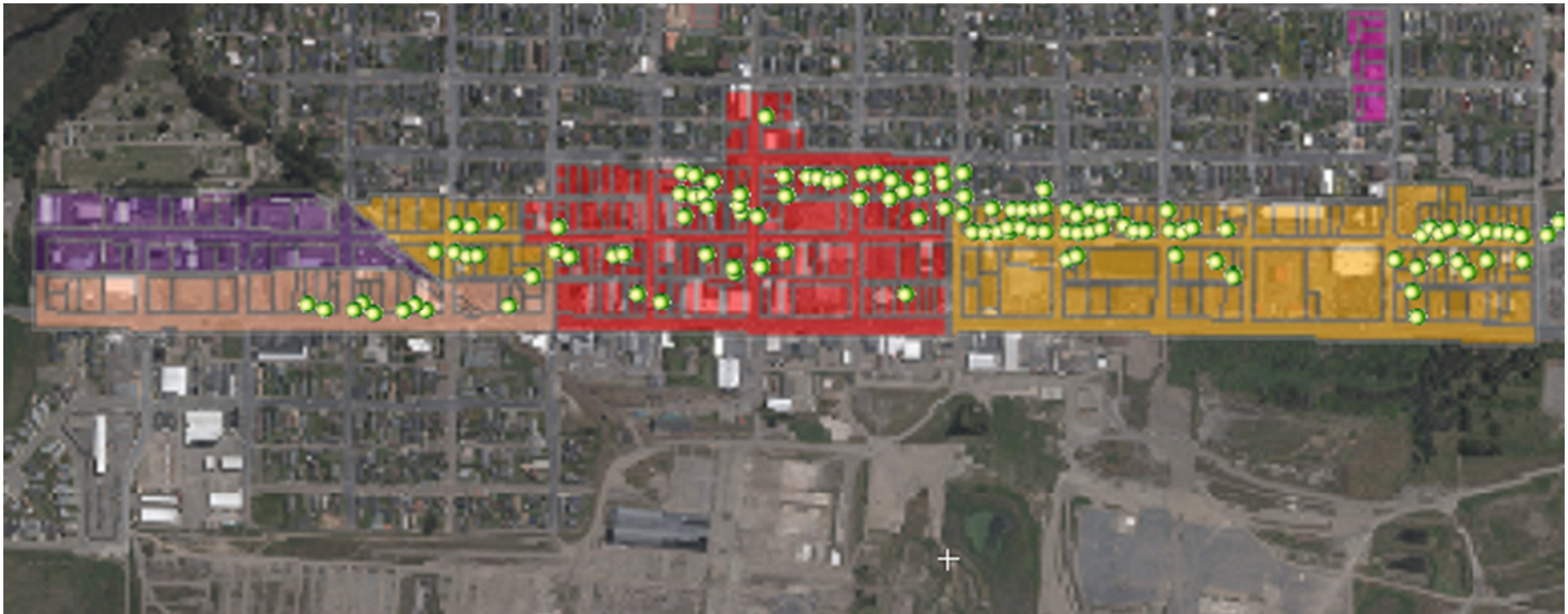
Comparison with Other Business Types



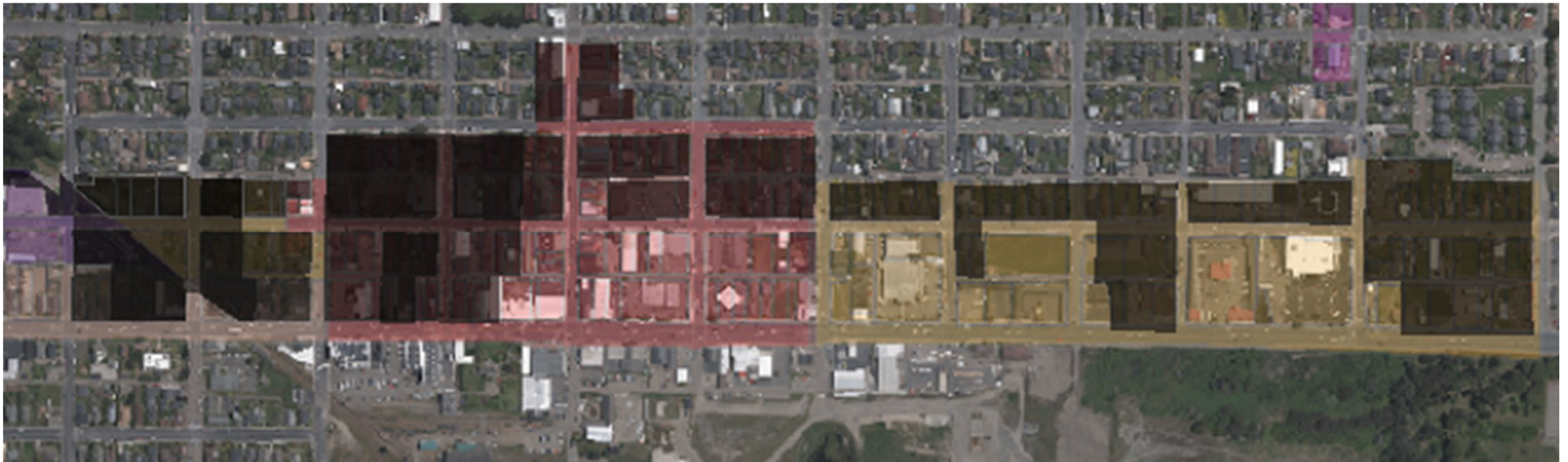
Youth Center Buffer



Residential in Inland Commercial



Combination of 300' Youth buffer and 25' Residential buffer



Council Direction – Accessory Uses



- ▶ Accessory Uses
 - ▶ Non-flowering/nursery cultivation in all commercial zones
 - ▶ On-site Distribution allows movement of product from nursery/manufacturing to retail sale onsite only.
 - ▶ Distribution and wholesale in Highway Visitor and General Commercial
 - ▶ Artisan manufacturing in CBD
 - ▶ Manufacturing in Highway Visitor and General Commercial

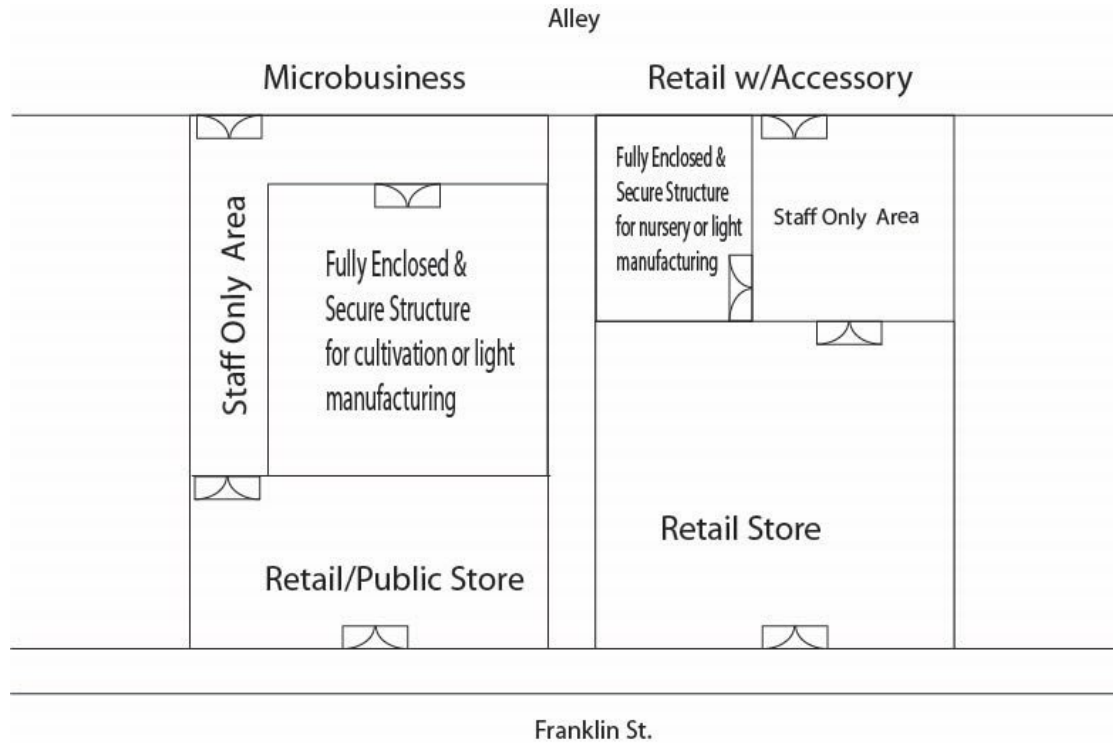
Council Direction - Microbusiness



▶ Microbusiness

- ▶ More than two types of cannabis activity = microbusiness, or two if neither is accessory (except on-site distribution)
- ▶ Uses for microbusiness are the same as allowable accessory uses, the difference is the size of operation and the number.
- ▶ Requires a minor use permit as well as a cannabis business permit

Example Microbusiness v. Retail w/Accessory Use



Negative Declaration – Initial Study



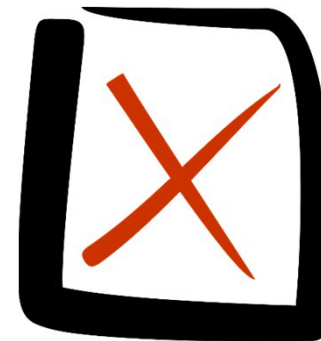
- ▶ Additional consistent use in (Inland) Industrial Zones
- ▶ Minor modifications to existing Land Use Regulations for commercial zones
- ▶ No change in location or size of zones
- ▶ No proposed physical development
- ▶ **NO SPECULATION**



Planning Commission Recommendation



- ▶ Recommend approval
- ▶ Recommend approval with recommended changes
- ▶ Recommend not to approve



Commissioner Feall?
Please consider this Letter to AYA Editor, especially as pertains to Council to suppress of Planning Commission regarding Cannabis dispensary Permit Process.
Sincerely,
Zoe Mann
(and others)

DUE PROCESS IN FORT BRAGG?

Editor:

How many of you are there? No matter what your politics or how you feel about CANNABIS, two long awaited VOTER INITIATIVE PETITIONS are circulating among registered Fort Bragg voters, waiting for your signatures. One of the Petitions preserves the gravely endangered Cannabis Permit Application Review Process itself; an ordinance which included public input, and which the City spent two years and significant tax dollars to fine tune. The companion Petition calls for neighborhood protective Buffer Zones. Once the required number of signatures have been collected, each certified measure will be put to a vote by Public Referendum. As we locals would say, "this is important."

Most of us accept the legal right of Cannabis Dispensaries to locate in the CENTRAL BUSINESS DISTRICT of Fort Bragg. What we do *not* accept – is the current attempt by a bare majority of City Council members to cancel the rights of Fort Bragg businesses, residents, and property owners – to participate in *how* and *where* cannabis dispensaries should be located within the CBD.

At this very moment a small majority of City Council members are attempting to substitute their PERSONAL AGENDA CANNABIS ORDINANCE in place of Fort Bragg's existing Inland Land Use and Development Code. The heavy handed group of politicians have instructed staff to radically trash existing code in favor of cannabis permits by "Right" rather than the more prudent cannabis permit by "Review." This vending machine approach is a reflection of the Mayor and two Council Members' public statements that cannabis dispensaries should be treated like "any other business." Assaults like this on Due Process have the net result of removing Fort Bragg's Planning Commission and everyone else from the sacred right of Neighborhood Impact Review.

Even more disturbing, the same three public officials have indicated they plan to give the many Commercial Cannabis Applicants the expanded right to CULTIVATION, MANUFACTURE, and LARGE SCALE TRUCKING DISTRIBUTION within the Central Business District. Though previously met with large community opposition, it appears (if the Council's new language is approved) that the first applicant in line to receive one of these easy to get permits will locate in the CBD's epicenter (former Floor Store). The site is less than 20 feet from a densely populated residential neighborhood and its children, and around 60 feet from a federal post office, major bank, family restaurant, and popular community grocery store.

CITIZENS TAKE NOTE: By signing these Petitions (there are several floating around town) - YOU THE FORT BRAGG VOTER have the power to stop the City Council from taking away your following rights:

- Right of Notification of Proposed Cannabis Businesses;
- Right to Public Town Hall opportunities for neighborhoods and individuals to raise concerns or objections to case-by-case (rather than rubber stamp approval) of Cannabis dispensary applications;
- Right to have detailed Planning Commission examination of Cannabis applications;
- Right of City to deny cannabis applications or impose special conditions on Cannabis applications; and to publicly address neighborhood concerns regarding those applications or the applicants;
- Right to environmental (organic and human) impact studies, prior to the issuance of Cannabis permits.

CITY OF FORT BRAGG

REC'D FEB 15 2022

The pending loss of our Due Process in this critical matter of *how* and *where* commercial cannabis enterprises are to be allocated, threatens to disrupt rather than offer an inspiring and sustainable City Plan. Please act now. By SIGNING THESE TWO BALLOT MEASURE INITIATIVES - You are helping all Fort Bragg voters to PRESERVE THE ABOVE STATED ENDANGERED RIGHTS. Check it out.

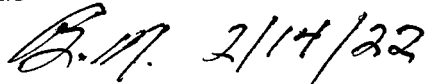
Respectfully,

Jay Koski

Gene Mertle

Dianna Mertle

Bill Mann

Handwritten signature of Bill Mann and the date 2/17/22.

Susanne Rogers

Fort Bragg

From: [O'Neal, Chantell](#)
To: [Peters, Sarah](#)
Subject: FW: Draft Cannabis Amendments for 2/23/22 PC Mtg.
Date: Tuesday, February 22, 2022 12:43:08 PM

Dear Planning Commission [BCC]

Please see the emailed comment below regarding the cannabis amendment.

Thanks,

Chantell O'Neal

Assistant Director, Engineering Division

QSP #26658

QJSP #00914

Public Works

(707) 961-2823 ext. 133



From: Jacob Patterson [mailto:jacob.patterson.esq@gmail.com]
Sent: Saturday, February 19, 2022 3:16 PM
To: O'Neal, Chantell <coneal@fortbragg.com>
Cc: Smith, John <jsmith@fortbragg.com>
Subject: Draft Cannabis Amendments for 2/23/22 PC Mtg.

Chantell,

I am reviewing the agenda materials for the PC meeting and I found various issues with the proposed revisions. In fact, although the staff report asserts that the changes incorporate the direction provided by the City Council, several changes actually don't do that. Of course, some of the changes were not discussed in detail and it makes sense that staff might make additional suggestions based on their more detailed work. However, a couple of the revisions are inconsistent with the majority direction given thus far, including some of the revisions to the Article 10 definitions. These staff recommendations should be highlighted as their own creations and not the explicit majority direction of the City Council or Community Development Committee because the way they are being presented implies that the particular changes at least had majority direction and aren't just staff recommendations. Also, where is there no proposed ordinance in the packet? I am not sure how the Planning Commission is supposed to make a recommendation on an ordinance they haven't seen, even if changes are discussed in different attached documents rather than a draft ordinance. The Planning Commission is supposed to review an ordinance before making a recommendation to the City Council not these less complete summaries of different revised code sections.

Moreover, some of the attachments appear to portray a "redline" of the existing code but a

detailed comparison of the attachments in the agenda materials and the actual language of the City's existing code provisions shows that some of the content that is proposed as deletions aren't even in the existing code. It is possible Heather had a working draft and included new draft language and then decided to delete it in her final version but the way it is presented looks like a redline of the current code even though it isn't. In short, these meeting materials are a mess, which makes it very difficult to understand.

On a different note, some of the proposed changes to Title 9 are zoning regulations (e.g., the new proposed buffer zones) and cannot be located there without converting that into a zoning code rather than business regulations. Title 9 also applies City-wide, including in the Coastal Zone and Coastal Zone currently does have some cannabis uses that are permitted. Thus, if the zoning-related provisions are added to Title 9 rather than remaining in Title 18, the Coastal Commission will need to certify the changes prior to them going into effect. I doubt that is the intent because it will delay at least that part of this for a significant amount of time. Jones & Mayer explicitly excluded Coastal Act related legal advice from the scope of their proposed services due to a lack of expertise in that area so I don't know if that aspect of these proposed changes were reviewed by appropriate legal counsel.

Regardless, these amendments probably require a significant amount of work before they should actually be considered so I am confused about the agenda materials and why this was considered to be appropriate for the formal public hearing, which is required before moving on to the City Council. This staff report and agenda materials resemble the preliminary discussions about the formula business ordinance when the Planning Commission was discussing that project over a series of meetings but not the actual draft ordinance considered in the formal public hearing for the formula business ordinance. A preliminary commission discussion is probably what should have been agendized for the upcoming Planning Commission meeting rather than trying to present these agenda materials as if they are sufficient for the final version of an ordinance for the consideration of the Planning Commission. I haven't provided them here because it is not my job to do so but there are applicable statutory provisions and interpretive case law that support the concerns I highlighted above, particularly about the process that applies to adopting zoning ordinances.

These issues are very concerning,

--Jacob

Peters, Sarah

From: O'Neal, Chantell
Sent: Tuesday, February 22, 2022 12:44 PM
To: Peters, Sarah
Subject: FW: Draft Cannabis Amendments for 2/23/22 PC Mtg.

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Planning Commission [BCC]

Please see the emailed comment below regarding additional comments on the cannabis amendment.

Thanks,

Chantell O'Neal

Assistant Director, Engineering Division
QSP #26658
QISP #00914
Public Works
(707) 961-2823 ext. 133



From: Jacob Patterson [mailto:jacob.patterson.esq@gmail.com]
Sent: Monday, February 21, 2022 2:39 PM
To: Spaur, David <Dspaur@fortbragg.com>
Cc: O'Neal, Chantell <coneal@fortbragg.com>
Subject: Re: Draft Cannabis Amendments for 2/23/22 PC Mtg.

What kind of response is this? I would happily rewrite her indefensible work but I don't think that is anything but sarcasm. That said, this isn't even close to acceptable work. There isn't a draft ordinance in a public hearing asking the Planning Commission to review and make recommendations on a draft ordinance! There is nothing for the public or even the Planning Commission to react to other than her incomplete draft notes about what a future ordinance might include, which includes interesting things like internal cross references that don't exist, internal inconsistencies that increase ambiguity rather than resolving it, and moving zoning code provisions out of the appropriate title (the ILUDC) into Title 9 where they make no sense and since Title 9 applies city-wide, would likely trigger Coastal Commission review.

On Mon, Feb 21, 2022, 10:33 AM Spaur, David <Dspaur@fortbragg.com> wrote:

Well, this is a solo submittal from Heather.
Your welcome to rewrite if you would like.

Kindest Regards,
David Spaur, CEcD

916.990.5789

> On Feb 19, 2022, at 3:16 PM, Jacob Patterson <jacob.patterson.esq@gmail.com> wrote:

>

>

> Chantell,

>

> I am reviewing the agenda materials for the PC meeting and I found various issues with the proposed revisions. In fact, although the staff report asserts that the changes incorporate the direction provided by the City Council, several changes actually don't do that. Of course, some of the changes were not discussed in detail and it makes sense that staff might make additional suggestions based on their more detailed work. However, a couple of the revisions are inconsistent with the majority direction given thus far, including some of the revisions to the Article 10 definitions. These staff recommendations should be highlighted as their own creations and not the explicit majority direction of the City Council or Community Development Committee because the way they are being presented implies that the particular changes at least had majority direction and aren't just staff recommendations. Also, where is there no proposed ordinance in the packet? I am not sure how the Planning Commission is supposed to make a recommendation on an ordinance they haven't seen, even if changes are discussed in different attached documents rather than a draft ordinance. The Planning Commission is supposed to review an ordinance before making a recommendation to the City Council not these less complete summaries of different revised code sections.

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>

> These issues are very concerning,

>
> --Jacob

Peters, Sarah

From: Jacob Patterson <jacob.patterson.esq@gmail.com>
Sent: Tuesday, February 22, 2022 2:15 PM
To: cdd
Cc: Peters, Sarah; O'Neal, Chantell
Subject: Public Comment -- 2/23/22 Planning Commission Mtg., Item No. 6A, Cannabis Ordinance

Follow Up Flag: Follow up
Flag Status: Flagged

City Staff & Planning Commission,

Please include the following meeting videos for the December 9, 2020 Planning Commission (PC) meeting and January 25, 2021 City Council (CC) meeting as public comments and part of the administrative record for the February 23, 2022 public hearing for the proposed cannabis ordinance. They can be viewed and downloaded from the following hyperlinks and are too large to attach to this email as distinct attachments.

December 9, 2020 PC Meeting Video:

http://archive-media.granicus.com:443/OnDemand/cityfortbragg/cityfortbragg_4456ae94-5160-4f30-a1d2-e9230059a154.mp4

January 25, 2021 CC Meeting Video:

http://archive-media.granicus.com:443/OnDemand/cityfortbragg/cityfortbragg_da60f7cf-47b9-4acd-90c8-e7bc596268af.mp4

City staff has acknowledged they will include the video files in the Administrative record for this public hearing item on the proposed cannabis ordinance. The two prior meetings include the Planning Commission's review and denial of Minor Use Permit 4-20 on December 9, 2020 and the subsequent unsuccessful appeal of Minor Use Permit 4-20 to the City Council on January 25, 2021.

I am submitting these meeting video and the relevant meeting materials (agendas, agenda packet materials, and minutes) to demonstrate that the baseline conditions of the City's current Inland Land Use & Development Code described in the staff report and draft proposed Initial Study/Negative Declaration (IS/ND) is not accurate and the proposed revisions to the City ILUDC and Municipal Code are in fact significant changes from the actual baseline conditions. Staff erroneously bases her "analysis" on the false assertion that the "intent" of the current code is in line with many of the proposed changes and thus there is no effective difference between the code as currently-written and what is proposed after her recommended revisions. This fundamental error is based on her stating that her own (and explicitly rejected) interpretation of the City's code as presented in the context of the CC appeal of the PC's denial of MUP 4-20 provides the baseline conditions rather than the different interpretation of the proper review authority, the PC, which is the actual local precedent that describes the proper baseline conditions. As such, basically the entire IS/ND is faulty because it is based on a flawed assumption and unsupported assertion concerning the content and meaning of the existing code. Staff may disagree with the interpretation and application of the City's code by the body who actually has authority to make those determinations, but staff only ever makes recommendations (other than the CDD Director who sometimes sits as the initial review authority for MUPs or other entitlements) so their personal opinions and disagreement with the PC's interpretation, which was not overturned by the City Council during any appeal, is not relevant or even persuasive authority in the context of CEQA reviews of new proposed ordinances that amend the existing code.

The draft proposed IS/ND for the cannabis ordinance before you during the public hearing is fatally flawed and it would be a reversible abuse of discretion, in my opinion, if the draft IS/ND is adopted by the City Council when they ultimately make their decision about the proposed ordinance based on your recommendations. The IS/ND should be revised to

analyze the actual difference between what is allowed under the current provisions in the City's code based on the only local precedent we have and what will be allowed under the proposed revised code. Our local precedent concerning the existing code is limited to your own interpretation and application of the relevant code provisions within the context of the review of the application for MUP 4-20 and the prior Acting CDD Director's approvals of the other two MUPs for cannabis retail establishments that didn't involve these types of accessory uses. In addition, the PC denied and the applicant successfully appealed the denial of their application to the CC for the currently-permitted cannabis business in the industrial district on North Franklin Street but that application did not involve the issue of accessory versus primary uses and in an industrial rather than commercial zoning district and thus governed by different code provisions.

Regards,

--Jacob

Peters, Sarah

From: Jacob Patterson <jacob.patterson.esq@gmail.com>
Sent: Tuesday, February 22, 2022 2:34 PM
To: cdd
Cc: Peters, Sarah; O'Neal, Chantell
Subject: [MACRO WARNING] 2/23/22 PC Mtg, 6A: Public Comment on the Fort Bragg water model concerning the cannabis ordinance public hearing
Attachments: Water Model Results with Sea-Level Rise.pdf; Water_Model_May2019_FINALpNew.xlsm

Planning Commission,

Please excuse me resending this complicated water model spreadsheet and results PDF for yet another project that requires an environmental review yet which the City fails to adequately address our extremely limited local water supply--it has actually gotten worse since the prior public hearings and our Public Works Director indicates we may actually run out of water this summer or fall based on abnormally low flows in the Noyo River at this time of year that resemble flows in July and August rather than the rainier winter months. Unfortunately, the nature of administrative records is such that just because the City has a document for another past project or agenda item, doesn't mean it can be included by reference into the administrative record for a current public hearing agenda item. Accordingly, I am submitting these documents again for the 2/23/22 public hearing before the Planning Commission concerning the City's proposed cannabis ordinance updating and amending the existing code, which includes permitting commercial cannabis cultivation in numerous zoning districts where it is not currently permitted.

The attached documents show the graphic results of the scenarios I ran using the City's water model to reflect sea-level rise projections. As you can see, sea-level rise projections indicate the the City of Fort Bragg doesn't even have sufficient water supply to support existing development let alone any new development that could occur on the Mill Site as a result of the ongoing LCP amendment review or for new development in other areas of town, including north of town where the Avalon Hotel is proposed.

The current and past Public Works Directors have expressed concern that our local water supply is constrained enough that we shouldn't consider any modest annexations or extra-territorial connections to the City's utility infrastructure to help facilitate housing development. City staff currently acknowledges that they did not factor in any climate change or sea-level rise projections into the water model and indicated they would only do so if CCC staff indicated that it should be factored in. This seems foolish since there is ample evidence that sea-level rise is occurring and will impact existing as well as potential future development.

My method for factoring in sea-level rise scenarios was to alter the model's trigger for a "king tide" scenario, which results in the diversion of water from the Noyo River being suspended because it is too brackish to be treated through the city's water treatment plant. The Noyo River source is one of three existing sources and accounts for 50% of the city's water supply. The model's baseline cutoff trigger is at a two-foot increase in the tidal level. I adjusted that up in one-foot increments to mimic an additional foot of sea-level rise and the result is that after two-feet of sea-level rise, the City of Fort Bragg begins to have water shortages between the months of July and October, including the extra storage capacity that is available from the Summers Lane Reservoir. This aligns with how City Engineering staff suggested they would adjust the water model if one wanted to factor in sea-level rise projections.

I find the results concerning and believe the water supply and utility capacity present a significant constraint on future development that should be properly analyzed as proposed projects are under entitlement review but also

during projects to update what is and is not allowed under our City's code. I believe the proper place to address this is in the analysis of the adequacy of the City's utility infrastructure in the relevant CEQA document, which is currently an Initial Study/Negative Declaration but should likely be an EIR due to the cumulatively considerable impacts to the City's already inadequate water supply and infrastructure due to the new permissible uses of indoor commercial cannabis cultivation.

Note: the attached spreadsheet is too large to upload to the City's agenda software and will likely not be included in the published written comments once staff updates them on the City's online agenda management software. The two attached files are unaltered and identical to those submitted in prior public comments on other projects--I actually just edited a forward of my similar public comment for the Grocery Outlet project.

Regards,

--Jacob

Water Model Incorporating Seven (7) Foot Sea-Level Rise

	A	B	C	D
1				
2	Model Constants:			
3		Existing Newman Reservoir	0.9	acre-feet
4		New Summers Lane Reservoir	44.3	acre-feet
5		Raw Water Storage	9.2	acre-feet
6		Finished Water Storage	10.1	acre-feet
7		Groundwater availability (maximum, non-drought)	0.4	acre-feet per day
8		Water Alert Trigger	Raw water source capacity at least 10% above demand	
9				

	A	B	C	D
12	Model Input Adjustments You Can Make:			
13		Reduce Noyo flow?	100%	<- as percent of measured flow
14		Amount of flow that must remain in Noyo River?	10	<- amount to leave in Noyo, Oct 1 - May 31 (cfs)
15			3	<- amount to leave in Noyo, Jun 1 - Sep 30 (cfs)
16		Height of tide that controls pumping?	9.0	<- height of tide that controls pumping (feet)
17				
18		Reduce Newman Gulch flow?	100%	<- percent of historic measured flow
19				
20		Reduce Waterfall Gulch flow?	75%	<- percent of historic measured withdrawal
21		Amount of flow that must remain in Waterfall G.?	0.0	<- enter amount to leave in Waterfall G. (cfs)
22				(enter 0.000001 to ignore factor)
23		Use new Summers Lane Reservoir?	Y	<- enter Y or N
24				
25		Use evaporation on raw water storage?	0.00	<- approximate daily amount in acre-feet
26		Use evaporation reduction device on new reservoir?	0%	<- percent reduction due to device
27				
28		Adjust daily precipitation?	100%	<- percent change from historic values
29				
30		Increase City demand? If answer below is "Y", then 2018 demand; else 2015	100%	<- percent of 2015 or 2018 production
31		Use 2018?	N	<- Y or N
32				
33		Use groundwater from former park site?	N	<- Y or N
34		Groundwater pumpage? (200 gpm original)	100	<- as total gallons per minute from well field
35				
36				

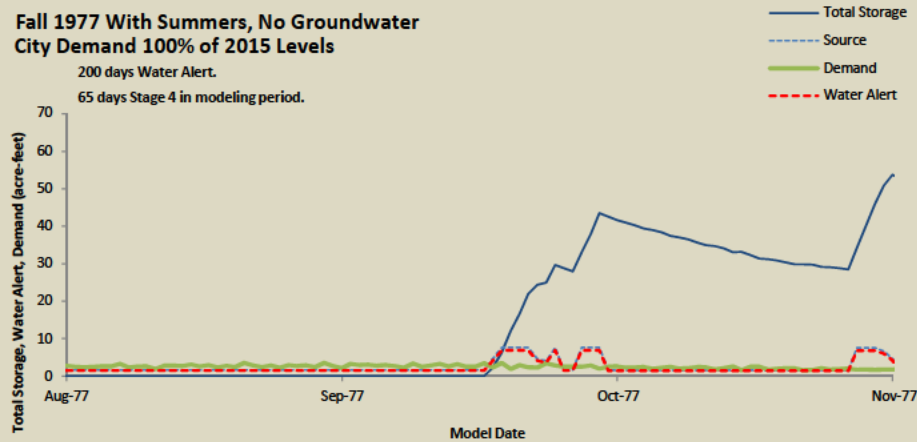
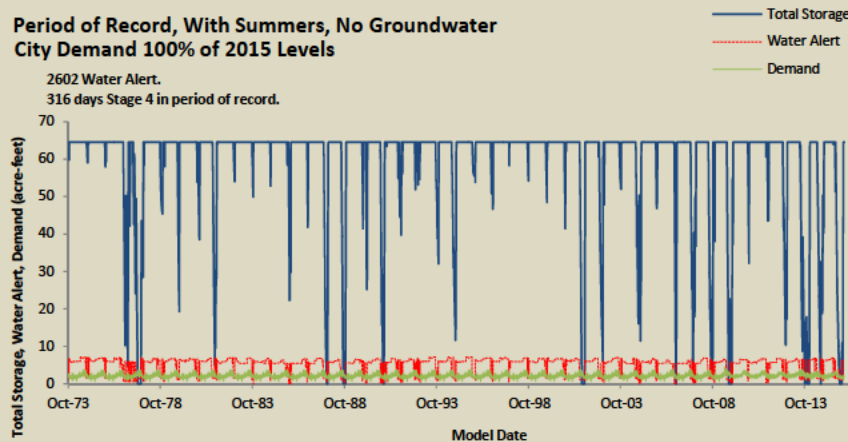
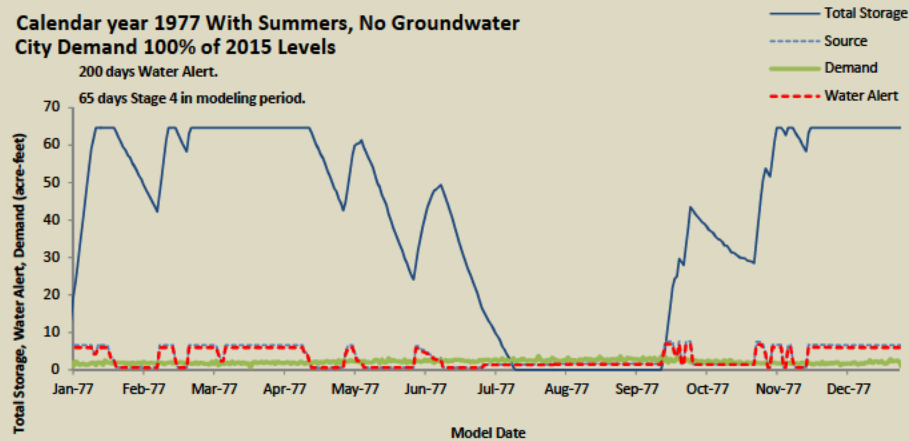
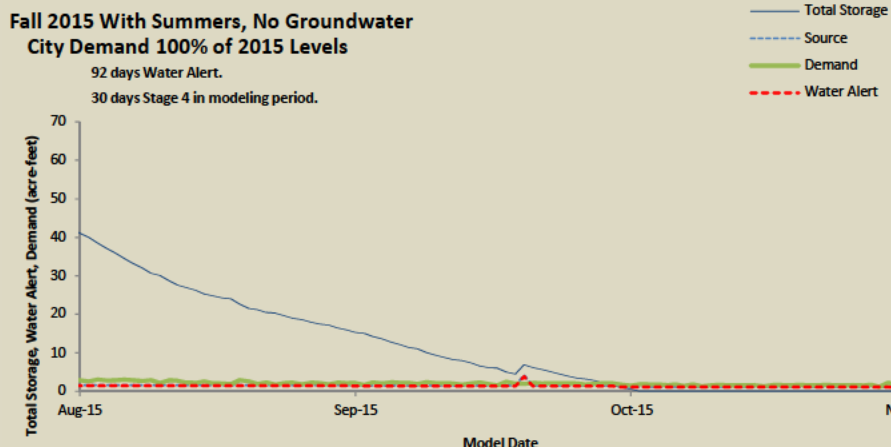
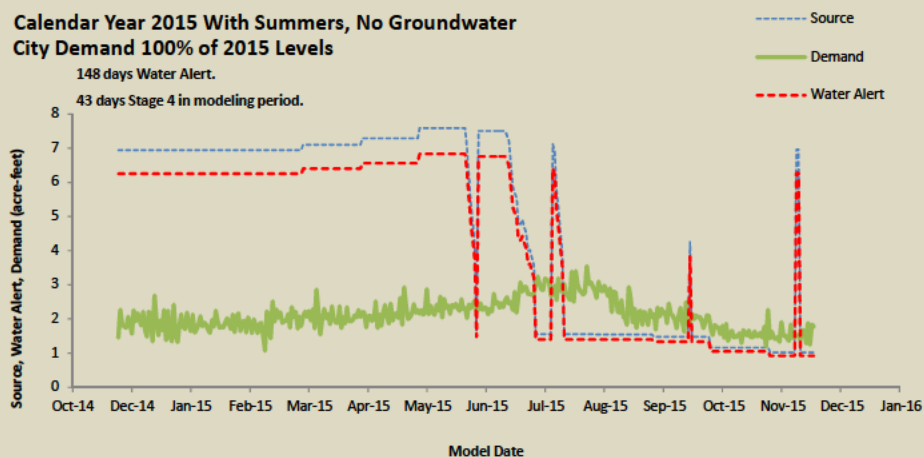
Cells in following tabs are inactive or have unmodified data if grayed out
 Bold typing indicates modified data - Blue fill indicates new data or calculations
 Conditional formatting has been used to highlight certain values with color in some columns

GRAPH LABELS:

83	Chosen year:	148 days Water Alert.
84	Period of record:	2602 Water Alert.
85	Calendar year 1977:	200 days Water Alert.
86	Fall 2015:	92 days Water Alert.
87	Chosen year:	43 days Stage 4 in modeling period.
88	Period of record:	316 days Stage 4 in period of record.
89	Calendar year 1977:	65 days Stage 4 in modeling period.
90	Fall 2015:	30 days Stage 4 in modeling period.
91		
92	Period of Record, With Summers, No Groundwater	Calendar year 1977 With Summers, No Groundwater
93	City Demand 100% of 2015 Levels	Fall 2015 With Summers, No Groundwater
94		Calendar Year 2015 With Summers, No Groundwater
95		Fall 1977 With Summers, No Groundwater
96		
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SCROLL DOWN FOR MORE GRAPHS - THESE GRAPHS ARE UNLOCKED

USER-CHOSEN GRAPH
 ENTER CALENDAR YEAR: 2015



Water Model Incorporating Six (6) Foot Sea-Level Rise

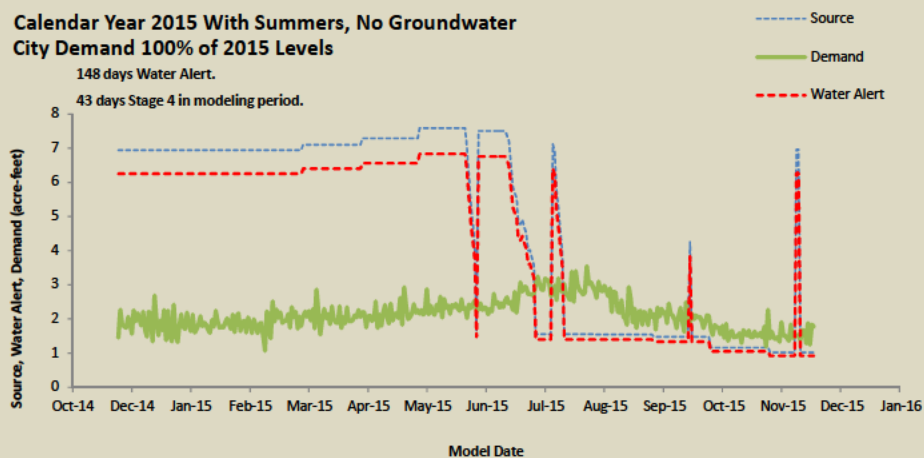
	A	B	C	D
1				
2	Model Constants:			
3		Existing Newman Reservoir	0.9	acre-feet
4		New Summers Lane Reservoir	44.3	acre-feet
5		Raw Water Storage	9.2	acre-feet
6		Finished Water Storage	10.1	acre-feet
7		Groundwater availability (maximum, non-drought)	0.4	acre-feet per day
8		Water Alert Trigger	Raw water source capacity at least 10% above demand	

	A	B	C	D
13	Model Input Adjustments You Can Make:			
14		Reduce Noyo flow?	100%	<- as percent of measured flow
15		Amount of flow that must remain in Noyo River?	10	<- amount to leave in Noyo, Oct 1 - May 31 (cfs)
16			3	<- amount to leave in Noyo, Jun 1 - Sep 30 (cfs)
17		Height of tide that controls pumping?	8.0	<- height of tide that controls pumping (feet)
18				
19		Reduce Newman Gulch flow?	100%	<- percent of historic measured flow
20				
21		Reduce Waterfall Gulch flow?	75%	<- percent of historic measured withdrawal
22		Amount of flow that must remain in Waterfall G.?	0.0	<- enter amount to leave in Waterfall G. (cfs)
23				(enter 0.000001 to ignore factor)
24		Use new Summers Lane Reservoir?	Y	<- enter Y or N
25				
26		Use evaporation on raw water storage?	0.00	<- approximate daily amount in acre-feet
27		Use evaporation reduction device on new reservoir?	0%	<- percent reduction due to device
28				
29		Adjust daily precipitation?	100%	<- percent change from historic values
30				
31		Increase City demand? If answer below is "Y", then 2018 demand; else 2015	100%	<- percent of 2015 or 2018 production
32		Use 2018?	N	<- Y or N
33				
34		Use groundwater from former park site?	N	<- Y or N
35		Groundwater pumpage? (200 gpm original)	100	<- as total gallons per minute from well field

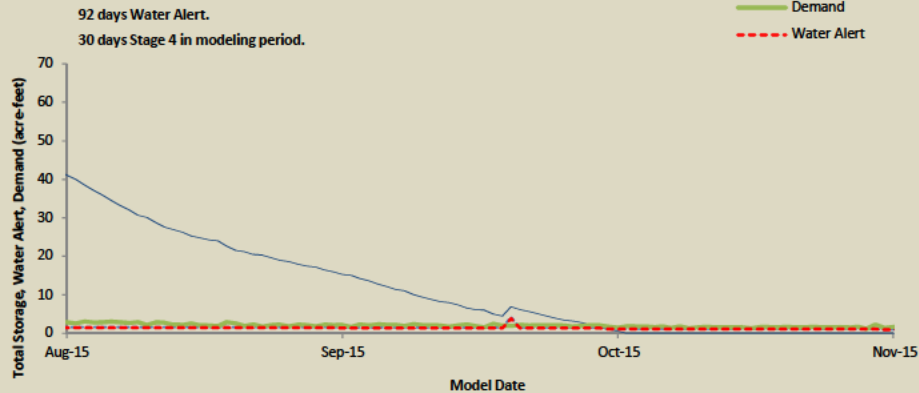
Cells in following tabs are inactive or have unmodified data if grayed out
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 Conditional formatting has been used to highlight certain values with color in some columns

SCROLL DOWN FOR MORE GRAPHS - THESE GRAPHS ARE UNLOCKED

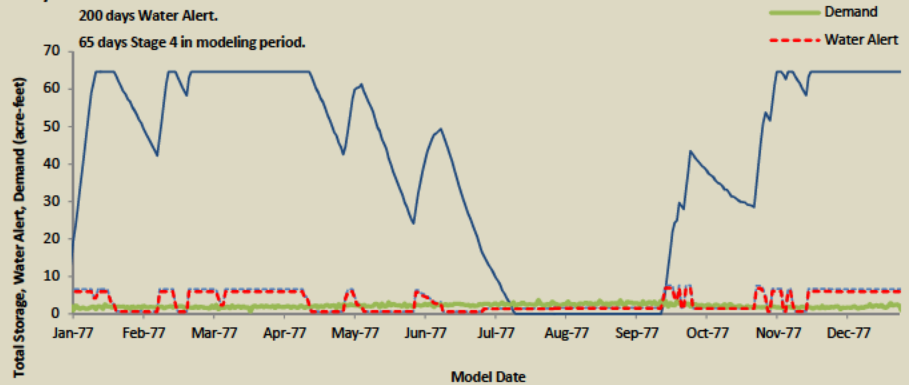
USER-CHOSEN GRAPH
 ENTER CALENDAR YEAR: **2015**



Fall 2015 With Summers, No Groundwater City Demand 100% of 2015 Levels. 92 days Water Alert. 30 days Stage 4 in modeling period.



Calendar year 1977 With Summers, No Groundwater City Demand 100% of 2015 Levels. 200 days Water Alert. 65 days Stage 4 in modeling period.

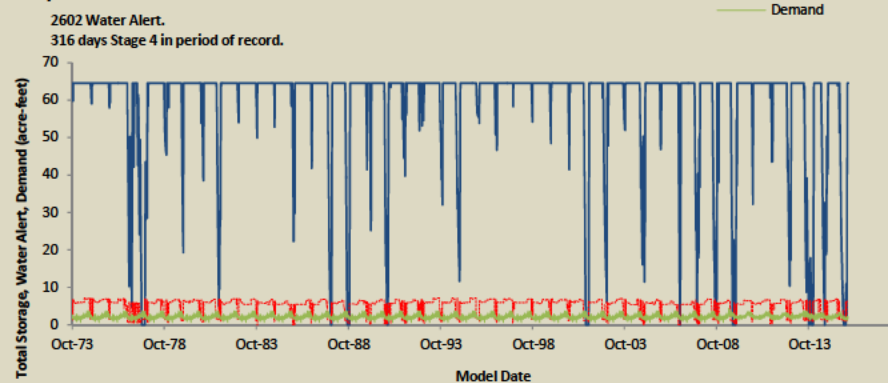


GRAPH LABELS:

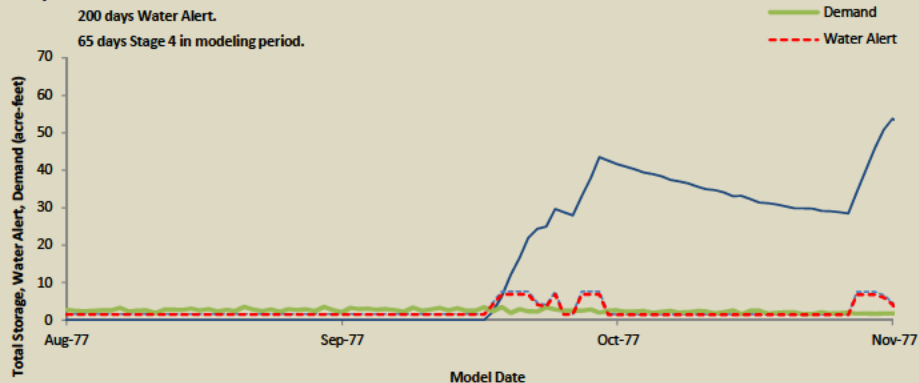
Chosen year: 148 days Water Alert.
 Period of record: 2602 Water Alert.
 Calendar year 1977: 200 days Water Alert.
 Fall 2015: 92 days Water Alert.
 Chosen year: 43 days Stage 4 in modeling period.
 Period of record: 316 days Stage 4 in period of record.
 Calendar year 1977: 65 days Stage 4 in modeling period.
 Fall 2015: 30 days Stage 4 in modeling period.

Period of Record, With Summers, No Groundwater City Demand 100% of 2015 Levels
 Calendar year 1977 With Summers, No Groundwater
 Fall 2015 With Summers, No Groundwater
 Calendar Year 2015 With Summers, No Groundwater
 Fall 1977 With Summers, No Groundwater

Period of Record, With Summers, No Groundwater City Demand 100% of 2015 Levels. 2602 Water Alert. 316 days Stage 4 in period of record.



Fall 1977 With Summers, No Groundwater City Demand 100% of 2015 Levels. 200 days Water Alert. 65 days Stage 4 in modeling period.



Water Model Incorporating Five (5) Foot Sea-Level Rise

	A	B	C	D
1				
2	Model Constants:			
3		Existing Newman Reservoir	0.9	acre-feet
4		New Summers Lane Reservoir	44.3	acre-feet
5		Raw Water Storage	9.2	acre-feet
6		Finished Water Storage	10.1	acre-feet
7		Groundwater availability (maximum, non-drought)	0.4	acre-feet per day
8		Water Alert Trigger	Raw water source capacity at least 10% above demand	
9				

	A	B	C	D
12	Model Input Adjustments You Can Make:			
13		Reduce Noyo flow?	100%	<- as percent of measured flow
14		Amount of flow that must remain in Noyo River?	10	<- amount to leave in Noyo, Oct 1 - May 31 (cfs)
15			3	<- amount to leave in Noyo, Jun 1 - Sep 30 (cfs)
16		Height of tide that controls pumping?	7.0	<- height of tide that controls pumping (feet)
17				
18		Reduce Newman Gulch flow?	100%	<- percent of historic measured flow
19				
20		Reduce Waterfall Gulch flow?	75%	<- percent of historic measured withdrawal
21		Amount of flow that must remain in Waterfall G.?	0.0	<- enter amount to leave in Waterfall G. (cfs)
22				(enter 0.000001 to ignore factor)
23		Use new Summers Lane Reservoir?	Y	<- enter Y or N
24				
25		Use evaporation on raw water storage?	0.00	<- approximate daily amount in acre-feet
26		Use evaporation reduction device on new reservoir?	0%	<- percent reduction due to device
27				
28		Adjust daily precipitation?	100%	<- percent change from historic values
29				
30		Increase City demand? If answer below is "Y", then 2018 demand; else 2015	100%	<- percent of 2015 or 2018 production
31		Use 2018?	N	<- Y or N
32				
33		Use groundwater from former park site?	N	<- Y or N
34		Groundwater pumpage? (200 gpm original)	100	<- as total gallons per minute from well field
35				
36				

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 Conditional formatting has been used to highlight certain values with color in some columns

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GRAPH LABELS:

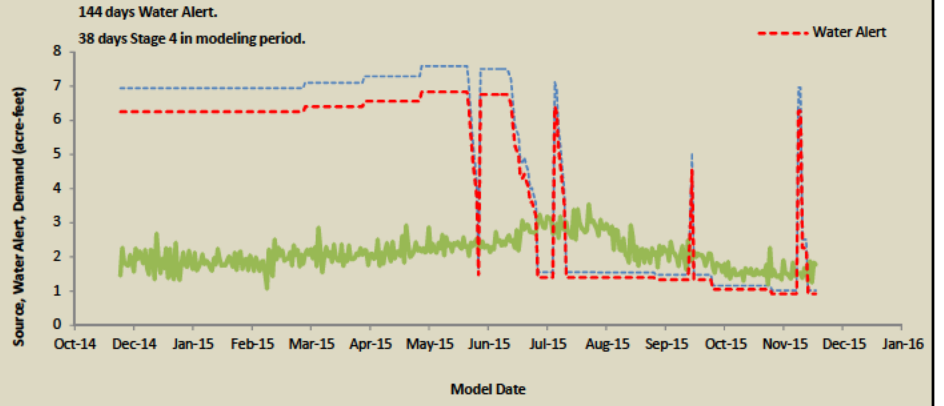
Chosen year: 144 days Water Alert.
 Period of record: 2552 Water Alert.
 Calendar year 1977: 200 days Water Alert.
 Fall 2015: 91 days Water Alert.
 Chosen year: 38 days Stage 4 in modeling period.
 Period of record: 288 days Stage 4 in period of record.
 Calendar year 1977: 63 days Stage 4 in modeling period.
 Fall 2015: 25 days Stage 4 in modeling period.

Period of Record, With Summers, No Groundwater
 City Demand 100% of 2015 Levels
 Calendar year 1977 With Summers, No Groundwater
 Fall 2015 With Summers, No Groundwater
 Calendar Year 2015 With Summers, No Groundwater
 Fall 1977 With Summers, No Groundwater

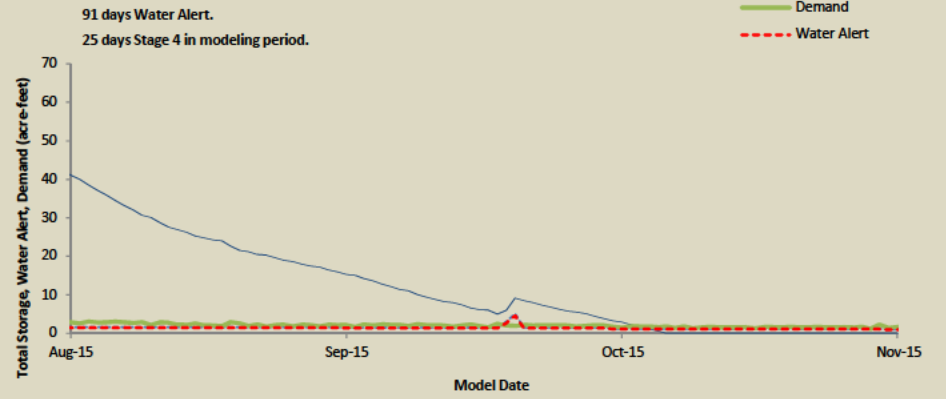
SCROLL DOWN FOR MORE GRAPHS - THESE GRAPHS ARE UNLOCKED

USER-CHOSEN GRAPH
 ENTER CALENDAR YEAR: 2015

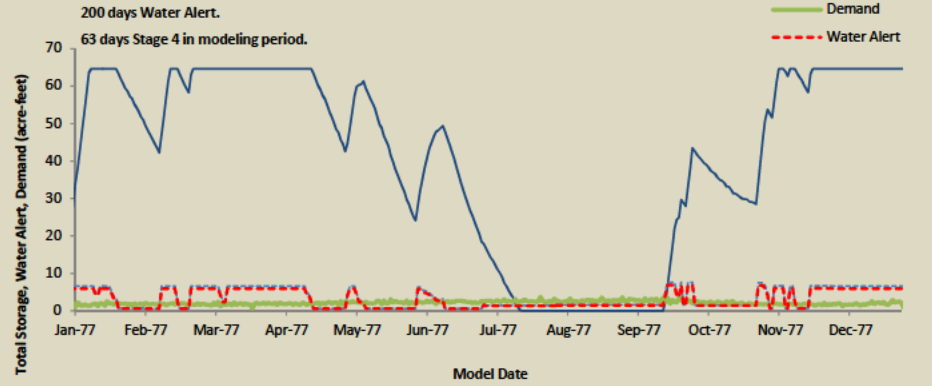
Calendar Year 2015 With Summers, No Groundwater
 City Demand 100% of 2015 Levels



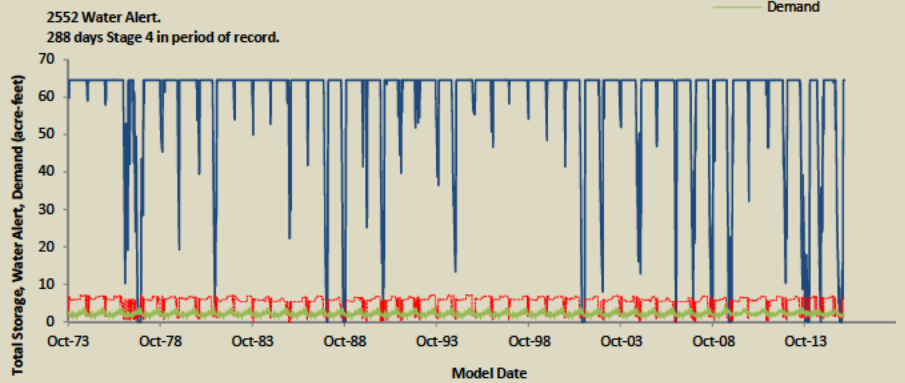
Fall 2015 With Summers, No Groundwater
 City Demand 100% of 2015 Levels



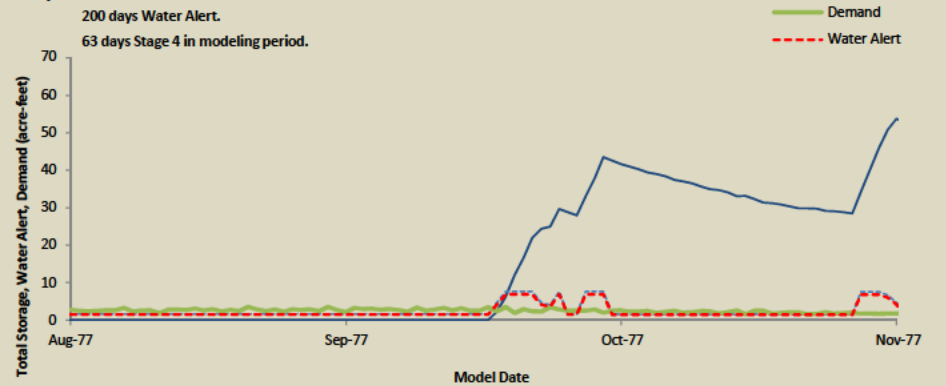
Calendar year 1977 With Summers, No Groundwater
 City Demand 100% of 2015 Levels



Period of Record, With Summers, No Groundwater
 City Demand 100% of 2015 Levels



Fall 1977 With Summers, No Groundwater
 City Demand 100% of 2015 Levels

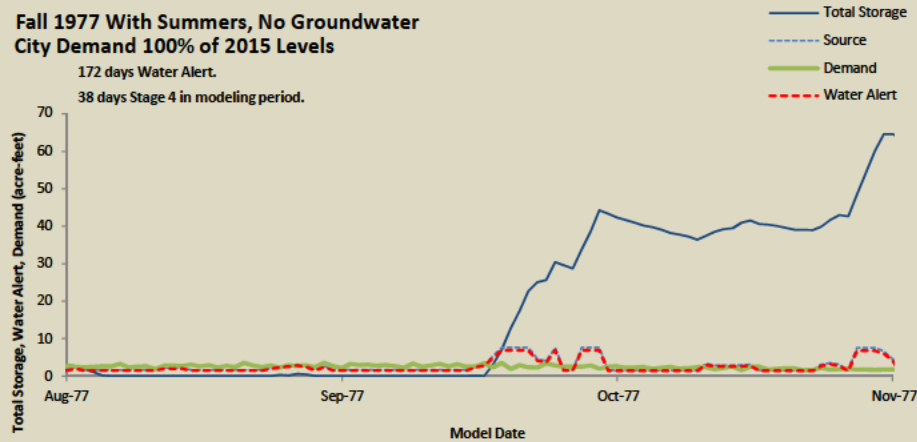
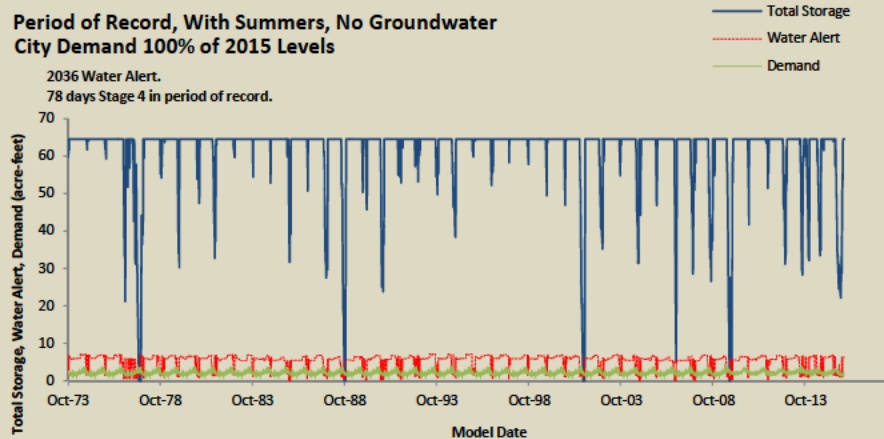
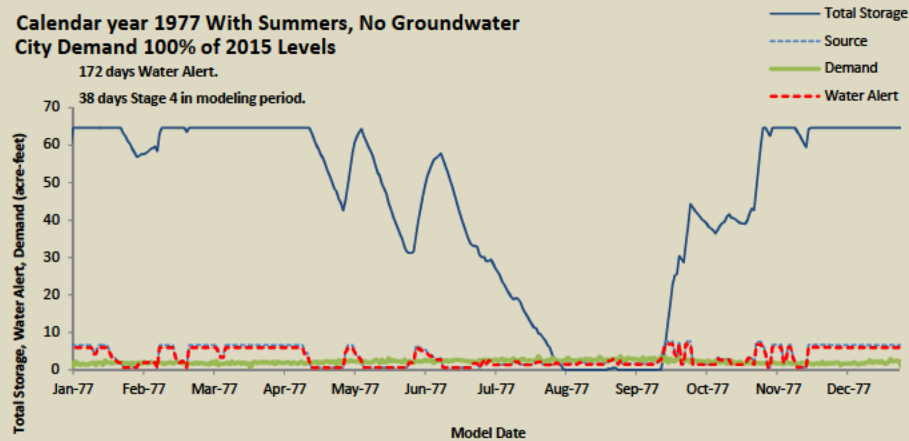
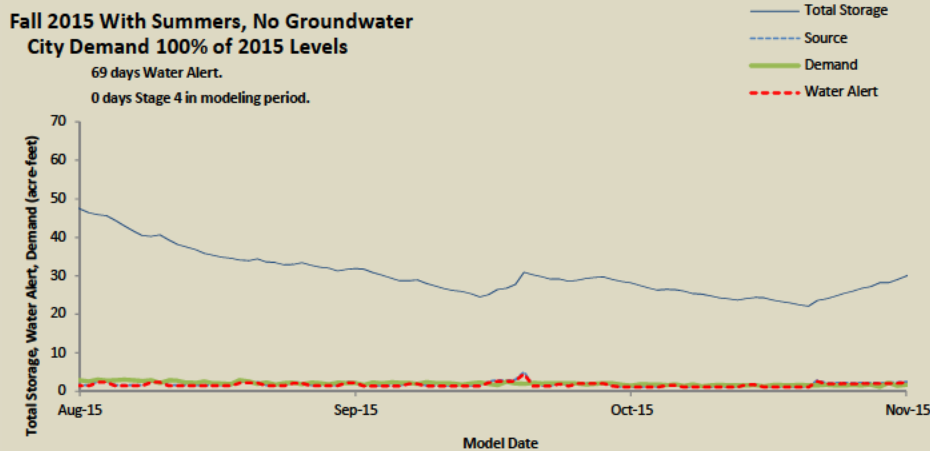
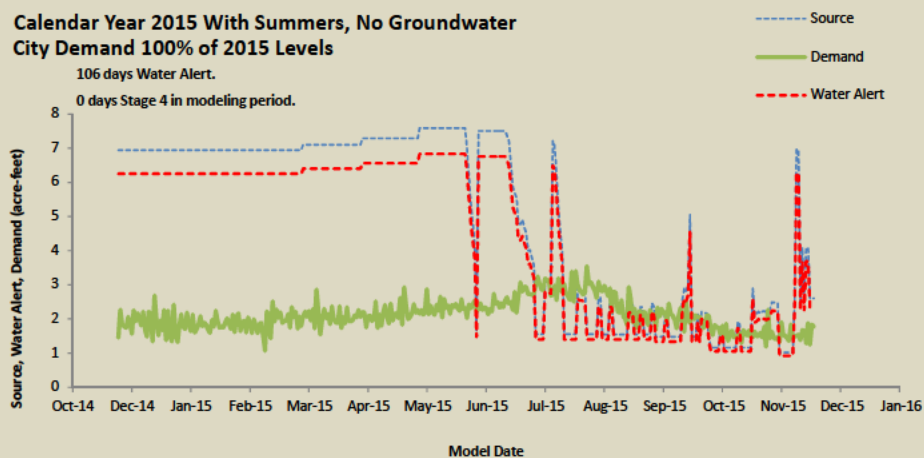


Water Model Incorporating Four (4) Foot Sea-Level Rise

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R
1																		
2		Model Constants:																
3		Existing Newman Reservoir		0.9 acre-feet														
4		New Summers Lane Reservoir		44.3 acre-feet														
5		Raw Water Storage		9.2 acre-feet														
6		Finished Water Storage		10.1 acre-feet														
7		Groundwater availability (maximum, non-drought)		0.4 acre-feet per day														
8		Water Alert Trigger		Raw water source capacity at least 10% above demand														
9																		
10																		
11																		
12		Model Input Adjustments You Can Make:																
13		Reduce Noyo flow?		100% ← as percent of measured flow														
14		Amount of flow that must remain in Noyo River?		10 ← amount to leave in Noyo, Oct 1 - May 31 (cfs)														
15				3 ← amount to leave in Noyo, Jun 1 - Sep 30 (cfs)														
16		Height of tide that controls pumping?		6.0 ← height of tide that controls pumping (feet)														
17																		
18		Reduce Newman Gulch flow?		100% ← percent of historic measured flow														
19																		
20		Reduce Waterfall Gulch flow?		75% ← percent of historic measured withdrawal														
21		Amount of flow that must remain in Waterfall G.?		0.0 ← enter amount to leave in Waterfall G. (cfs)														
22				(enter 0.000001 to ignore factor)														
23		Use new Summers Lane Reservoir?		Y ← enter Y or N														
24																		
25		Use evaporation on raw water storage?		0.00 ← approximate daily amount in acre-feet														
26		Use evaporation reduction device on new reservoir?		0% ← percent reduction due to device														
27																		
28		Adjust daily precipitation?		100% ← percent change from historic values														
29																		
30																		
31		Increase City demand? If answer below is "Y", then 2018		100% ← percent of 2015 or 2018 production														
32		demand; else 2015		N ← Y or N														
33		Use 2018?																
34		Use groundwater from former park site?		N ← Y or N														
35		Groundwater pumpage? (200 gpm original)		100 ← as total gallons per minute from well field														
36																		
37																		

SCROLL DOWN FOR MORE GRAPHS - THESE GRAPHS ARE UNLOCKED

USER-CHOSEN GRAPH
ENTER CALENDAR YEAR: 2015



Cells in following tabs are inactive or have unmodified data if grayed out
Bold typing indicates modified data - Blue fill indicates new data or calculations
Conditional formatting has been used to highlight certain values with color in some columns

GRAPH LABELS:

Chosen year: 106 days Water Alert.
Period of record: 2036 Water Alert.
Calendar year 1977: 172 days Water Alert.
Fall 2015: 69 days Water Alert.
Chosen year: 0 days Stage 4 in modeling period.
Period of record: 78 days Stage 4 in period of record.
Calendar year 1977: 38 days Stage 4 in modeling period.
Fall 2015: 0 days Stage 4 in modeling period.

Period of Record, With Summers, No Groundwater
City Demand 100% of 2015 Levels
Calendar year 1977 With Summers, No Groundwater
Fall 2015 With Summers, No Groundwater
Calendar Year 2015 With Summers, No Groundwater
Fall 1977 With Summers, No Groundwater

Water Model Incorporating Three (3) Foot Sea-Level Rise

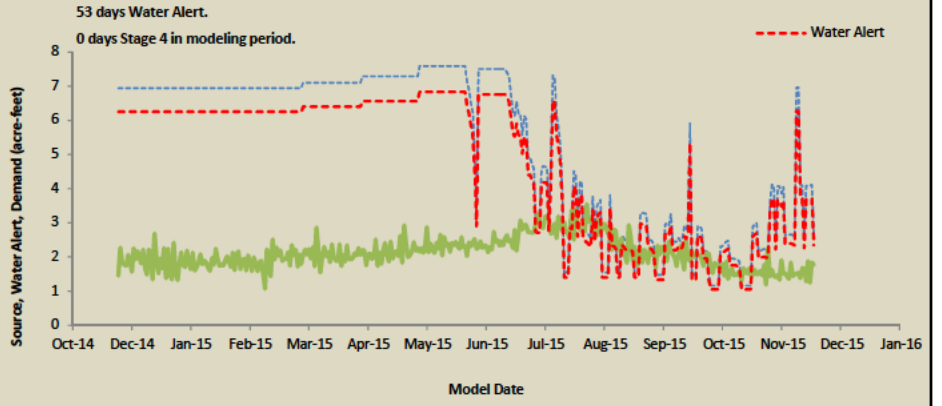
	A	B	C	D
1				
2	Model Constants:			
3		Existing Newman Reservoir	0.9	acre-feet
4		New Summers Lane Reservoir	44.3	acre-feet
5		Raw Water Storage	9.2	acre-feet
6		Finished Water Storage	10.1	acre-feet
7		Groundwater availability (maximum, non-drought)	0.4	acre-feet per day
8		Water Alert Trigger	Raw water source capacity at least 10% above demand	
9				
10				
11				
12	Model Input Adjustments You Can Make:			
13		Reduce Noyo flow?	100%	<- as percent of measured flow
14		Amount of flow that must remain in Noyo River?	10	<- amount to leave in Noyo, Oct 1 - May 31 (cfs)
15			3	<- amount to leave in Noyo, Jun 1 - Sep 30 (cfs)
16		Height of tide that controls pumping?	5.0	<- height of tide that controls pumping (feet)
17				
18		Reduce Newman Gulch flow?	100%	<- percent of historic measured flow
19				
20		Reduce Waterfall Gulch flow?	75%	<- percent of historic measured withdrawal
21		Amount of flow that must remain in Waterfall G.?	0.0	<- enter amount to leave in Waterfall G. (cfs)
22				(enter 0.000001 to ignore factor)
23		Use new Summers Lane Reservoir?	Y	<- enter Y or N
24				
25		Use evaporation on raw water storage?	0.00	<- approximate daily amount in acre-feet
26		Use evaporation reduction device on new reservoir?	0%	<- percent reduction due to device
27				
28		Adjust daily precipitation?	100%	<- percent change from historic values
29				
30		Increase City demand? If answer below is "Y", then 2018 demand; else 2015	100%	<- percent of 2015 or 2018 production
31		Use 2018?	N	<- Y or N
32				
33		Use groundwater from former park site?	N	<- Y or N
34		Groundwater pumpage? (200 gpm original)	100	<- as total gallons per minute from well field
35				
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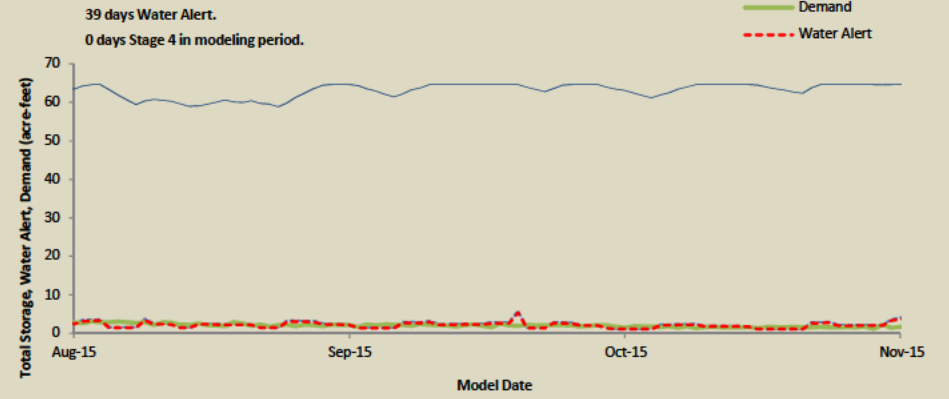
SCROLL DOWN FOR MORE GRAPHS - THESE GRAPHS ARE UNLOCKED

USER-CHOSEN GRAPH
 ENTER CALENDAR YEAR: **2015**

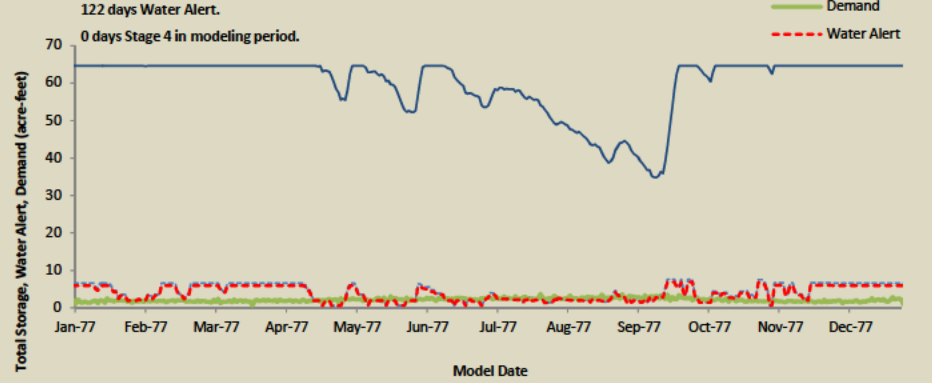
**Calendar Year 2015 With Summers, No Groundwater
 City Demand 100% of 2015 Levels**



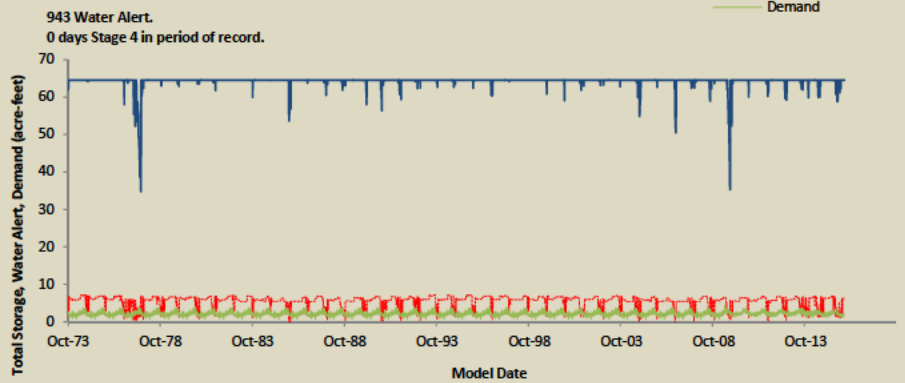
**Fall 2015 With Summers, No Groundwater
 City Demand 100% of 2015 Levels**



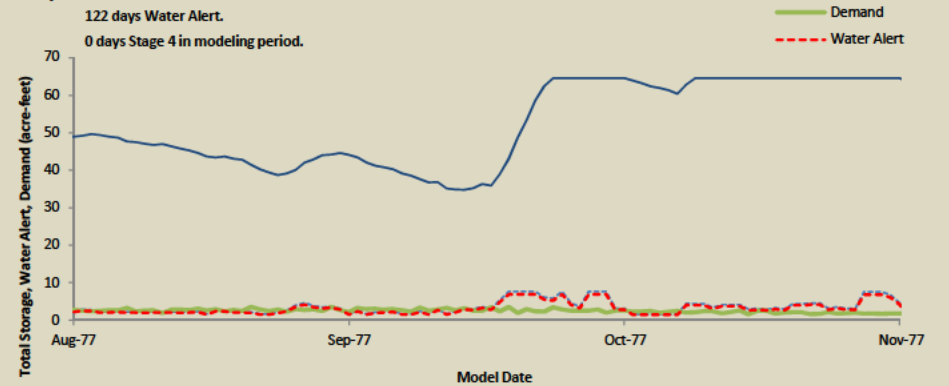
**Calendar year 1977 With Summers, No Groundwater
 City Demand 100% of 2015 Levels**



**Period of Record, With Summers, No Groundwater
 City Demand 100% of 2015 Levels**



**Fall 1977 With Summers, No Groundwater
 City Demand 100% of 2015 Levels**



GRAPH LABELS:

Chosen year: 53 days Water Alert.
 Period of record: 943 Water Alert.
 Calendar year 1977: 122 days Water Alert.
 Fall 2015: 39 days Water Alert.
 Chosen year: 0 days Stage 4 in modeling period.
 Period of record: 0 days Stage 4 in period of record.
 Calendar year 1977: 0 days Stage 4 in modeling period.
 Fall 2015: 0 days Stage 4 in modeling period.

Period of Record, With Summers, No Groundwater
 City Demand 100% of 2015 Levels
 Calendar year 1977 With Summers, No Groundwater
 Fall 2015 With Summers, No Groundwater
 Calendar Year 2015 With Summers, No Groundwater
 Fall 1977 With Summers, No Groundwater

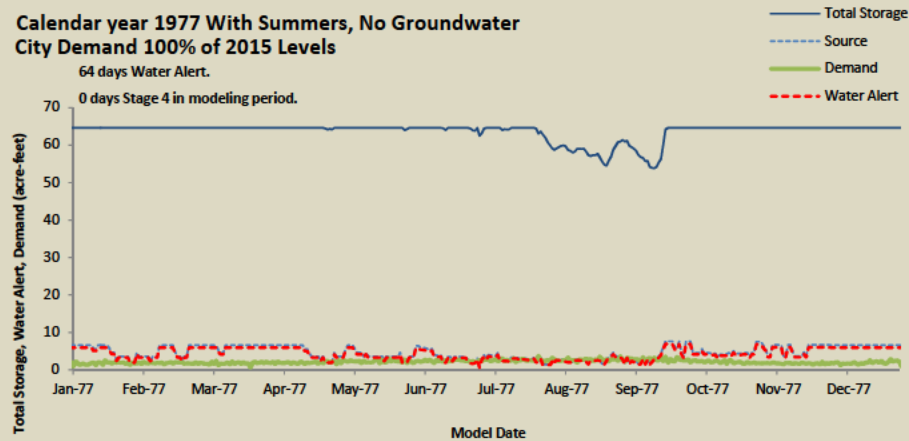
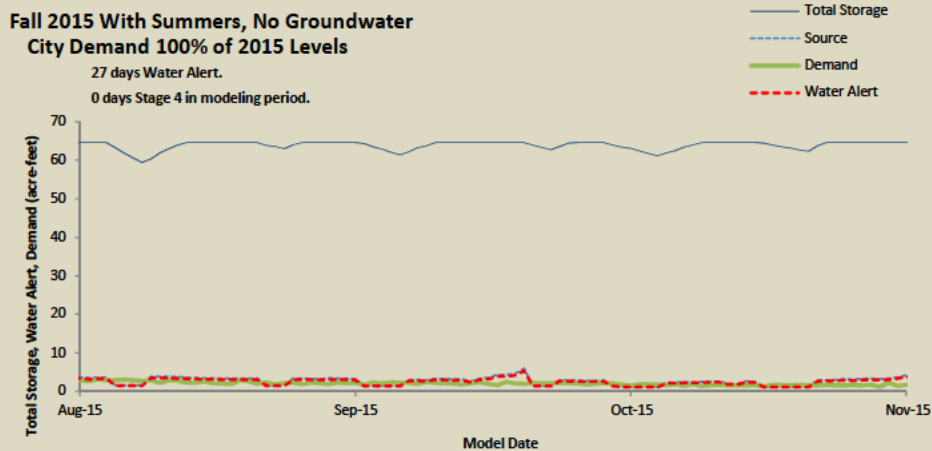
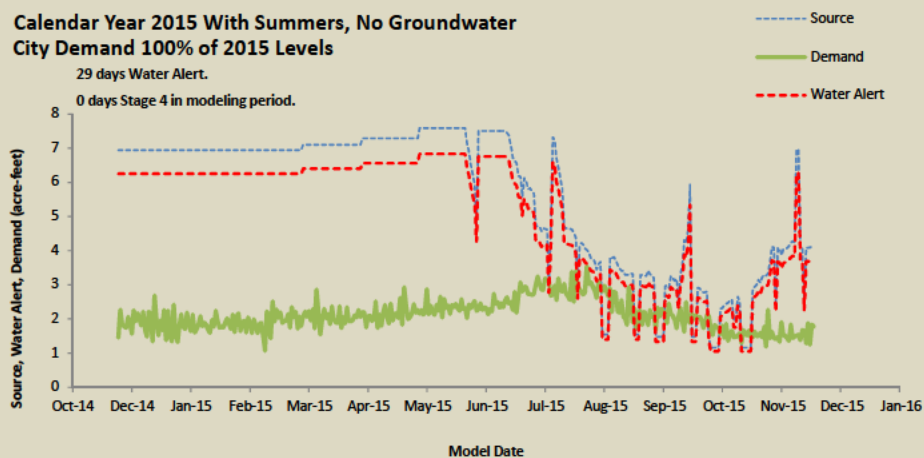
Water Model Incorporating Two (2) Foot Sea-Level Rise

	A	B	C	D
1				
2	Model Constants:			
3		Existing Newman Reservoir	0.9	acre-feet
4		New Summers Lane Reservoir	44.3	acre-feet
5		Raw Water Storage	9.2	acre-feet
6		Finished Water Storage	10.1	acre-feet
7		Groundwater availability (maximum, non-drought)	0.4	acre-feet per day
8		Water Alert Trigger	Raw water source capacity at least 10% above demand	
9				
10				
11				
12	Model Input Adjustments You Can Make:			
13		Reduce Noyo flow?	100%	<- as percent of measured flow
14		Amount of flow that must remain in Noyo River?	10	<- amount to leave in Noyo, Oct 1 - May 31 (cfs)
15			3	<- amount to leave in Noyo, Jun 1 - Sep 30 (cfs)
16		Height of tide that controls pumping?	4.0	<- height of tide that controls pumping (feet)
17				
18		Reduce Newman Gulch flow?	100%	<- percent of historic measured flow
19				
20		Reduce Waterfall Gulch flow?	75%	<- percent of historic measured withdrawal
21		Amount of flow that must remain in Waterfall G.?	0.0	<- enter amount to leave in Waterfall G. (cfs)
22				(enter 0.000001 to ignore factor)
23		Use new Summers Lane Reservoir?	Y	<- enter Y or N
24				
25		Use evaporation on raw water storage?	0.00	<- approximate daily amount in acre-feet
26		Use evaporation reduction device on new reservoir?	0%	<- percent reduction due to device
27				
28		Adjust daily precipitation?	100%	<- percent change from historic values
29				
30		Increase City demand? If answer below is "Y", then 2018 demand; else 2015	100%	<- percent of 2015 or 2018 production
31		Use 2018?	N	<- Y or N
32				
33		Use groundwater from former park site?	N	<- Y or N
34		Groundwater pumpage? (200 gpm original)	100	<- as total gallons per minute from well field
35				
36				
37				

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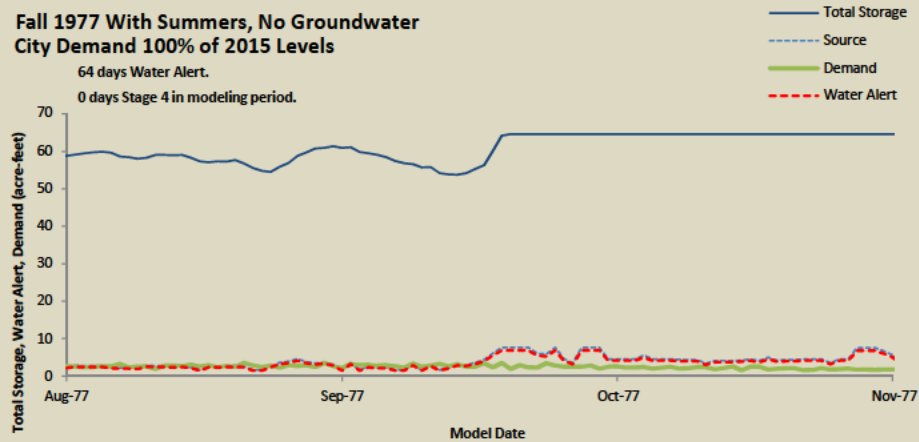
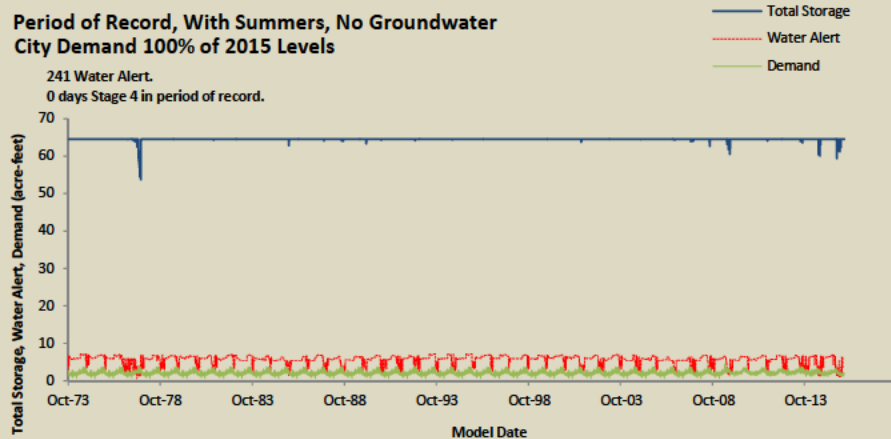
USER-CHOSEN GRAPH
 ENTER CALENDAR YEAR: 2015



GRAPH LABELS:

Chosen year: 29 days Water Alert.
 Period of record: 241 Water Alert.
 Calendar year 1977: 64 days Water Alert.
 Fall 2015: 27 days Water Alert.
 Chosen year: 0 days Stage 4 in modeling period.
 Period of record: 0 days Stage 4 in period of record.
 Calendar year 1977: 0 days Stage 4 in modeling period.
 Fall 2015: 0 days Stage 4 in modeling period.

Period of Record, With Summers, No Groundwater
 City Demand 100% of 2015 Levels
 Calendar year 1977 With Summers, No Groundwater
 Fall 2015 With Summers, No Groundwater
 Calendar Year 2015 With Summers, No Groundwater
 Fall 1977 With Summers, No Groundwater



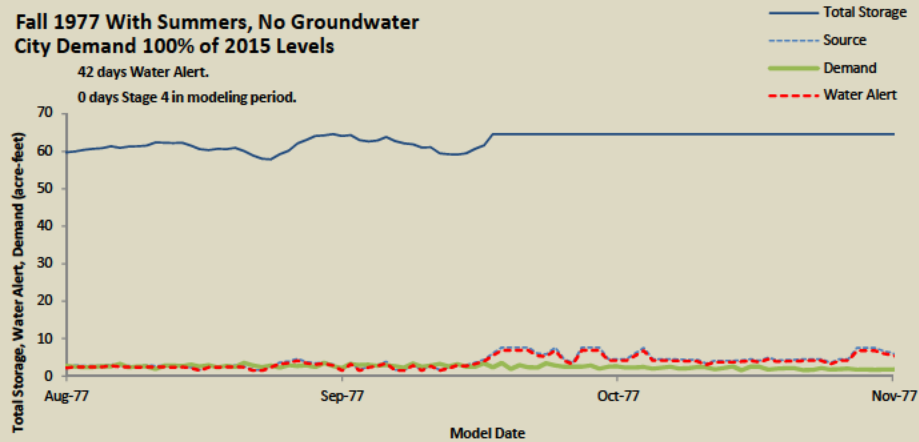
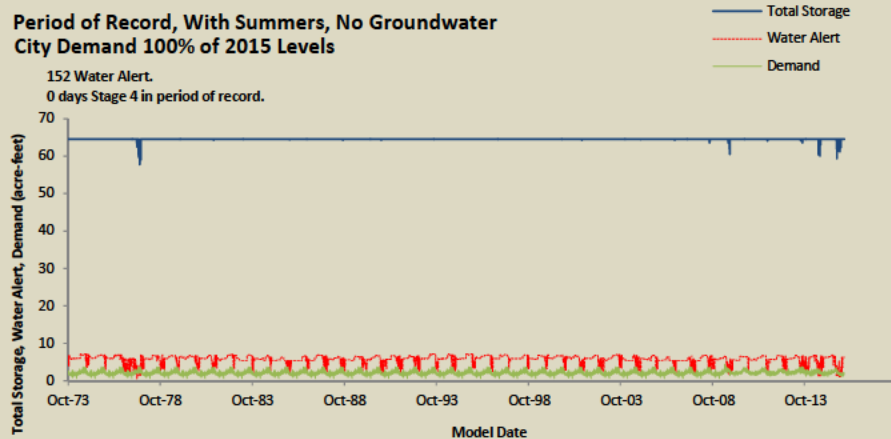
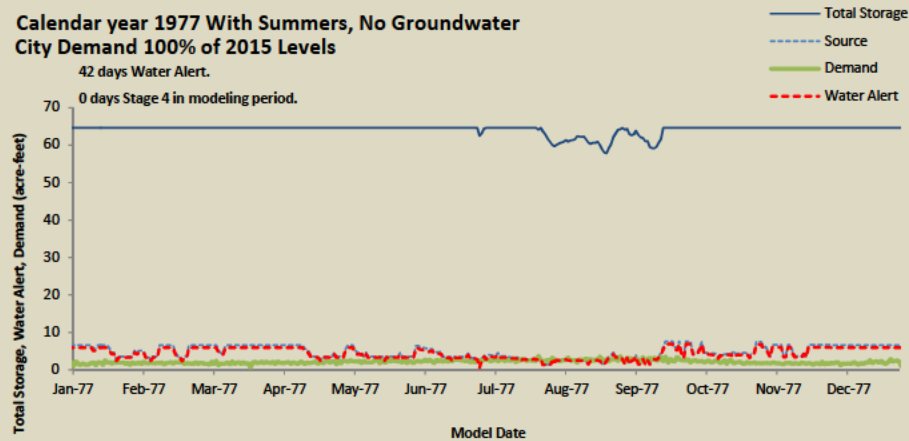
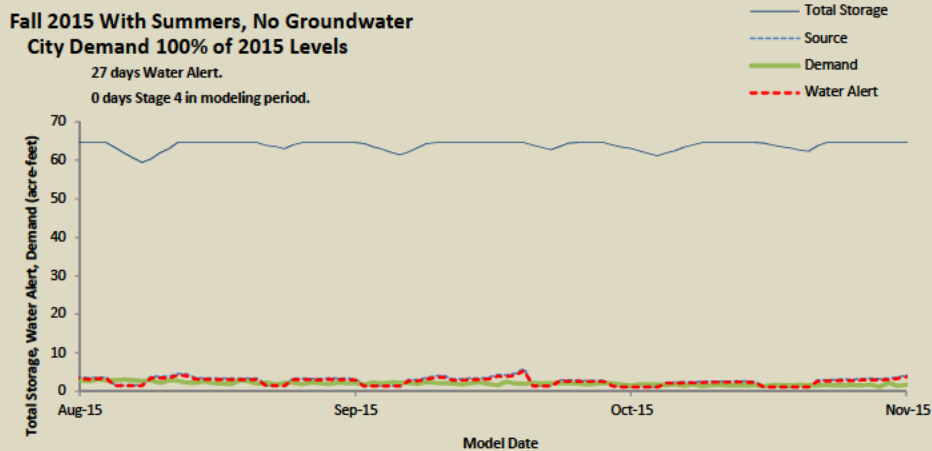
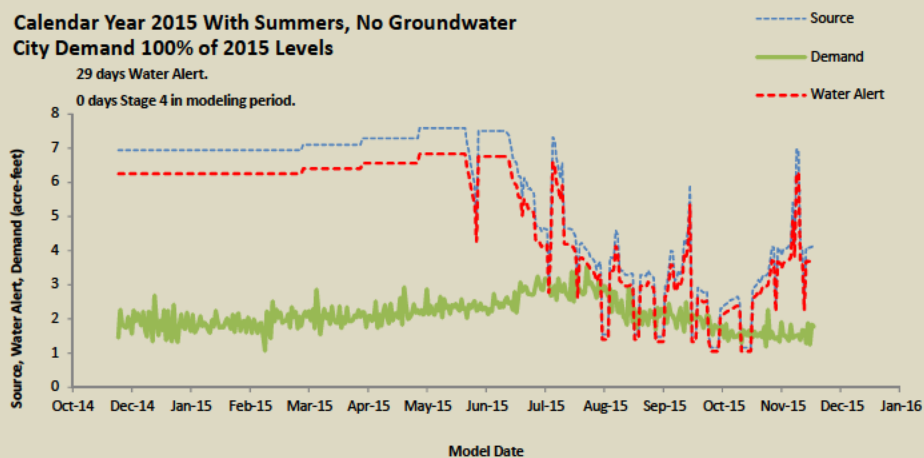
Water Model Incorporating One (1) Foot Sea-Level Rise

	A	B	C	D
1				
2	Model Constants:			
3		Existing Newman Reservoir	0.9	acre-feet
4		New Summers Lane Reservoir	44.3	acre-feet
5		Raw Water Storage	9.2	acre-feet
6		Finished Water Storage	10.1	acre-feet
7		Groundwater availability (maximum, non-drought)	0.4	acre-feet per day
8		Water Alert Trigger	Raw water source capacity at least 10% above demand	
9				
10				
11				
12	Model Input Adjustments You Can Make:			
13		Reduce Noyo flow?	100%	<- as percent of measured flow
14		Amount of flow that must remain in Noyo River?	10	<- amount to leave in Noyo, Oct 1 - May 31 (cfs)
15			3	<- amount to leave in Noyo, Jun 1 - Sep 30 (cfs)
16		Height of tide that controls pumping?	3.0	<- height of tide that controls pumping (feet)
17				
18		Reduce Newman Gulch flow?	100%	<- percent of historic measured flow
19				
20		Reduce Waterfall Gulch flow?	75%	<- percent of historic measured withdrawal
21		Amount of flow that must remain in Waterfall G.?	0.0	<- enter amount to leave in Waterfall G. (cfs)
22				(enter 0.000001 to ignore factor)
23		Use new Summers Lane Reservoir?	Y	<- enter Y or N
24				
25		Use evaporation on raw water storage?	0.00	<- approximate daily amount in acre-feet
26		Use evaporation reduction device on new reservoir?	0%	<- percent reduction due to device
27				
28		Adjust daily precipitation?	100%	<- percent change from historic values
29				
30		Increase City demand? If answer below is "Y", then 2018 demand; else 2015	100%	<- percent of 2015 or 2018 production
31		Use 2018?	N	<- Y or N
32				
33		Use groundwater from former park site?	N	<- Y or N
34		Groundwater pumpage? (200 gpm original)	100	<- as total gallons per minute from well field
35				
36				
37				

Cells in following tabs are inactive or have unmodified data if grayed out
 Bold typing indicates modified data - Blue fill indicates new data or calculations
 Conditional formatting has been used to highlight certain values with color in some columns

SCROLL DOWN FOR MORE GRAPHS - THESE GRAPHS ARE UNLOCKED

USER-CHOSEN GRAPH
 ENTER CALENDAR YEAR: **2015**



GRAPH LABELS:

Chosen year: 29 days Water Alert.
 Period of record: 152 Water Alert.
 Calendar year 1977: 42 days Water Alert.
 Fall 2015: 27 days Water Alert.
 Chosen year: 0 days Stage 4 in modeling period.
 Period of record: 0 days Stage 4 in period of record.
 Calendar year 1977: 0 days Stage 4 in modeling period.
 Fall 2015: 0 days Stage 4 in modeling period.

Period of Record, With Summers, No Groundwater
 City Demand 100% of 2015 Levels
 Calendar year 1977 With Summers, No Groundwater
 Fall 2015 With Summers, No Groundwater
 Calendar Year 2015 With Summers, No Groundwater
 Fall 1977 With Summers, No Groundwater

Water Model Without Sea-Level Rise

	A	B	C	D
1				
2	Model Constants:			
3		Existing Newman Reservoir	0.9	acre-feet
4		New Summers Lane Reservoir	44.3	acre-feet
5		Raw Water Storage	9.2	acre-feet
6		Finished Water Storage	10.1	acre-feet
7		Groundwater availability (maximum, non-drought)	0.4	acre-feet per day
8		Water Alert Trigger	Raw water source capacity at least 10% above demand	
9				

	A	B	C	D
13	Model Input Adjustments You Can Make:			
14		Reduce Noyo flow?	100%	<- as percent of measured flow
15		Amount of flow that must remain in Noyo River?	10	<- amount to leave in Noyo, Oct 1 - May 31 (cfs)
16			3	<- amount to leave in Noyo, Jun 1 - Sep 30 (cfs)
17		Height of tide that controls pumping?	2.0	<- height of tide that controls pumping (feet)
18				
19		Reduce Newman Gulch flow?	100%	<- percent of historic measured flow
20				
21		Reduce Waterfall Gulch flow?	75%	<- percent of historic measured withdrawal
22		Amount of flow that must remain in Waterfall G.?	0.0	<- enter amount to leave in Waterfall G. (cfs)
23				(enter 0.000001 to ignore factor)
24		Use new Summers Lane Reservoir?	Y	<- enter Y or N
25				
26		Use evaporation on raw water storage?	0.00	<- approximate daily amount in acre-feet
27		Use evaporation reduction device on new reservoir?	0%	<- percent reduction due to device
28				
29		Adjust daily precipitation?	100%	<- percent change from historic values
30				
31		Increase City demand? If answer below is "Y", then 2018 demand; else 2015	100%	<- percent of 2015 or 2018 production
32		Use 2018?	N	<- Y or N
33				
34		Use groundwater from former park site?	N	<- Y or N
35		Groundwater pumpage? (200 gpm original)	100	<- as total gallons per minute from well field
36				

Cells in following tabs are inactive or have unmodified data if grayed out
 Bold typing indicates modified data - Blue fill indicates new data or calculations
 Conditional formatting has been used to highlight certain values with color in some columns

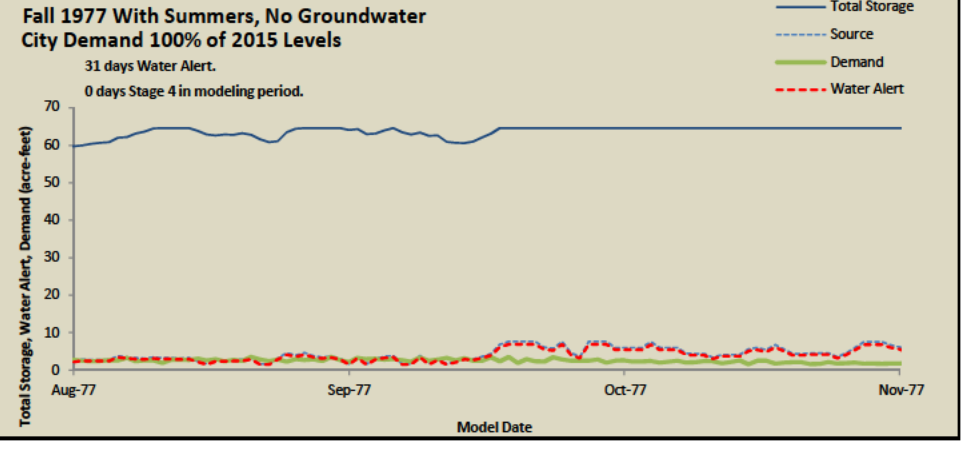
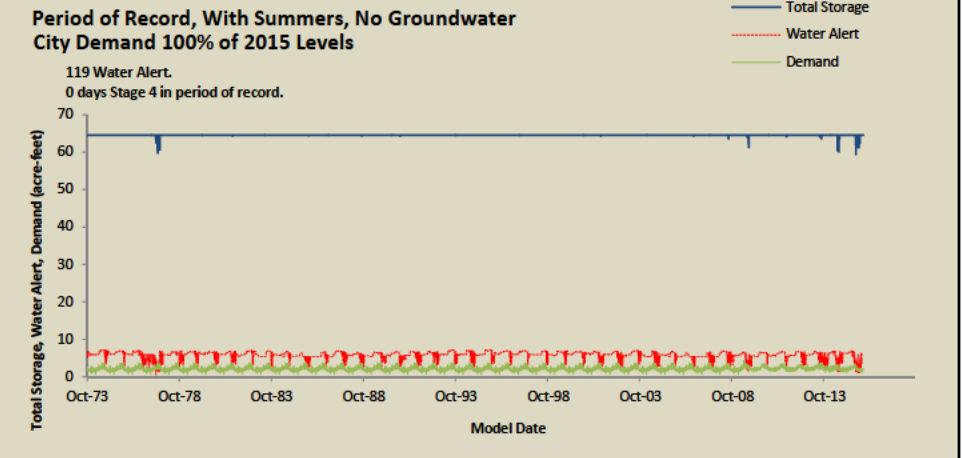
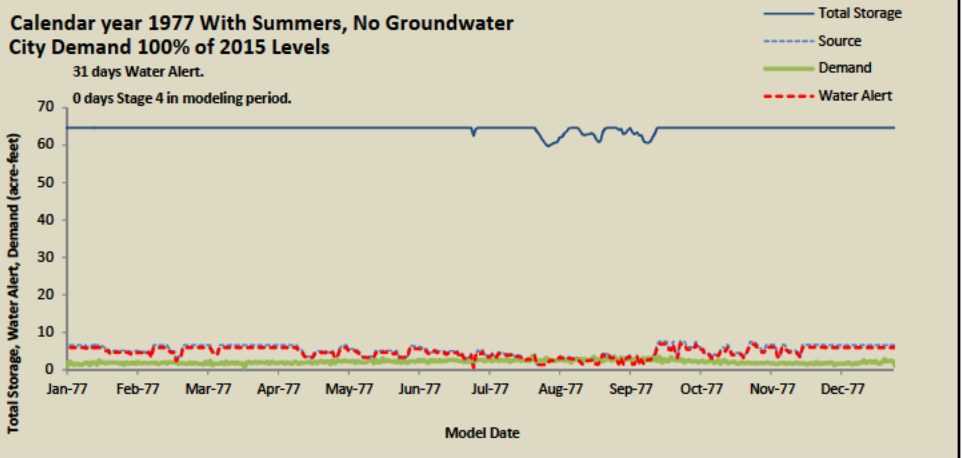
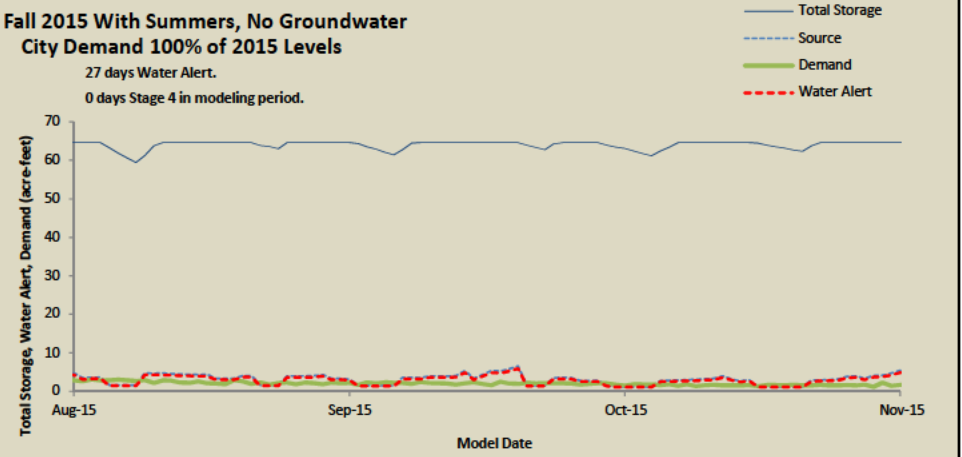
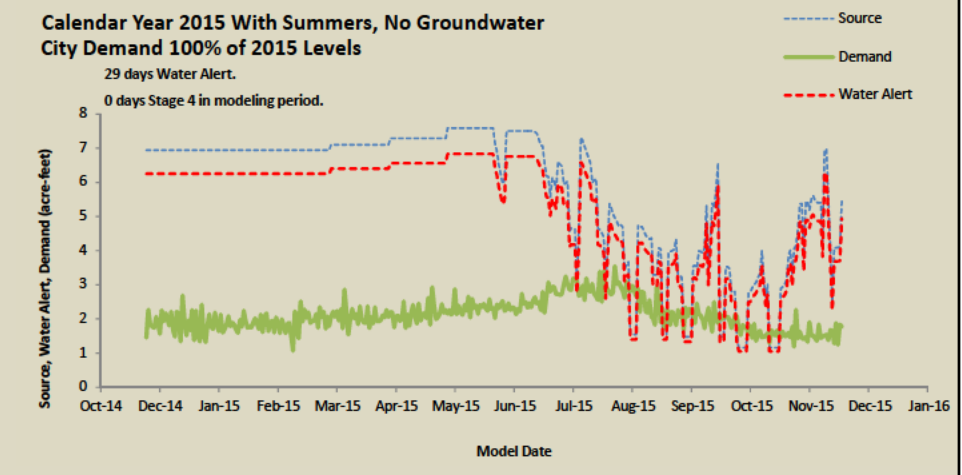
GRAPH LABELS:

Chosen year:	29 days Water Alert.
Period of record:	119 Water Alert.
Calendar year 1977:	31 days Water Alert.
Fall 2015:	27 days Water Alert.
Chosen year:	0 days Stage 4 in modeling period.
Period of record:	0 days Stage 4 in period of record.
Calendar year 1977:	0 days Stage 4 in modeling period.
Fall 2015:	0 days Stage 4 in modeling period.

Period of Record, With Summers, No Groundwater	Calendar year 1977 With Summers, No Groundwater
City Demand 100% of 2015 Levels	Fall 2015 With Summers, No Groundwater
	Calendar Year 2015 With Summers, No Groundwater
	Fall 1977 With Summers, No Groundwater

SCROLL DOWN FOR MORE GRAPHS - THESE GRAPHS ARE UNLOCKED

USER-CHOSEN GRAPH
 ENTER CALENDAR YEAR: 2015



Peters, Sarah

From: Jacob Patterson <jacob.patterson.esq@gmail.com>
Sent: Tuesday, February 22, 2022 6:42 PM
To: cdd
Cc: Peters, Sarah; O'Neal, Chantell; Lemos, June
Subject: Public Comment -- 2/23/23 PC Mtg, Item No. 6A, agenda materials from 1/25/21 CC Mtg.
Attachments: 20210125 CC Minutes.pdf; 20201209 PC Minutes.pdf; 20210125 CC Mtg. - City of Fort Bragg - File #_21-009.pdf; 20210125 CC Agenda Item 7A Action Details.pdf; 20201209 PC Agenda Item 5A Action Details.pdf

Planning Commission,

I am submitting the agenda materials for the 1/25/2021 City Council meeting for the appeal of your denial of MUP 4-20 at the 12/9/2020 Planning Commission meeting. Rather than downloading and attaching the agenda materials, I am providing a hyperlink to the City's legislative record for that agenda item, which contains the actual documents in electronic format. I have also attached the meeting minutes for the two meetings and generated two associated PDFs showing the legislative file with the document names of the agenda packet contents for the 1/25/2021 meeting as well as a cut-and-paste of the action details showing the action taken by the City Council at the January 2021 meeting and by the Planning Commission at the December 2020 meeting.

I am submitting these documents into the administrative record for the 2/23/22 public hearing about the proposed cannabis ordinance to serve the same purpose as the meeting videos for the two meetings I submitted in a separate public comment. Namely, to demonstrate that the description of the existing regulatory framework for commercial cannabis is not as it is described in the staff report and draft IS/ND. The result is that the IS/ND should be revised and likely replaced with a full EIR for this project based on a significant change between the actual baseline conditions as the code has been interpreted and applied by the City for the prior commercial cannabis land use reviews (including UP 4-20) compared to the recommended amended code provisions. I will provide more specific public comments about the proposed ordinance and draft IS/ND prior to and/or at the actual public hearing on the 23rd.

<https://cityfortbragg.legistar.com/LegislationDetail.aspx?ID=4758428&GUID=A1F8F9C9-BE3F-4BDF-B1B9-53DD6FE24585>

City staff has graciously agreed to include the individual agenda materials for Item No. 7A, the public hearing before the City Council on the appeal of the Planning Commission's denial of MUP 4-20, in the administrative record for your public hearing on the proposed cannabis ordinance so you don't need to receive a series of messages with the attached documents number well over 1500 pages. You can access the individual documents that I am submitting for your consideration by following the above hyperlink.

Regards,

--Jacob



City of Fort Bragg

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

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, January 25, 2021

6:00 PM

Via Video Conference

CALL TO ORDER

Mayor Norvell called the meeting to order at 6:00 PM, all Councilmembers appearing by video conference.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: 4 - Mayor Bernie Norvell, Vice Mayor Jessica Morsell-Haye, Councilmember Tess Albin-Smith and Councilmember Lindy Peters

AGENDA REVIEW

Mayor Norvell moved Item 8C to the top of the Conduct of Business agenda, stating he will recuse himself from hearing Items 8A and 8B due to a conflict of interest.

1. MAYOR'S RECOGNITIONS AND ANNOUNCEMENTS

Mayor Norvell announced that three ad hoc committees are expiring next month. He extended the Broadband committee by one year, and will replace former Councilmember Lee with a new committee member once the vacant Council seat has been filled. He extended the Revenue committee by six months. The Mayor also extended Council Goal #2 ad hoc committee by six months and will appoint someone to replace former Councilmember Lee after the new Councilmember is seated.

The Mayor reported on a recent meeting regarding the winter shelter. Trinity Lutheran Church has agreed to house the Winter Shelter until March 15. The Mendocino Coast Jewish Community shul in Caspar has offered to house the shelter for the last two weeks in March. Mayor Norvell continues to work with the Mendocino Coast Hospitality Center to confirm these arrangements.

1A. [21-005](#) Introduction of New Employees: Heather Gurewitz, Associate Planner, George Leinen, Police Services Transporter, Maxwell (Max) Sallas, Maintenance Worker II, and John Smelser, Part-Time Laborer

Chief Naulty and Public Works Director Smith introduced their new employees to the City Council. Mayor Norvell extended a warm welcome to all the new City of Fort Bragg employees.

- 1B.** [21-004](#) Presentation of Proclamation Declaring February 2021 as Black History Month

Mayor Norvell read a Proclamation declaring the month of February 2021 as Black History Month.

- 1C.** [21-019](#) Presentation by Diann Simmons of the Economic Development & Financing Corporation (EDFC) Regarding EDFC's Fiscal Year 2019-2020 Report

Diann Simmons, Phoenix Trent, and Robert Gernert of the Economic Development and Financing Corporation (EDFC) made a presentation to Council about the vital services provided by EDFC.

2. PUBLIC COMMENTS ON: (1) NON-AGENDA, (2) CONSENT CALENDAR & (3) CLOSED SESSION ITEMS

(1) Comments from Judith Valadao and Jay Rosenquist were read into the record by the City Clerk. (2) Jenny Shattuck and Jacob Patterson commented on Item 5D via Zoom. (3) N/A.

3. STAFF COMMENTS

City Manager Miller noted that Covid surveillance testing is available at Veteran's Hall tomorrow. Applications for the open City Council seat are due by 4:00 PM on January 29. Wiggly Giggly Park was opened this week on a limited basis with volunteer monitors. Governor Newsom has lifted regional stay at home orders and extended the eviction moratorium to June 30, 2021. Public Works Director Smith reported that a weather front is coming with flooding expected over the next 18-hour period. A free sandbag station has been set up at the Fire Department. Smith exhibited photos of the new vector truck recently purchased by the City.

4. MATTERS FROM COUNCILMEMBERS

Councilmember Albin-Smith thanked the Mayor and Vice Mayor for the press release denouncing violence, stating that she also denounces all violence, racism and prejudice. She also spoke about mask wearing and mentioned a Mendocino High School program in honor of Martin Luther King Day. Councilmember Peters also spoke in support of the Mayor and Vice Mayor's press release. Vice Mayor Morsell-Haye recommended people visit a new website called hubsandrouten.net for tools that help people find alternative routes off the coast if the roads are out.

5. CONSENT CALENDAR

Approval of the Consent Calendar

A motion was made by Councilmember Peters, seconded by Vice Mayor Morsell-Haye, to approve the Consent Calendar. The motion carried by the following vote:

Aye: 4 - Mayor Norvell, Vice Mayor Morsell-Haye, Councilmember Albin-Smith and Councilmember Peters

- 5A.** [21-011](#) Adopt City Council Resolution Adopting an Electronic Records and Signature Use Policy and Authorizing the Use of Electronic Records and Signatures
This Resolution was adopted on the Consent Calendar.
Enactment No: RES 4346-2021
- 5B.** [21-012](#) 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 4347-2021
- 5C.** [21-013](#) Adopt City Council Resolution Appointing Representatives to Represent and Vote on Behalf of the City at the League of California Cities Redwood Empire Division Business Meeting and Legislative Committee Meetings
This Resolution was adopted on the Consent Calendar.
Enactment No: RES 4348-2021
- 5D.** [21-015](#) Receive and File Minutes of the February 19, 2020 Public Safety Committee Meeting
These Committee Minutes were received and filed on the Consent Calendar.
- 5E.** [21-016](#) Receive and File Minutes of the March 25, 2020 Public Safety Committee Special Meeting
These Committee Minutes were received and filed on the Consent Calendar.
- 5F.** [21-014](#) Approve Minutes of January 11, 2021
These Minutes were approved on the Consent Calendar.

6. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS

Mayor Norvell disclosed that he had conversations via text and email with a member of the public regarding Item 7A and also reached out to someone in the cannabis industry to get clarity on the issue. He noted that he received a phone call from Simeon Evans who inquired about the process before the permit application was filed.

7. PUBLIC HEARING

- 7A.** Receive Report, Conduct Public Hearing on Appeal of Brandy Moulton of the Fort Bragg Planning Commission Denial of Minor Use Permit 4-20 (MUP 4-20) for the Proposed Sunshine Holistic Microbusiness at 144 N. Franklin Street (APN 008-164-39), and Consider Adoption of City Council Resolution Upholding or Overturning the Planning Commission Decision

Councilmember Morsell-Haye disclosed that she had a business conflict of interest and recused herself from hearing this matter. She left the video conference at 6:59 PM.

Mayor Norvell opened the public hearing at 6:59 PM.

Associate Planner Gurewitz presented the staff report on this agenda item and responded to questions from Councilmembers regarding accessory uses, security, and odors.

Applicant/appellant Brandy Moulton spoke to the Council regarding her application for a minor use permit and responded to their questions.

Public Comment was received via Zoom from:

- Michelle Roberts, Planning Commissioner, stated that she made the motion to deny the use permit. She wanted to clarify that the staff report doesn't adequately represent the discussion of the Planning Commission. She referred the Council back to Article 10 of the Municipal Code, which defines accessory use. The applicant noted that plants would be started in the nursery, some would be sold in retail, but some taken off site to another location. She stated that these uses are not permitted in the Central Business District.
- Jacob Patterson said the plants won't just be for a retail component; they are going off site and serving other sites. He stated that the ex parte disclosures did not disclose who the Councilmember spoke to, and claimed that there was a failure to recuse from Councilmember Peters and Mayor Norvell.
- Jen Brown spoke in support of the use permit, stating that applicant Brandy Moulton knows what she is talking about and is very well versed in codes and regulations. She has a successful business already and having a business in the city would be more accessible to people.
- Public Comments from Jacob Patterson, John Smith and Jay Rosenquist regarding the minor use permit were read into the record by the City Clerk.

The applicant briefly responded to questions raised by members of the public and stated that if using clones at her farm is the issue, she would gladly give up that part of the application.

Councilmember Albin-Smith disclosed that she had a phone conversation with Planning Commissioner Roberts the morning of the hearing.

Mayor Norvell closed the public hearing at 8:05 PM.

Mayor Norvell recessed the meeting at 8:07 PM; the meeting reconvened at 8:14 PM.

After lengthy deliberations, mostly about accessory uses, the following motions were made:

A motion was made by Councilmember Peters, seconded by Mayor Norvell, that the Applicant's appeal be upheld with the following special conditions: (1) Any clones or starter plants grown in the nursery warehouse be retailed on site; and 2) Any odor discernable at the property line will require the business to mitigate the problem or the permit will be revoked. The motion failed by the following vote:

Aye: 2 - Mayor Norvell and Councilmember Peters

No: 1 - Councilmember Albin-Smith

Recuse: 1 - Vice Mayor Morsell-Haye

A motion was made by Councilmember Albin-Smith, seconded by Councilmember Peters, that the Applicant's appeal be denied and the Planning

Commission's decision be upheld. The motion failed by the following vote:

Aye: 2 - Councilmember Albin-Smith and Councilmember Peters

No: 1 - Mayor Norvell

Recuse: 1 - Vice Mayor Morsell-Haye

8. CONDUCT OF BUSINESS

8C. [21-021](#) Receive Report and Consider Adoption of the FY 20/21 Water and Wastewater Rate Increase

Vice Mayor Morsell-Haye rejoined the video conference at 8:30 PM.

Senior Government Accountant Whippy presented the staff report on this agenda item.

Public Comment via Zoom was received from Jacob Patterson; the City Clerk read a comment from Jay Rosenquist into the record.

A motion was made by Councilmember Peters, seconded by Councilmember Albin-Smith, that the utility rate increases be deferred until after a Utility Rate Study has been completed and the matter brought back before Council for further discussion. The motion carried by the following vote:

Aye: 4 - Mayor Norvell, Vice Mayor Morsell-Haye, Councilmember Albin-Smith and Councilmember Peters

8A. [20-980](#) Receive Report and Consider Adoption of City Council Resolution Approving Contract Amendment with Metropolitan Planning Group, DBA M-Group for Adjunct Planning Services for Multiple Planning Projects and Authorizing City Manager to Execute Contract (Amount Not to Exceed \$46,146.00; Multiple Account Numbers)

Mayor Norvell disclosed a conflict of interest for both Items 8A and 8B and recused himself from hearing these matters. He appointed Vice Mayor Morsell-Haye as Acting Mayor for the remainder of the meeting and left the video conference at 9:00 PM.

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

Public Comment: None.

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: 3 - Vice Mayor Morsell-Haye, Councilmember Albin-Smith and Councilmember Peters

Recuse: 1 - Mayor Norvell

Enactment No: RES 4349-2021

8B. [20-981](#) Receive Report and Consider Adoption of City Council Resolution Approving Professional Services Agreement with Fehr & Peers for the Preparation of a Transportation Impact Assessment (TIA) for the Dollar

General Project and Authorizing City Manager to Execute Contract
(Amount Not to Exceed \$ 49,935; Account No. 119-0000-2691)

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

Public Comment was received via Zoom from Jacob Patterson and Andrew Jordan.

A motion was made by Councilmember Albin-Smith, seconded by Councilmember Peters, that this Resolution be adopted. The motion carried by the following vote:

Aye: 3 - Vice Mayor Morsell-Haye, Councilmember Albin-Smith and Councilmember Peters

Recuse: 1 - Mayor Norvell

Enactment No: RES 4350-2021

9. CLOSED SESSION

ADJOURNMENT

Acting Mayor Morsell-Haye adjourned the meeting at 9:24 PM.

BERNIE NORVELL, MAYOR

June Lemos, CMC, City Clerk

IMAGED (_____)



City of Fort Bragg

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

Meeting Minutes Planning Commission

Wednesday, December 9, 2020

6:00 PM

Via Video Conference

MEETING CALLED TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

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

PLEASE TAKE NOTICE

ZOOM WEBINAR INVITATION

1. APPROVAL OF MINUTES

The minutes were approved as amended to show Commissioner Rogers as recused.

1a. [20-929](#) Approve the Planning Commission Minutes of November 12, 2020

4. MATTERS FROM CHAIR/COMMISSIONERS/STAFF

Assistant Director O'Neal introduced the new Associate Planner Heather Gurewitz. Chair Logan opted to participate in the meeting being that he has no financial conflict. Commissioner Miklose and Vice Chair Andreis recused themselves due to their proximity to the proposed project.

2. PUBLIC COMMENTS ON NON-AGENDA ITEMS

3. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS

Commissioner Miklose disclosed that he was approached by a gentleman who identified himself as a business owner regarding the proposed project being heard tonight.

5. PUBLIC HEARINGS

5a. [20-946](#) Receive Report, Conduct Public Hearing and Consider Approval of Minor Use Permit 4-20 to Establish a Storefront Cannabis Dispensary With Delivery and Accessory Micro Business in Distribution, Processing, Nursery, and Non-Volatile Manufacturing, and a Residential Unit Within Two Existing Commercial Buildings

Chair Logan opened the Public Hearing at 6:13 PM. Administrative Assistant Gonzalez presented the prepared report. Assistant Director O'Neal and Administrative Assistant Gonzalez answered clarifying questions from the Planning Commissioners. The applicant addressed the Planning Commissioners via webinar and provided further application clarity.

Public Comment received from:

- * Jude Tillman
- *Jacob Patterson
- *Jay Koski
- *Cassandra Roberts
- *Simeone Evans
- *John Smith
- *Jacob Patterson
- *Jamie Peters
- *Jacob Patterson
- *John Smith
- *John N
- *Brandy Moulton
- *Jen Brown

Chair Logan closed the Public Hearing at 8:10 PM.

Discussion:

The Commission deliberated extensively regarding accessory uses and how the definition states that accessory use is 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. . The Planning Commission would like clarity from the City Council regarding the proposed accessory uses being subordinate , and verification on if the City can regulate the legal carrying of a concealed weapon when entering the proposed project

A motion was made by Commissioner Roberts, seconded by Commissioner Rogers, Minor Use Permit (MUP 4-20) be denied. The motion carried by the following vote:

Aye: 3 - Commissioner Roberts, Chair Logan and Commissioner Rogers

Recuse: 2 - Commissioner Miklose and Vice Chair Andreis

6. CONDUCT OF BUSINESS

None.

ADJOURNMENT

Chair Logan closed the meeting at 8:15 PM.

Jeremy Logan, Chair

Joanna Gonzalez, Administrative Assistant

IMAGED (_____)



[Details](#) [Reports](#)

File #: **Version:** 1 **Name:**
Type: Appeal **Status:** Filed
File created: 1/13/2021 **In control:** [City Council](#)
On agenda: 1/25/2021 **Final action:** 1/25/2021

Title: Receive Report, Conduct Public Hearing on Appeal of Brandy Moulton of the Fort Bragg Planning Commission Denial of Minor Use Permit 4-20 (MUP 4-20) for the Proposed Sunshine Holistic Microbusiness at 144 N. Franklin Street (APN 008-164-39), and Consider Adoption of City Council Resolution Upholding or Overturning the Planning Commission Decision

Indexes: Community Development

Attachments: 1. [01132021 MUP 4-20 Cannabis Business Appeal Report](#), 2. [ATT 1 - Appeal Letter MUP 4-20](#), 3. [ATT 2 - Planning Commission Agenda Packet](#), 4. [ATT 3 - APPROVE Resolution](#), 5. [ATT 4 - DENY Resolution](#), 6. [ATT 5 - Exhibit A Findings and Conditons](#), 7. [ATT 6 - PH Notice - Sunshine Holistic Appeal](#), 8. [Public Comment 7A](#)

[History \(2\)](#) [Text](#)

2 records		Group	Export					
Date	Ver.	Action By	Action	Result	Action Details	Meeting Details	Video	
1/25/2021	1	City Council	denied	Pass	Action details	Meeting details	Not available	
1/25/2021	1	City Council	denied	Pass	Action details	Meeting details	Not available	

The applicant briefly responded to questions raised by members of the public and stated that if using clones at her farm is the issue, she would gladly give up that part of the application. Councilmember Albin-Smith disclosed that she had a phone conversation with Planning Commissioner Roberts the morning of the hearing.

Mayor Norvell closed the public hearing at 8:05 PM.

Mayor Norvell recessed the meeting at 8:07 PM; the meeting reconvened at 8:14 PM.

After lengthy deliberations, mostly about accessory uses, the following motions were made:

Action:

denied

Action text:

A motion was made by Councilmember Peters, seconded by Mayor Norvell, that the Applicant's appeal be upheld with the following special conditions: (1) Any clones or starter plants grown in the nursery warehouse be retailed on site; and 2) Any odor discernable at the property line will require the business to mitigate the problem or the permit will be revoked. The motion failed by the following vote:

- Votes (3:1)

- 4 records

- Group

- Export

Person Name	Vote
Bernie Norvell	Aye
Jessica Morsell-Haye	Recuse
Tess Albin-Smith	No
Lindy Peters	Aye

- Details

File #: 20946 **Version:** 1
Type: Planning Staff Report
Title: Receive Report, Conduct Public Hearing and Consider Approval of Minor Use Permit 4-20 to Establish a Storefront Cannabis Dispensary With Delivery and Accessory Micro Business in Distribution, Processing, Nursery, and Non-Volatile Manufacturing, and a Residential Unit Within Two Existing Commercial Buildings
Mover: [Michelle Roberts](#) **Seconded:** [Nancy Rogers](#)
Result: Pass
Agenda note:
Minutes note:

Commissioner Miklose recused himself from the hearing due to the proximity of his business to the project.

Vice Chair Andreis recused himself from the hearing due to the proximity of his home to the project.

Chair Logan opened the Public Hearing at 6:13 PM. Administrative Assistant Gonzalez presented the prepared report. Assistant Director O'Neal and Administrative Assistant Gonzalez answered clarifying questions from the Planning Commissioners. The applicant addressed the Planning Commissioners via webinar and provided further application clarity.

Public Comment received from:

- * Jude Tillman
- * Jacob Patterson
- * Jay Koski
- * Cassandra Roberts
- * Simeone Evans
- * John Smith
- * Jacob Patterson
- * Jamie Peters
- * Jacob Patterson
- * John Smith
- * John N
- * Brandy Moulton
- * Jen Brown

Chair Logan closed the Public Hearing at 8:10 PM.

Discussion:

The Commission deliberated extensively regarding accessory uses and how the definition

states that accessory use is 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. . The Planning Commission would like clarity from the City Council regarding the proposed accessory uses being subordinate, and verification on if the City can regulate the legal carrying of a concealed weapon when entering the proposed project

Action:

denied

Action text:

A motion was made by Commissioner Roberts, seconded by Commissioner Rogers, Minor Use Permit (MUP 4-20) be denied. The motion carried by the following vote:

- Votes (5:0)
- 5 records
- Group
- Export

Person Name	Vote
Stan Miklose	Recuse
Jay Andreis	Recuse
Michelle Roberts	Aye
Jeremy Logan	Aye
Nancy Rogers	Aye

Peters, Sarah

From: Jacob Patterson <jacob.patterson.esq@gmail.com>
Sent: Wednesday, February 23, 2022 4:37 PM
To: cdd
Cc: Peters, Sarah
Subject: Public Comment -- 2/23/22 PC Mtg., Item No. 6A
Attachments: ATT 1 - Proposed Ordinance.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Planning Commission,

I thought you might like a reminder of what an actual draft ordinance looks like since staff appears to have decided to omit an actual draft ordinance from your meeting materials, instead including confusing working drafts of potential revisions to different code sections. Of course, you can't actually make a recommendation on something that isn't before you and the public also doesn't have sufficient notice of what is being considered without an actual ordinance. That is odd and definitely procedurally objectionable since the Planning Commission is required to review and then recommend a draft land use ordinance to the City Council prior to their consideration but we are where we are...

Here is what you considered for the formula business ordinance. There are also actual proposed cannabis ordinances you can read associated with the two ballot initiative petitions currently in circulation. You might want to consider those as well as part of your review and recommendations of the staff-initiated ordinance project.

Regards,

--Jacob

BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

AN ORDINANCE ADDING CHAPTER 18.46 FORMULA BUSINESS REGULATIONS TO TITLE 18.4 (STANDARDS FOR SPECIFIC LAND USES) AND AMENDING CHAPTER 18.100 (DEFINITIONS) OF THE FORT BRAGG MUNICIPAL CODE AND AMENDING CHAPTER 18.2 (ZONING DISTRICTS AND ALLOWABLE LAND USES) OF THE FORT BRAGG MUNICIPAL CODE

ORDINANCE NO.

WHEREAS, the City of Fort Bragg (“City”) adopted an Inland General Plan and certified an Environmental Impact Report Addendum (“EIR Addendum”) for the General Plan on December 2, 2012; and

WHEREAS, the City of Fort Bragg (“City”) adopted an Inland Land Use and Development Code and Negative Declaration on February 10, 2014; and

WHEREAS, the adoption of an Inland Land Use and Development Code is necessary to: 1) provide a regulatory framework for implementation of the Inland General Plan; 2) to implement new state planning and land use requirements; and 3) update zoning regulations in accordance with City Council policy direction; and

WHEREAS, the City Council adopted Urgency Ordinance No. 964-2021, which established a forty-five (45) day moratorium on approval of applications for Formula Businesses, as defined in the Ordinance, in the Inland Zoning Area; and

WHEREAS, the City Council extended the Moratorium on approval of applications for Formula Businesses for an additional 315 days on May 24, 2021 to provide for sufficient time to adopt Formula Business Regulations; and

WHEREAS, the Planning Commission considered the Inland Land Use and Development Code at a noticed public hearing on June 2, 2021, at which time all interested parties had the opportunity to be heard; and

WHEREAS, the Planning Commission adopted Resolution PC XX-2021 recommending City Council adopt the amended Inland Land Use and Development Code; and

WHEREAS, the City Council considered the amended Inland Land Use and Development Code at a noticed public hearing on XXXX, 2021, at which time all interested parties had the opportunity to be heard; and

WHEREAS, the staff reports, Planning Commission Resolution, City Council Resolution, and Inland Land Use and Development Code are available for review at City Hall during normal business hours.

The City Council ordains as follows:

Section 1. Legislative Findings. The City Council hereby finds as follows:

1. The City of Fort Bragg is a small coastal community of 7,500 residents perched on the bluff tops overlooking the ocean in northern Mendocino County. A former lumber town with what was a strong fishing industry, Fort Bragg has a rich history and many of its homes and buildings are well over a hundred years old. Located approximately 165 miles north of San Francisco and 185 miles west of Sacramento, Fort Bragg, while quite small, is the largest city on the coast between San Francisco and Eureka. The remoteness of Fort Bragg is one of its greatest assets. The natural landscape is beautiful. The air is clean, the ocean wild, and traffic is a non-issue. The City acquired parkland along the bluff tops of the former mill site and has completed construction of a multiuse trail. This trail created public access to 3.5 miles of scenic coastline and is value added for local residents and visitors alike. Of the City's 1,869 acres, 962 are located in the Coastal Zone. The coastal views and beauty are critical to what makes Fort Bragg special. Many unique local businesses and brands have made Fort Bragg distinct, relying on the city's natural beauty and laid-back commercial character. Maintaining the economic health and one-of-a-kind distinction is vital to preserving Fort Bragg's commercial character while meeting the needs of its visitors and residents.
2. To retain that one-of-a-kind character, the City seeks to avoid the proliferation of chain store uses that result in diluting what makes Fort Bragg unique and instead creates a character of repetitiveness similar to other towns across America, where chain store prevalence grows. Fort Bragg seeks to encourage elements that provide variety and fit with the unique environment, history and its quirky charm while retaining opportunities for all. The City's mission and vision embraces a friendly city with a small town character and a strong sense of community that values its roots in the fishing and timber industries. The City's General Plan, Citywide Design Guidelines, and Inland Land Use & Development Code emphasize the commitment to maintaining the strength and vitality of the historic Central Business District.
3. A strong and diverse retail base is necessary for the success of Fort Bragg's commercial sector, in particular the Central Business District. The City recognizes that a healthy blend of unique and familiar businesses providing diverse retail experiences for both visitors and residents supports this success. "As the economy evolves to a more tourism and service-based economy, the community has acknowledged the importance of maintaining the historic identity of downtown and the integrity of the residential neighborhoods, while enhancing views and access to the coastline and planning for continued growth and development." (Inland General Plan 6. Community Design Element). The City is committed to and recognizes the importance of promoting and supporting the economic vitality and diversity of City businesses both in its commercial districts and the historic Central Business District. (Inland General Plan Goal LU-4, Policy CD-6.1 and Policy CD2.3). Maintaining the City's quality of life and identity is a priority. (Inland General Plan C-5, Policy C-5.1).

4. As the City continues to rely on its reputation as an emerging destination, to sustain and grow its tourism industry Fort Bragg must retain its historical ties to timber and fishing, the coastal and cultural qualities, and its recreation opportunities. Fort Bragg's commercial uses should promote its unique and special qualities. The commercial uses should not detract from or dilute what makes Fort Bragg stand out from other cities in California. Formula retail businesses are, by their nature, not unique. Many of Fort Bragg's unique goods and services cannot be found where many of our visitors reside. As a result, the City Council finds that formula retail businesses located in the City, if not regulated, will conflict with and frustrate the City's goal of maintaining its unique historical character with a local economy that offers visitors and residents non-standard offerings.
5. An abundance of formula retail establishments hinders the City's ability to promote its unique one-of-a-kind experience and to promote a diverse and balanced retail base within the City. A diverse retail base includes unique character that avoids overwhelming familiarity and sameness. The City Council finds that an overabundance of formula retail establishments will unduly limit or possibly eliminate the availability of businesses that tend to be unique or project the history and character of Fort Bragg.
6. The increase of formula retail establishments will hinder the City's goal to promote economic vitality in existing commercial areas, maintain community identity, and the continued support of economic diversity and vitality in the downtown. (Inland General Plan Goal LU-4, Goal C-5, and CD-2.3) A balanced and diverse retail base should be comprised of a balanced mix of businesses, small, medium and large, familiar and unique, and offering a variety of goods and services. The City strives to ensure that goods and services available locally, meet the regular needs of residents and visitors. The City Council finds that unregulated establishment of additional formula retail establishment uses may unduly limit or eliminate business establishment opportunities for smaller or medium-sized businesses, many of which tend to be unique and unduly skews the mix of businesses towards formula retailers in lieu of those unique or start-up retailers, and result in decreasing the diversity of goods and services available to residents and visitors.
7. The Inland General Plan Mission and Vision pledges "to preserve and enhance the small town character and natural beauty that make the city a place where people want to live and visit, and to improve the economic diversity of the City to ensure that it has a strong and resilient economy which supports its residents." (Inland General Plan 1B Mission and Vision). The City Council finds that the public welfare will be served and advanced by regulating formula retail businesses.
8. The City has analyzed the project proposal described herein and finds that the project is exempt from the California Environmental Quality Act ("CEQA") because Section 15061(b)(3) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. This Ordinance will have the net effect of reducing, rather than increasing the amount of change in the City in that does not authorize any additional uses as permitted or conditionally permitted uses nor does it change the uses allowed in the City or their intensity or density.
9. The foregoing recitals are true and correct and are made a part of this Ordinance.

10. Amending the Inland Land Use and Development Code in the manner described is consistent with the General Plan and any applicable specific plan, and internally consistent with other applicable provisions of the Inland Land Use and Development Code.
11. Amending the Inland Land Use and Development Code in the manner described will ensure that Formula Business uses are effectively regulated so that they will not be detrimental to the public interest, health, safety, convenience or welfare of the City.
12. The proposed amendment is internally consistent with other applicable provisions of this Development Code.

Section 2. INLAND LAND USE AND DEVELOPMENT CODE

The current definition in Section 18.100.020 (F) **Definitions of Specialized Terms and Phrases** for **“Formula Business”** is here by removed and replaced as follows:

“Formula Business” means a Commercial Establishment which, along with ten (10) or more other business locations outside of Fort Bragg, regardless of ownership or location at the time that the application is deemed complete, is required by contractual or other arrangement to maintain at least two (2) of the following Standardized features: an Array of merchandise/menu, Decor, Uniforms, Facade, Color scheme, exterior Signage including a Trademark or Service mark as Signage.

The definitions set forth below are hereby amended to Section 18.100.020 (F) entitled **Definitions of Specialized Terms and Phrases** as follows:

Formula Business Regulations. The following terms and phrases are defined for the purposes of Chapter 18.46 (**Formula Business Regulations**):

“Array of merchandise/menu” means 50 percent or more of in-stock merchandise from a single distributor bearing uniform markings.

“Color scheme” means a selection of colors used throughout, such as on the furnishings, permanent fixtures, and wallcoverings, or as used on the facade.

“Commercial Establishment” means a commercial establishment that provides goods and/or services directly or indirectly to the consumer.

“Decor” means the style of interior finishings, which may include but is not limited to style of furniture, wallcoverings or permanent fixtures.

“Facade” means the face, front or side of a building, including awnings, especially the principal front that looks onto a street or an open space.

“Formula Business” See definition of “Formula Business” § 18.100.020 (F).

“Payday or Check Cashing Commercial Establishment” means a person or company that makes or facilitates a deferred presentment transaction, such that the person or company provides currency or a payment instrument in exchange for a person’s check or agreement to provide access to a drawer’s account in a financial institution and agrees to hold that

person's check for a period of time prior to presentment, deposit, or redemption or facilities this process.

"Service mark" means a word, phrase, symbol or design or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of a service from one party from those of others.

"Signage". See definition of **"sign"** § 18.100.020 (S).

"Standardized" means substantially the same, but not necessarily identical.

"Trademark" means a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of the goods from one party from those of others.

"Uniforms" means standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks or dresses, hat, and pins (other than name tags) as well as standardized colors of clothing.

Section 3. INLAND LAND USE AND DEVELOPMENT CODE

Chapter 18.46, entitled "Formula Business Regulations" is hereby added to the Inland Land Use and Development Code to provide as follows:

18.46.010 Purpose.

The purpose of this chapter is to promote and maintain the City's unique small town character, the diversity and vitality of the City's commercial districts, and the quality of life for its residents and visitors. It is presumed that establishing or preserving a balanced mix of local, regional and national-based businesses will more effectively serve to achieve this purpose as a strategy to maintain and improve the economic health of the City's business districts and the small one-of-a-kind ambiance.

18.46.020 Definitions.

The specialized and technical terms and phrases used in this chapter are defined in Article 10 (Definitions), under "Formula Business Regulations."

18.46.030 Regulations.

- A. A Formula Business Establishment may be allowed in the Commercial Zoning Districts with a Use Permit (UP).
- B. Establishment of or exterior alteration of a Formula Business is subject to Design Review as set forth in Section 18.71.050.

18.46.040 Required Findings for Approval.

In addition to the findings required by 18.71.060 (F) as prerequisite to the issuance of a use permit, the Planning Commission shall make all of the following findings prior to the issuance of a Use Permit for a Formula Business, unless the project is exempt in conformance with Section 18.46.050:

- A. The Commercial Establishment will add to, rather than detract from, the overall economic and cultural vitality of the City; and
- B. The Commercial Establishment will not result in an over-concentration of Formula Business establishments in its immediate vicinity or in the City as a whole; and
- C. The Commercial Establishment will complement existing businesses; and
- D. The Commercial Establishment will promote diversity and variety to assure a balanced mix of commercial uses to serve both resident and visitor populations; and
- E. The Commercial Establishment has been designed to preserve and enhance the City's small town character; and
- F. The Commercial Establishment's exterior design limits "formula" architectural, sign and other components; and
- G. The Commercial Establishment's exterior design integrates existing community architectural design features.

18.46.050 Exemptions.

This Chapter shall not apply to:

- A. Those land use applications approved prior to the adoption of the Ordinance codified in this chapter;
- B. Construction required to comply with fire and/or life safety requirements;
- C. Disability accessibility work;
- D. A Formula Business that does not exceed 2,000 square feet of gross floor area, except those uses prohibited by Section 18.46.060;
- E. Formula Business, which if approved, would not result in Formula Business(es) occupying more than twenty-five percent (25%) of the total gross floor area of a Retail Complex or Mixed Use Project, except those uses prohibited by Section 18.46.060;
- F. A Formula Business, which if approved, would not result in Formula Business(es) occupying more than thirty-five percent (35%) of the total gross floor area of a Mixed Use

Project in which at least thirty-five percent (35%) of total gross floor area is a residential component, except those uses prohibited by Section 18.46.060; or

- G. Changes in ownership of existing Formula Businesses where there is no substantial change to the land use classification of the use, or in the mode or character of the operation.

Proposed development that qualifies as an Exemption pursuant to D, E, F, or G of this Section is subject to Design Review as provided in Section 18.71.050.

18.46.060 Prohibited Formula Business Uses.

- A. Formula Businesses are prohibited in the Neighborhood Commercial (CN) Zoning District.
- B. Formula Business Payday Lending or Check Cashing Commercial Establishments are prohibited in all Zoning Districts.

18.46.070 Burden of Proof.

If the City determines that a permit application or permit is subject to this chapter for a Formula Business, the permit applicant or holder bears the burden of proving to the City that the proposed or existing use does not constitute a Formula Business.

Section 4. INLAND LAND USE AND DEVELOPMENT CODE

Table 2-6 of Section 18.22.030 of the Inland Land Use and Development Code, entitled “**Allowed Land Uses and Permit Requirements for Commercial Zoning Districts**” is hereby amended as follows:

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				
LAND USE (1)	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
	CN	CO	CBD	CG	CH	

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	

TABLE 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	PERMIT REQUIRED BY DISTRICT						Specific Use Regulations
	CN	CO	CBD	CG	CH		
	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						
LAND USE (1)	CN	CO	CBD	CG	CH		
Building and landscape materials sales - Outdoor	—	—	—	UP	UP	18.42.130	
Cannabis retail	—	—	MUP	MUP	MUP	18.42.057 Chapter 9.30	
Cannabis retail - Delivery only	—	—	—	MUP	MUP	18.42.057 Chapter 9.30	
Construction and heavy equipment sales and rental	—	—	—	UP	UP	18.42.130	
Convenience store	P	—	P	P	P		
Drive-through retail or service	—	—	UP	UP	UP	18.42.070	
Farm supply and feed store	—	—	—	P	UP		
Formula Business	—	UP(2)	UP(2)	UP(2)	UP(2)	Chapter 18.46	
Formula Business - Less than 2,001 sf	—	P	P	P	P	Chapter 18.46	
Fuel dealer (propane for home and farm use, etc.)	—	—	—	UP	—		
Furniture, furnishings and appliance store	—	—	P	P	UP		
Retail, general - 10,000 sf or larger	—	—	UP	UP	UP		
Retail, general - 5,000 sf - 9,999 sf	—	—	P	P	P		
Retail, general - Less than 5,000 sf	P	P	P	P	P		
Groceries, specialty foods	P	—	P	P	P		
Mobile home, boat, or RV sales	—	—	—	UP	UP		
Night club	—	—	UP	UP	UP		
Outdoor retail sales and activities	—	—	P	P	P	18.42.130	
Restaurant, café, coffee shop	UP	P	P	P	P	18.42.165	
Second hand store	—	—	—	P	P		
Service station	—	—	—	UP	UP	18.42.180	
Shopping center	—	—	—	UP	UP		

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 Permit required except for the exceptions set forth in 18.46.050.

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				
LAND USE (1)	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
	CN	CO	CBD	CG	CH	

SERVICES - BUSINESS, FINANCIAL, PROFESSIONAL

Bank, financial services	UP	P	P	P	P	
Business support service	—	P	P	P	P	
Formula Business	—	UP(2)	UP(2)	UP(2)	UP(2)	Chapter 18.46
Formula Business – Less than 2,001 sf	—	P	P	P	P	Chapter 18.46
Medical services - Doctor office	P	P	P	P	UP	
Medical services - Clinic, lab, urgent care	—	P	P	P	—	
Medical services - Hospital	—	UP	—	UP	UP	
Office - Accessory	P	P	P	P	P	
Office - Business/service	—	P	P	P	P	
Office - Professional/administrative	—	P	P	P	P	

SERVICES - GENERAL

Adult day care	P	P	P	P	UP	
Catering service	—	P	P(3)	P	—	
Child day care center	UP	UP	UP	UP	MUP	
Drive-through service	—	—	UP	UP	UP	18.42.070
Equipment rental	—	—	UP	P	UP	
Formula Business	—	UP(2)	UP(2)	UP(2)	UP(2)	Chapter 18.46
Formula Business – Less than 2,001 sf	—	P	P	P	P	Chapter 18.46
Kennel, animal boarding	—	—	—	UP	—	18.42.040
Lodging - Bed and breakfast inn (B&B)	—	—	UP	UP	P	18.42.050
Lodging - Hotel or motel	—	—	UP	UP	UP	
Lodging - Vacation rental unit	—	—	MUP	—	—	18.42.190
Maintenance service - Client site services	—	—	—	P	—	
Mortuary, funeral home	—	P	—	P	—	
Personal services	P	P	P	P	MUP	
Personal services - Restricted	—	—	UP	UP	UP	

TABLE 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	P Permitted use, Zoning Clearance required Minor Use Permit required (see § 18.71.060) MUP 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	
Public safety facility	—	P	P	P	P	
Repair service - Equipment, large appliances, etc.	—	—	—	P	P	
Vehicle services - Major repair/body work	—	—	—	UP	UP	
Vehicle services - Minor maintenance/repair	—	—	—	P	P	
Veterinary clinic, animal hospital	—	P	—	P	P	

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.

Section 5. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council of the City of Fort Bragg hereby declares that it would have passed this Ordinance 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 6. 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 [REDACTED] at a regular meeting of the City Council of the City of Fort Bragg held on [REDACTED] and adopted at a regular meeting of the City of Fort Bragg held on [REDACTED] by the following vote:

AYES:
NOES:
ABSENT:

**ABSTAIN:
RECUSED:**

**Bernie Norvell
Mayor**

ATTEST:

**June Lemos, CMC
City Clerk**

PUBLISH: [redacted] and [redacted] (by summary).
EFFECTIVE DATE: [redacted].

BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

AN ORDINANCE ADDING CHAPTER 18.46 FORMULA BUSINESS REGULATIONS TO TITLE 18.4 (STANDARDS FOR SPECIFIC LAND USES) AND AMENDING CHAPTER 18.100 (DEFINITIONS) OF THE FORT BRAGG MUNICIPAL CODE AND AMENDING CHAPTER 18.2 (ZONING DISTRICTS AND ALLOWABLE LAND USES) OF THE FORT BRAGG MUNICIPAL CODE

ORDINANCE NO. [REDACTED]

WHEREAS, the City of Fort Bragg (“City”) adopted an Inland General Plan and certified an Environmental Impact Report Addendum (“EIR Addendum”) for the General Plan on December 2, 2012; and

WHEREAS, the City of Fort Bragg (“City”) adopted an Inland Land Use and Development Code and Negative Declaration on February 10, 2014; and

WHEREAS, the adoption of an Inland Land Use and Development Code is necessary to: 1) provide a regulatory framework for implementation of the Inland General Plan; 2) to implement new state planning and land use requirements; and 3) update zoning regulations in accordance with City Council policy direction; and

WHEREAS, the City Council adopted Urgency Ordinance No. 964-2021, which established a forty-five (45) day moratorium on approval of applications for Formula Businesses, as defined in the Ordinance, in the Inland Zoning Area; and

WHEREAS, the City Council extended the Moratorium on approval of applications for Formula Businesses for an additional 315 days on May 24, 2021 to provide for sufficient time to adopt Formula Business Regulations; and

WHEREAS, the Planning Commission considered the Inland Land Use and Development Code at a noticed public hearing on June 2, 2021, at which time all interested parties had the opportunity to be heard; and

WHEREAS, the Planning Commission adopted Resolution PC XX-2021 recommending City Council adopt the amended Inland Land Use and Development Code; and

WHEREAS, the City Council considered the amended Inland Land Use and Development Code at a noticed public hearing on XXXX, 2021, at which time all interested parties had the opportunity to be heard; and

WHEREAS, the staff reports, Planning Commission Resolution, City Council Resolution, and Inland Land Use and Development Code are available for review at City Hall during normal business hours.

The City Council ordains as follows:

Section 1. Legislative Findings. The City Council hereby finds as follows:

1. The City of Fort Bragg is a small coastal community of 7,500 residents perched on the bluff tops overlooking the ocean in northern Mendocino County. A former lumber town with what was a strong fishing industry, Fort Bragg has a rich history and many of its homes and buildings are well over a hundred years old. Located approximately 165 miles north of San Francisco and 185 miles west of Sacramento, Fort Bragg, while quite small, is the largest city on the coast between San Francisco and Eureka. The remoteness of Fort Bragg is one of its greatest assets. The natural landscape is beautiful. The air is clean, the ocean wild, and traffic is a non-issue. The City acquired parkland along the bluff tops of the former mill site and has completed construction of a multiuse trail. This trail created public access to 3.5 miles of scenic coastline and is value added for local residents and visitors alike. Of the City's 1,869 acres, 962 are located in the Coastal Zone. The coastal views and beauty are critical to what makes Fort Bragg special. Many unique local businesses and brands have made Fort Bragg distinct, relying on the city's natural beauty and laid-back commercial character. Maintaining the economic health and one-of-a-kind distinction is vital to preserving Fort Bragg's commercial character while meeting the needs of its visitors and residents.
2. To retain that one-of-a-kind character, the City seeks to avoid the proliferation of chain store uses that result in diluting what makes Fort Bragg unique and instead creates a character of repetitiveness similar to other towns across America, where chain store prevalence grows. Fort Bragg seeks to encourage elements that provide variety and fit with the unique environment, history and its quirky charm while retaining opportunities for all. The City's mission and vision embraces a friendly city with a small town character and a strong sense of community that values its roots in the fishing and timber industries. The City's General Plan, Citywide Design Guidelines, and Inland Land Use & Development Code emphasize the commitment to maintaining the strength and vitality of the historic Central Business District.
3. A strong and diverse retail base is necessary for the success of Fort Bragg's commercial sector, in particular the Central Business District. The City recognizes that a healthy blend of unique and familiar businesses providing diverse retail experiences for both visitors and residents supports this success. "As the economy evolves to a more tourism and service-based economy, the community has acknowledged the importance of maintaining the historic identity of downtown and the integrity of the residential neighborhoods, while enhancing views and access to the coastline and planning for continued growth and development." (Inland General Plan 6. Community Design Element). The City is committed to and recognizes the importance of promoting and supporting the economic vitality and diversity of City businesses both in its commercial districts and the historic Central Business District. (Inland General Plan Goal LU-4, Policy CD-6.1 and Policy CD2.3). Maintaining the City's quality of life and identity is a priority. (Inland General Plan C-5, Policy C-5.1).

4. As the City continues to rely on its reputation as an emerging destination, to sustain and grow its tourism industry Fort Bragg must retain its historical ties to timber and fishing, the coastal and cultural qualities, and its recreation opportunities. Fort Bragg's commercial uses should promote its unique and special qualities. The commercial uses should not detract from or dilute what makes Fort Bragg stand out from other cities in California. Formula retail businesses are, by their nature, not unique. Many of Fort Bragg's unique goods and services cannot be found where many of our visitors reside. As a result, the City Council finds that formula retail businesses located in the City, if not regulated, will conflict with and frustrate the City's goal of maintaining its unique historical character with a local economy that offers visitors and residents non-standard offerings.
5. An abundance of formula retail establishments hinders the City's ability to promote its unique one-of-a-kind experience and to promote a diverse and balanced retail base within the City. A diverse retail base includes unique character that avoids overwhelming familiarity and sameness. The City Council finds that an overabundance of formula retail establishments will unduly limit or possibly eliminate the availability of businesses that tend to be unique or project the history and character of Fort Bragg.
6. The increase of formula retail establishments will hinder the City's goal to promote economic vitality in existing commercial areas, maintain community identity, and the continued support of economic diversity and vitality in the downtown. (Inland General Plan Goal LU-4, Goal C-5, and CD-2.3) A balanced and diverse retail base should be comprised of a balanced mix of businesses, small, medium and large, familiar and unique, and offering a variety of goods and services. The City strives to ensure that goods and services available locally, meet the regular needs of residents and visitors. The City Council finds that unregulated establishment of additional formula retail establishment uses may unduly limit or eliminate business establishment opportunities for smaller or medium-sized businesses, many of which tend to be unique and unduly skews the mix of businesses towards formula retailers in lieu of those unique or start-up retailers, and result in decreasing the diversity of goods and services available to residents and visitors.
7. The Inland General Plan Mission and Vision pledges "to preserve and enhance the small town character and natural beauty that make the city a place where people want to live and visit, and to improve the economic diversity of the City to ensure that it has a strong and resilient economy which supports its residents." (Inland General Plan 1B Mission and Vision). The City Council finds that the public welfare will be served and advanced by regulating formula retail businesses.
8. The City has analyzed the project proposal described herein and finds that the project is exempt from the California Environmental Quality Act ("CEQA") because Section 15061(b)(3) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. This Ordinance will have the net effect of reducing, rather than increasing the amount of change in the City in that does not authorize any additional uses as permitted or conditionally permitted uses nor does it change the uses allowed in the City or their intensity or density.
9. The foregoing recitals are true and correct and are made a part of this Ordinance.

10. Amending the Inland Land Use and Development Code in the manner described is consistent with the General Plan and any applicable specific plan, and internally consistent with other applicable provisions of the Inland Land Use and Development Code.
11. Amending the Inland Land Use and Development Code in the manner described will ensure that Formula Business uses are effectively regulated so that they will not be detrimental to the public interest, health, safety, convenience or welfare of the City.
12. The proposed amendment is internally consistent with other applicable provisions of this Development Code.

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“Commercial Establishment” means a commercial establishment that provides goods and/or services directly or indirectly to the consumer.

“Decor” means the style of interior finishings, which may include but is not limited to style of furniture, wallcoverings or permanent fixtures.

“Facade” means the face, front or side of a building, including awnings, especially the principal front that looks onto a street or an open space.

“Formula Business” See definition of “Formula Business” § 18.100.020 (F).

“Payday or Check Cashing Commercial Establishment” means a person or company that makes or facilitates a deferred presentment transaction, such that the person or company provides currency or a payment instrument in exchange for a person’s check or agreement to provide access to a drawer’s account in a financial institution and agrees to hold that

person's check for a period of time prior to presentment, deposit, or redemption or facilities this process.

"Service mark" means a word, phrase, symbol or design or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of a service from one party from those of others.

"Signage". See definition of **"sign"** § 18.100.020 (S).

"Standardized" means substantially the same, but not necessarily identical.

"Trademark" means a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of the goods from one party from those of others.

"Uniforms" means standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks or dresses, hat, and pins (other than name tags) as well as standardized colors of clothing.

Section 3. INLAND LAND USE AND DEVELOPMENT CODE

Chapter 18.46, entitled "Formula Business Regulations" is hereby added to the Inland Land Use and Development Code to provide as follows:

18.46.010 Purpose.

The purpose of this chapter is to promote and maintain the City's unique small town character, the diversity and vitality of the City's commercial districts, and the quality of life for its residents and visitors. It is presumed that establishing or preserving a balanced mix of local, regional and national-based businesses will more effectively serve to achieve this purpose as a strategy to maintain and improve the economic health of the City's business districts and the small one-of-a-kind ambiance.

18.46.020 Definitions.

The specialized and technical terms and phrases used in this chapter are defined in Article 10 (Definitions), under "Formula Business Regulations."

18.46.030 Regulations.

- A. A Formula Business Establishment may be allowed in the Commercial Zoning Districts with a Use Permit (UP).
- B. Establishment of or exterior alteration of a Formula Business is subject to Design Review as set forth in Section 18.71.050.

18.46.040 Required Findings for Approval.

In addition to the findings required by 18.71.060 (F) as prerequisite to the issuance of a use permit, the Planning Commission shall make all of the following findings prior to the issuance of a Use Permit for a Formula Business, unless the project is exempt in conformance with Section 18.46.050:

- A. The Commercial Establishment will add to, rather than detract from, the overall economic and cultural vitality of the City; and
- B. The Commercial Establishment will not result in an over-concentration of Formula Business establishments in its immediate vicinity or in the City as a whole; and
- C. The Commercial Establishment will complement existing businesses; and
- D. The Commercial Establishment will promote diversity and variety to assure a balanced mix of commercial uses to serve both resident and visitor populations; and
- E. The Commercial Establishment has been designed to preserve and enhance the City's small town character; and
- F. The Commercial Establishment's exterior design limits "formula" architectural, sign and other components; and
- G. The Commercial Establishment's exterior design integrates existing community architectural design features.

18.46.050 Exemptions.

This Chapter shall not apply to:

- A. Those land use applications approved prior to the adoption of the Ordinance codified in this chapter;
- B. Construction required to comply with fire and/or life safety requirements;
- C. Disability accessibility work;
- D. A Formula Business that does not exceed 2,000 square feet of gross floor area, except those uses prohibited by Section 18.46.060;
- E. Formula Business, which if approved, would not result in Formula Business(es) occupying more than twenty-five percent (25%) of the total gross floor area of a Retail Complex or Mixed Use Project, except those uses prohibited by Section 18.46.060;
- F. A Formula Business, which if approved, would not result in Formula Business(es) occupying more than thirty-five percent (35%) of the total gross floor area of a Mixed Use

Project in which at least thirty-five percent (35%) of total gross floor area is a residential component, except those uses prohibited by Section 18.46.060; or

- G. Changes in ownership of existing Formula Businesses where there is no substantial change to the land use classification of the use, or in the mode or character of the operation.

Proposed development that qualifies as an Exemption pursuant to D, E, F, or G of this Section is subject to Design Review as provided in Section 18.71.050.

18.46.060 Prohibited Formula Business Uses.

- A. Formula Businesses are prohibited in the Neighborhood Commercial (CN) Zoning District.
- B. Formula Business Payday Lending or Check Cashing Commercial Establishments are prohibited in all Zoning Districts.

18.46.070 Burden of Proof.

If the City determines that a permit application or permit is subject to this chapter for a Formula Business, the permit applicant or holder bears the burden of proving to the City that the proposed or existing use does not constitute a Formula Business.

Section 4. INLAND LAND USE AND DEVELOPMENT CODE

Table 2-6 of Section 18.22.030 of the Inland Land Use and Development Code, entitled “**Allowed Land Uses and Permit Requirements for Commercial Zoning Districts**” is hereby amended as follows:

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				
LAND USE (1)	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
	CN	CO	CBD	CG	CH	

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	

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				
LAND USE (1)	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
	CN	CO	CBD	CG	CH	
Building and landscape materials sales - Outdoor	—	—	—	UP	UP	18.42.130
Cannabis retail	—	—	MUP	MUP	MUP	18.42.057 Chapter 9.30
Cannabis retail - Delivery only	—	—	—	MUP	MUP	18.42.057 Chapter 9.30
Construction and heavy equipment sales and rental	—	—	—	UP	UP	18.42.130
Convenience store	P	—	P	P	P	
Drive-through retail or service	—	—	UP	UP	UP	18.42.070
Farm supply and feed store	—	—	—	P	UP	
Formula Business	—	UP(2)	UP(2)	UP(2)	UP(2)	Chapter 18.46
Formula Business - Less than 2,001 sf	—	P	P	P	P	Chapter 18.46
Fuel dealer (propane for home and farm use, etc.)	—	—	—	UP	—	
Furniture, furnishings and appliance store	—	—	P	P	UP	
Retail, general - 10,000 sf or larger	—	—	UP	UP	UP	
Retail, general - 5,000 sf - 9,999 sf	—	—	P	P	P	
Retail, general - Less than 5,000 sf	P	P	P	P	P	
Groceries, specialty foods	P	—	P	P	P	
Mobile home, boat, or RV sales	—	—	—	UP	UP	
Night club	—	—	UP	UP	UP	
Outdoor retail sales and activities	—	—	P	P	P	18.42.130
Restaurant, café, coffee shop	UP	P	P	P	P	18.42.165
Second hand store	—	—	—	P	P	
Service station	—	—	—	UP	UP	18.42.180
Shopping center	—	—	—	UP	UP	

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 Permit required except for the exceptions set forth in 18.46.050.

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				
LAND USE (1)	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
	CN	CO	CBD	CG	CH	

SERVICES - BUSINESS, FINANCIAL, PROFESSIONAL

Bank, financial services	UP	P	P	P	P	
Business support service	—	P	P	P	P	
Formula Business	—	UP(2)	UP(2)	UP(2)	UP(2)	Chapter 18.46
Formula Business – Less than 2,001 sf	—	P	P	P	P	Chapter 18.46
Medical services - Doctor office	P	P	P	P	UP	
Medical services - Clinic, lab, urgent care	—	P	P	P	—	
Medical services - Hospital	—	UP	—	UP	UP	
Office - Accessory	P	P	P	P	P	
Office - Business/service	—	P	P	P	P	
Office - Professional/administrative	—	P	P	P	P	

SERVICES - GENERAL

Adult day care	P	P	P	P	UP	
Catering service	—	P	P(3)	P	—	
Child day care center	UP	UP	UP	UP	MUP	
Drive-through service	—	—	UP	UP	UP	18.42.070
Equipment rental	—	—	UP	P	UP	
Formula Business	—	UP(2)	UP(2)	UP(2)	UP(2)	Chapter 18.46
Formula Business – Less than 2,001 sf	—	P	P	P	P	Chapter 18.46
Kennel, animal boarding	—	—	—	UP	—	18.42.040
Lodging - Bed and breakfast inn (B&B)	—	—	UP	UP	P	18.42.050
Lodging - Hotel or motel	—	—	UP	UP	UP	
Lodging - Vacation rental unit	—	—	MUP	—	—	18.42.190
Maintenance service - Client site services	—	—	—	P	—	
Mortuary, funeral home	—	P	—	P	—	
Personal services	P	P	P	P	MUP	
Personal services - Restricted	—	—	UP	UP	UP	

TABLE 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	P Permitted use, Zoning Clearance required Minor Use Permit required (see § 18.71.060) MUP 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	
Public safety facility	—	P	P	P	P	
Repair service - Equipment, large appliances, etc.	—	—	—	P	P	
Vehicle services - Major repair/body work	—	—	—	UP	UP	
Vehicle services - Minor maintenance/repair	—	—	—	P	P	
Veterinary clinic, animal hospital	—	P	—	P	P	

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.

Section 5. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council of the City of Fort Bragg hereby declares that it would have passed this Ordinance 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 6. 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 [REDACTED] at a regular meeting of the City Council of the City of Fort Bragg held on [REDACTED] and adopted at a regular meeting of the City of Fort Bragg held on [REDACTED] by the following vote:

AYES:
NOES:
ABSENT:

**ABSTAIN:
RECUSED:**

**Bernie Norvell
Mayor**

ATTEST:

**June Lemos, CMC
City Clerk**

PUBLISH: [REDACTED] and [REDACTED] (by summary).
EFFECTIVE DATE: [REDACTED].



City of Fort Bragg

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

Text File

File Number: 22-008

Agenda Date: 2/23/2022

Version: 1

Status: Business

In Control: Planning Commission

File Type: Planning Resolution

Agenda Number: 7A.

Perform Business Operations Established in Bylaws for 2022 Planning Year (Ord. 740 §1,1992;
Fort Bragg Municipal Code §2.20.100)



CITY OF FORT BRAGG
COMMUNITY DEVELOPMENT DEPARTMENT
416 N. FRANKLIN, FORT BRAGG, CA 95437
PHONE 707/961-2827 FAX 707/961-2802

MEMORANDUM

DATE: FEBRUARY 23, 2022
TO: FORT BRAGG PLANNING COMMISSION
FROM: COMMUNITY DEVELOPMENT DEPARTMENT
SUBJECT: ANNUAL BUSINESS OPERATIONS MEMO FOR 2022 PLANNING YEAR

- I. SELECT A CHAIR AND VICE CHAIR:** The Planning Commission shall select one of its members as Chair and one member as Vice-Chair of the Commission. In case of the absence of the Chair, the Vice-Chair shall act as the Chair. If the Chair and Vice-Chair leave the Commission, and there are no officers, the Commission shall elect a Chair and Vice-Chair at the next Commission meeting. (Ord. 740 §1, 1992) (Fort Bragg Municipal Code §2.20.050).

ACTION:

- **Select Chair and Vice Chair**

- II. ADOPT A WORK SCHEDULE:** Commission meetings are currently held meetings on the second and fourth Wednesday of each month at 6:00 p.m. At the beginning of each year, the Commission may adopt a specific meeting schedule that provides alternate meeting dates to avoid conflict with recognized City holidays. There will be no fourth Wednesday meetings in November and December. The meeting schedule shall be posted for public review at City Hall and on the City's website. (Ord. 740, §1, 1992) (Fort Bragg Municipal Code§ §2.20.060, 2.20.090 and 2.20.100).

ACTION:

- **Review Attachment 1 – PC Meeting Schedule 2022**
- **Confirm meeting dates to be maintained as published**

- III. REVIEW SUMMARY REPORT OF WORK FOR THE 2021 CALENDAR YEAR:** After the close of the calendar year, the Commission may discuss and prepare a summary report of its work for the calendar year. The report may be submitted to the

City Council and may be used for reporting to County, State or Federal agencies. (Ord. 740§1, 1992) (Fort Bragg Municipal Code §2.20.010).

The five-member Planning Commission is appointed by the City Council, to review land use and development permits (use permits, coastal permits, design review permits, subdivisions, etc.) for consistency with the goals and policies of the Fort Bragg General Plan, the Land Use and Development Code, and the Fort Bragg Municipal Code.

The Planning Commission provides recommendations to the City Council on General Plan amendments and rezoning requests and provides direction to the Community Development Department regarding the development of new planning policies and the interpretation of all City planning policies and codes. In 2021, the Fort Bragg Planning Commission held 19 meetings. At these meetings there were 15 public hearings, 23 staff reports given and 12 Resolutions adopted. The Planning Commission made decisions or recommendations on 10 planning permits.

INDICATORS	2019	2020	2021	Percent Change
Development Permits (Coastal Development Permits, Use Permits, Design Review, Subdivisions, Limited Term Permits, etc.)	70	33	63	+ 90%
CEQA Documents (Environmental Impact Reports, MNDs, Negative Declarations)	2 MNDs	2 MNDs	1 MND	-50%
Building Permits	71	76	146	+92%
Code Enforcement Cases	77	50	131	+162%
Ordinance Amendments	2	2	4	+100%
Draft Work/On-Going Tasks			2	-
Grants	1	3	3	0%
Business Licenses-New Awarded	111	93	92	-1%
Sign Permits	9	8	20	+150%
No. Planning Commission Staff Reports	14	9	23	+156%
No. Community Development Committee Staff Reports	3	3	10	+233%

Table 1 Performance/Workload Measures by Calendar Year

ACTION:

- **Review Attachment 2 – Report of 2021 Planning Permit Hearings**
- **Recommend Staff submit progress report to City Council**

IV. REVIEW PLANNING COMMISSION BYLAWS: Fort Bragg Municipal Code Chapter 2.20 — PLANNING COMMISSION, provides in part that the Planning Commission shall have the power, by resolution, to adopt rules of procedure governing its meetings, its operation, its conduct of public hearings and the performance of its duties. The last update to the Planning Commission ByLaws was in 2021. In order to ensure that the ByLaws are consistent with the operating procedures and practices, they should be reviewed annually.

ACTION:

- **Review Attachment 3 – Amended ByLaws Draft**
- **Review Attachment 4 – PC Resolution XX-2022 ByLaws**
- **Adopt Planning Commission Resolution Amending Planning Commission ByLaws**

2022 Planning Commission Meeting Schedule			
Hearing Date	Notice Publishes in Advocate	Publish Packet	End of Appeal Period/Issue Permit
1/12/2022	1/6/2022	1/7/2022	1/25/2022
1/26/2022	1/20/2022	1/21/2022	2/8/2022
2/9/2022	2/3/2022	2/4/2022	2/22/2022
2/23/2022	2/17/2022	2/18/2022	3/8/2022
3/9/2022	3/3/2022	3/4/2022	3/22/2022
3/23/2022	3/17/2022	3/18/2022	4/5/2022
4/13/2022	4/7/2022	4/8/2022	4/26/2022
4/27/2022	4/21/2022	4/22/2022	5/10/2022
5/11/2022	5/5/2022	5/6/2022	5/24/2022
5/25/2022	5/19/2022	5/20/2022	6/7/2022
6/8/2022	6/2/2022	6/3/2022	6/21/2022
6/22/2022	6/16/2022	6/17/2022	7/5/2022
7/13/2022	7/7/2022	7/8/2022	7/26/2022
7/27/2022	7/21/2022	7/22/2022	8/9/2022
8/10/2022	8/4/2022	8/5/2022	8/23/2022
8/24/2022	8/18/2022	8/19/2022	9/6/2022
9/14/2022	9/8/2022	9/9/2022	9/27/2022
9/28/2022	9/22/2022	9/23/2022	10/11/2022
10/12/2022	10/6/2022	10/7/2022	10/25/2022
10/26/2022	10/20/2022	10/21/2022	11/8/2022
11/9/2022	11/3/2022	11/4/2022	11/22/2022
12/14/2022	12/8/2022	12/9/2022	12/27/2022

Planning Commission Hearings 2021

Permit No.	Address	Project Summary	Applicant	Application Date	Complete Application Date	Hearing Date	Effective Date	Status Notes
CDP 2-20 DR 5-20	420 N Harbor Drive	Construct a fence	Constance Lyons	11/18/2020	12/17/2020	2/10/2021 3/10/2021	3/20/2021	Applicant has not constructed fence as of last site visit
UP 1-21	594 S. Franklin Street	Commercial Conversion to Single Family Residence	Phoebe Graubard	1/7/2021	2/9/2021	3/10/2021	3/20/2021	
CDP 3-20	Multiple	ADA Upgrades along SR1 from Highway 20 to Elm Street	Caltrans	10/20/2020	11/17/2020	3/24/2021 4/14/2021	N/A	This project was appealed to City Council and later withdrawn by the applicant
CDP 4-20 DR 3-20 UP 2-20	350 Cypress St	Construct a Residential Care Facility for the Elderly Comprising of Three Single Story Residential Buildings	Parents and Friends	10/19/2020	11/19/2020	5/19/2021	6/1/2021	Project construction bids have been received and building permit submittals are under review
CDP 8-19 DR 1-19 MGR 1-19	825 S. Franklin St.	Demo 16.4k SF building and construct 16k SF Grocery Outlet	Jenna Markley - BRR Architecture	6/3/2019 9/26/2019	10/23/2019	5/26/2021 6/9/2021	N/A	This project was appealed to City Council and the applicant is in process of requesting vacation of permits at City Council meeting of February 28, 2022
UP 2-21	237 E. Alder St.	Commercial Conversion to Single Family Residence	Patricia Moore	5/25/2021	5/25/2021	6/23/2021	7/3/2021	
MUP 1-21	144 N. Franklin Street	Cannabis Retail Dispensary	Brandy Moulton	2/11/2021	3/24/2021	6/23/2021	N/A	This project was denied by Planning Commission, appealed to City Council and the denial was upheld by a split vote
DR 5-21	221 E. Redwood Ave.	Mural	Lia Morsell	9/8/2021	9/8/2021	9/22/2021	10/7/2021	
CDP 3-17/19 DR 5-17/19 Merge 1-21	441 South Street	Amendment to existing permit to merge lots	DANCO	4/22/2021	8/13/2021	9/22/2021	10/7/2021	
UP 4-21 SP 13-21	250 S. Main St.	Use Permit and Sign Permit to operate a formula business and construct a new sign	Mike Bhatt	11/1/2021	12/1/2021	12/15/2021	12/30/2021	

Exhibit A
FORT BRAGG PLANNING COMMISSION
BYLAWS

~~01/13/2021~~02/23/2022

I. PURPOSE

The purpose of the bylaws of the Fort Bragg Planning Commission is to adopt its rules of procedure governing its meetings, its operation, its conduct of public hearings and the performance of its duties. (Ord. 740, §1, 1992) (Fort Bragg Municipal Code §2.20.090 and 2.20.100)

II. MEETINGS

A. the Commission shall hold its regular meetings on the second and fourth Wednesday of each month at 6:00 p.m. At the first regularly held meeting ~~in the month of January of the year~~, the Commission may adopt a specific meeting schedule that provides alternate meeting dates to avoid conflict with recognized City holidays. There will be no fourth Wednesday meetings in November and December. The meeting schedule shall be posted for public review at City Hall and on the City's website. (Ord. 740, §1, 1992) (Fort Bragg Municipal Code §2.20.060, 2.20.090 and 2.20.100)

B. The meeting place of the Planning Commission for the transaction of business is fixed and established at the Town Hall, situated on the southwest corner of North Main and Laurel Streets, and commonly known as 363 North Main Street, Fort Bragg, California or virtually if resolved by the body in accordance with AB361. The meetings will be conducted via webinar and televised on local TV as well as livestreamed on the City's website. (Ord. 274, §2, 1947; Ord. 740, §1, 1992) (Fort Bragg Municipal Code §2.04.020)

C. A special meeting of the Planning Commission may be called at any time by:

1. The Chair; or,
2. In the Chair's absence, by the Vice-Chair; or,
3. By a majority of the members of the Planning Commission; or
4. The City Manager, Community Development Director, or City Staff

Unless a special meeting is called by a majority vote of the members at a regular or special meeting, a written notice must be delivered, ~~personally or by mail~~, to each member of the Planning Commission at least ~~seventy-two~~twenty-four hours prior to the special meeting. The notice must specify the time and place of the special meeting and the business to be considered. The notice must be posted at City Hall in the kiosk and on the City's website. The only business that may be considered at a special meeting is the business shown on the notice. (Ord. 499 §2, 1978; Ord. 740 §1, 1992) (Fort Bragg Municipal Code §2.04.190)

D. All regular and special meetings shall be open to the public. (Ord. 623, 1984; Ord. 602, 1983; Ord. 83, §2, 1905) (Fort Bragg Municipal Code §2.04.010)

E. The order of business of the Planning Commission shall be as follows:

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Approval of Minutes
5. Public Comments on Non-Agenda Items
6. Disclosure of Ex Parte Communications on Agenda Items
7. Public Hearings
8. Conduct of Business
9. Matters from Commissioners
10. Matters from Staff
11. Adjournment

(Ord. 738 §1, 1992; Ord. 674 §1, 1987; Ord. 84 §4, 1905) (Fort Bragg Municipal Code §2.04.060)

F. The adjournment time for all Commission meetings shall be 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. Further, if it appears that the meeting will adjourn, the Planning Commission shall vote upon which items are to be continued to a future meeting.

(Ord. 740§1, 1992) (Fort Bragg Municipal Code §2.20.100)

III. **OPERATIONS**

A. A majority of the Planning Commission constitutes a quorum for the transaction of business. (Government –Code §36810)

B. At the first regularly held meeting ~~in the month of January~~of the year, the Planning Commission shall select one of its members as Chair and one member as Vice-Chair of the Commission. In case of the absence of the Chair, the Vice-Chair shall act as the Chair. If the Chair and Vice-Chair leave the Commission, and there are no officers, the Commission shall elect a Chair and Vice-Chair at the next Commission meeting. (Ord. 740 §1, 1992) (Fort Bragg Municipal Code §2.20.050)

C. ~~At the first regularly held meeting of the year~~During the month of January, the Commission may discuss and adopt a work schedule for the year as a guide for work on the General Plan of the City. (Ord. 740 §1, 1992) (Fort Bragg Municipal Code §2.20.070)

D. The Community Development Director shall provide a quarterly update to the Commission of all major current planning projects and all long range planning activities.

E. After the close of the calendar year, the Commission may discuss and prepare a summary report of its work for the calendar year. The report may be submitted to the City Council and may be used for reporting to County, State or Federal agencies. (Ord. 740§1, 1992) (Fort Bragg Municipal Code §2.20.010)

- F. To allow for efficient consideration of planning and zoning matters, Ad Hoc committees may be appointed to consider specific matters and report to the Commission. Ad Hoc committees will be appointed by the Chair, after consultation with the Commission as to the purpose and composition of the committee. Not more than two commissioners may be appointed to an Ad Hoc committee. (Ord. 500 §3, 1978; Ord. 740 §1, 1992) (Fort Bragg Municipal Code §2.04.075)
1. At the first meeting of each Ad Hoc committee, one member shall be elected as Chair. The Chair shall be responsible to direct the committee and to report to the Commission when the committee believes it has completed its task. The Chair shall ensure that proper notices are posted at City Hall for meetings of the Ad Hoc committee. The Chair shall account for member participation and attendance at meetings or other work related to the task, including records of action or progress. The Chair may report to the Commission periodically, about progress and/or about member attendance. Each member of an Ad Hoc committee is responsible to attend meetings of the committee. Committee meeting dates shall be set by a consensus of the committee.
 2. If one or more members of an Ad Hoc committee is/are absent from one (1) meeting that has been set by consensus, the Chair shall attempt to contact the member and determine his/her interest in serving on the committee. The Chair shall report to the Commission, requesting a replacement member, if the member is not willing to continue or if failure to attend meetings continues.
 3. Final Ad Hoc committee recommendations shall be presented to the Commission by the Chair in writing. When the committee report is received, the Commission may receive majority and minority opinions from committee members.
- G. The Chair shall decide all questions of order.
(Ord. 674 §1, 1987; Ord. 84 §2, 1905) (Fort Bragg Municipal Code §2.04.040)
- H. The Chair may make or second any motion before the Planning Commission and present and discuss any matter as a member of the Planning Commission.
(Ord. 498 §6, 1978) (Fort Bragg Municipal Code §2.04.034)
- I. In the event of a tie vote, the motion shall fail.
(Ord. 552 § §2, 3, 1981) (Fort Bragg Municipal Code §2.04.038)
- J. A motion to reconsider shall not be in order except on the same day or at the next session of the Commission after which the action proposed to be reconsidered took place. Such motion must be made by a member who voted with the majority on the question, except that a member who was necessarily absent may, at the next meeting at which he or she is present, have a right to move a reconsideration of the same. A motion to reconsider shall require a majority vote. Whenever a motion to reconsider fails, further reconsideration shall not be granted.
- K. No member of the Planning Commission shall be permitted to interrupt another during debate or discussion of any subject. (Ord. 674 §1, 1987; Ord. 84 §10, 1905) (Fort Bragg Municipal Code §2.04.120)

- L. 1. Every member of the Planning Commission present shall vote on every question or matter when put, except when disqualified from voting by operation of law, or unless the Planning Commission for special reasons entered in the minutes, excuses the member from voting on a particular matter then under consideration. Should a member abstain from voting, they shall state the reason for abstaining, and said reason shall be recorded in the minutes of said meeting. (Ord. 738§5, 1992; Ord. 84§11, 1905) (Fort Bragg Municipal Code §2.04.130)
- 2. Any member of the Planning Commission who votes in the minority, on any question or matter, may file a minority opinion. The minority opinion may be verbal at the time of the vote, or written and submitted for inclusion into the minutes of the question or matter. A minority opinion shall be shown as the personal comments of an individual member and not subject to change by a majority of the Commission. A written minority opinion must be submitted to the Planning Director between the vote on the question or matter and the beginning of the next regular meeting when the minutes on the question or matter are considered.
- M. When the Commission revises staff recommendations on an application and the applicant is not present or represented, the Commission shall defer a decision until the applicant can be present or represented.
- N. Each member of the Planning Commission is responsible to attend Commission meetings. Section 2.20.080 of the Fort Bragg Municipal Code shall be enforced for each member.
- O. If the Planning Director determines that a substantial question of interpretation on a planning matter needs the review of the Planning Commission, the Planning Director shall introduce the matter at the next regular meeting. The matter may apply to City ordinances or to a current project. The Planning Director shall provide a written report to the Planning Commission including the following:
 - 1. A statement of the substantial question for review.
 - 2. A reference to ordinances in the Municipal Code that apply to the substantial question.
 - 3. A reference to the portions of the General Plan that may apply.
 - 4. A reference to previous actions by the Commission or City Council that may apply.

After the Planning Commission has studied the substantial question, it shall adopt a finding to be used by the Planning Director.

IV. PUBLIC HEARINGS

On any matter before the Planning Commission that requires a public hearing, the following procedure shall be followed:

- A. The Chair will announce the item from the agenda;
- B. The Chair will open the public hearing, stating the time:

1. The Community Development Director and/or planner will present a staff summary report and answer questions of the Commissioners;
 2. If it is apparent that there is considerable public interest in the matter, the Chair may poll the audience for an indication of the number of persons who wish to address the Commission; and,
 3. The Chair may:
 - a) impose a three (3) minute time limit on each person who addresses the Commission;
 - b) request that testimony be combined through a spokesperson where possible; and,
 - c) limit each person who has addressed the Commission to a single opportunity to clarify their testimony.
- C. The applicant shall be given an opportunity to present the matter and answer questions from staff or Commissioners, unless they waive that right by letter in advance of the meeting;
- D. Members of the public and/or public agencies will be given an opportunity to present their comments;
- E. For meeting held in person speakers before the Planning Commission shall approach the public podium and give their comments. They may also provide their name, address, and whether they live or work in the City prior to addressing the Commission;
- F. For meetings held virtually via webinar ~~Comments~~ comments can be made at any time prior to the meeting, in real-time while the item is being considered by the Planning Commission. All eComments or emails received before or during the meeting that have not been published with the agenda packet ~~will be read aloud into the record~~ will be forwarded to the Committee Members as soon as possible after receipt and will be available for inspection at City Hall, 416 N. Franklin Street, Fort Bragg, California, during normal business hours. All comments will become a permanent part of the agenda packet on the day after the meeting or as soon thereafter as possible.
- F.G. Public comments are restricted to three minutes. Written comments on agenda items and those exceeding three minutes will be included in the public record as part of the agenda packet the next business day after the meeting.
- G.H. Questions from the public or Commissioners should be directed through the Chair, unless the Chair decides to manage questions in a different manner;
- H.I. When all comments have been presented to the Commission, any of the following options may be selected:
1. Continue the public hearing until a future date if there are issues raised during the hearing that need further review;
 2. Leave the public hearing open while the Commission discusses action proposed to be taken; and,
 3. Close the public hearing, stating the time and then the Commission can discuss action to be taken. (Ord. 740 §1, 1992) (Fort Bragg Municipal Code §2.20.100)

RESOLUTION NO. PC -2022

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF FORT BRAGG AMENDING BYLAWS FOR THE FORT BRAGG PLANNING COMMISSION

WHEREAS, Fort Bragg Municipal Code Chapter 2.20 — PLANNING COMMISSION, provides in part that the Planning Commission shall have the power, by resolution, to adopt rules of procedure governing its meetings, its operation, its conduct of public hearings and the performance of its duties; and

WHEREAS, due to the on-going state of an emergency pandemic, pursuant to California Gov. Code Section 8625, Governor Newsom signed AB 361 adding subsection (e) to Gov. Code Section 54953 which authorizes legislative bodies to conduct remote meetings provided they make necessary findings via Resolution; and

WHEREAS, on September 29, 2021, the Fort Bragg Planning Commission resolved to hold in-person meetings due to the nature of public hearings for land use matters, while continually monitoring the nature of the threat associated with the emergency; and

WHEREAS, on February 23, 2022 the Planning Commission held a meeting to consider whether or not the existing bylaws are consistent with current practices and the Inland General Plan and the Coastal General Plan; and

WHEREAS, the adoption of bylaws is exempt from compliance with CEQA; and

WHEREAS, based on all the evidence presented, the Planning Commission finds that the attached Fort Bragg Planning Commission Bylaws (2022)

1. Are consistent with the goals and policies of the City of Fort Bragg Inland General Plan and the Fort Bragg Coastal General Plan; and
2. Are consistent with current practice of the Planning Commission.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Fort Bragg does hereby amend its rules pursuant to Section 2.20.100 that certain document entitled Fort Bragg Planning Commission Bylaws (2022) as set forth more particularly in Exhibit "A" attached hereto and made a part thereof.

The above and foregoing Resolution was introduced by Planning Commissioner _____, seconded by Planning Commissioner _____, and passed and adopted at a regular meeting of the Planning Commission of the City of Fort Bragg held on the 23rd day of February 2022, by the following vote:

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

[Name], Chair

ATTEST:

Sarah Peters, Administrative Assistant

Exhibit A
FORT BRAGG PLANNING COMMISSION
BYLAWS
02/23/2022

I. PURPOSE

The purpose of the bylaws of the Fort Bragg Planning Commission is to adopt its rules of procedure governing its meetings, its operation, its conduct of public hearings and the performance of its duties. (Ord. 740, §1, 1992) (Fort Bragg Municipal Code §2.20.090 and 2.20.100)

II. MEETINGS

A. the Commission shall hold its regular meetings on the second and fourth Wednesday of each month at 6:00 p.m. At the first regularly held meeting of the year, the Commission may adopt a specific meeting schedule that provides alternate meeting dates to avoid conflict with recognized City holidays. There will be no fourth Wednesday meetings in November and December. The meeting schedule shall be posted for public review at City Hall and on the City's website. (Ord. 740, §1, 1992) (Fort Bragg Municipal Code §2.20.060, 2.20.090 and 2.20.100)

B. The meeting place of the Planning Commission for the transaction of business is fixed and established at the Town Hall, situated on the southwest corner of North Main and Laurel Streets, and commonly known as 363 North Main Street, Fort Bragg, California or virtually if resolved by the body in accordance with AB361. The meetings will be conducted via webinar and televised on local TV as well as livestreamed on the City's website. (Ord. 274, §2, 1947; Ord. 740, §1, 1992) (Fort Bragg Municipal Code §2.04.020)

C. A special meeting of the Planning Commission may be called at any time by:

1. The Chair; or,
2. In the Chair's absence, by the Vice-Chair; or,
3. By a majority of the members of the Planning Commission; or
4. The City Manager, Community Development Director, or City Staff

Unless a special meeting is called by a majority vote of the members at a regular or special meeting, a written notice must be delivered, to each member of the Planning Commission at least twenty-four hours prior to the special meeting. The notice must specify the time and place of the special meeting and the business to be considered. The notice must be posted at City Hall in the kiosk and on the City's website. The only business that may be considered at a special meeting is the business shown on the notice. (Ord. 499 §2, 1978; Ord. 740 §1, 1992) (Fort Bragg Municipal Code §2.04.190)

D. All regular and special meetings shall be open to the public. (Ord. 623, 1984; Ord. 602, 1983; Ord. 83, §2, 1905) (Fort Bragg Municipal Code §2.04.010)

E. The order of business of the Planning Commission shall be as follows:

1. Call to Order
2. Pledge of Allegiance

3. Roll Call
4. Approval of Minutes
5. Public Comments on Non-Agenda Items
6. Disclosure of Ex Parte Communications on Agenda Items
7. Public Hearings
8. Conduct of Business
9. Matters from Commissioners
10. Matters from Staff
11. Adjournment

(Ord. 738 §1, 1992; Ord. 674 §1, 1987; Ord. 84 §4, 1905) (Fort Bragg Municipal Code §2.04.060)

- F. The adjournment time for all Commission meetings shall be 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. Further, if it appears that the meeting will adjourn, the Planning Commission shall vote upon which items are to be continued to a future meeting.
(Ord. 740§1, 1992) (Fort Bragg Municipal Code §2.20.100)

III. OPERATIONS

- A. A majority of the Planning Commission constitutes a quorum for the transaction of business.
(Government Code §36810)
- B. At the first regularly held meeting of the year, the Planning Commission shall select one of its members as Chair and one member as Vice-Chair of the Commission. In case of the absence of the Chair, the Vice-Chair shall act as the Chair. If the Chair and Vice-Chair leave the Commission, and there are no officers, the Commission shall elect a Chair and Vice-Chair at the next Commission meeting. (Ord. 740 §1, 1992) (Fort Bragg Municipal Code §2.20.050)
- C. At the first regularly held meeting of the year, the Commission may discuss and adopt a work schedule for the year as a guide for work on the General Plan of the City. (Ord. 740 §1, 1992) (Fort Bragg Municipal Code §2.20.070)
- D. The Community Development Director shall provide a quarterly update to the Commission of all major current planning projects and all long range planning activities.
- E. After the close of the calendar year, the Commission may discuss and prepare a summary report of its work for the calendar year. The report may be submitted to the City Council and may be used for reporting to County, State or Federal agencies. (Ord. 740§1, 1992) (Fort Bragg Municipal Code §2.20.010)
- F. To allow for efficient consideration of planning and zoning matters, Ad Hoc committees may be appointed to consider specific matters and report to the Commission. Ad Hoc committees will be appointed by the Chair, after consultation with the Commission as to the purpose and composition of the committee. Not more than two commissioners may be appointed to an Ad Hoc committee. (Ord. 500 §3, 1978; Ord. 740 §1, 1992) (Fort Bragg Municipal Code §2.04.075)

1. At the first meeting of each Ad Hoc committee, one member shall be elected as Chair. The Chair shall be responsible to direct the committee and to report to the Commission when the committee believes it has completed its task. The Chair shall ensure that proper notices are posted at City Hall for meetings of the Ad Hoc committee. The Chair shall account for member participation and attendance at meetings or other work related to the task, including records of action or progress. The Chair may report to the Commission periodically, about progress and/or about member attendance. Each member of an Ad Hoc committee is responsible to attend meetings of the committee. Committee meeting dates shall be set by a consensus of the committee.
2. If one or more members of an Ad Hoc committee is/are absent from one (1) meeting that has been set by consensus, the Chair shall attempt to contact the member and determine his/her interest in serving on the committee. The Chair shall report to the Commission, requesting a replacement member, if the member is not willing to continue or if failure to attend meetings continues.
3. Final Ad Hoc committee recommendations shall be presented to the Commission by the Chair in writing. When the committee report is received, the Commission may receive majority and minority opinions from committee members.

G. The Chair shall decide all questions of order.

(Ord. 674 §1, 1987; Ord. 84 §2, 1905) (Fort Bragg Municipal Code §2.04.040)

H. The Chair may make or second any motion before the Planning Commission and present and discuss any matter as a member of the Planning Commission.

(Ord. 498 §6, 1978) (Fort Bragg Municipal Code §2.04.034)

I. In the event of a tie vote, the motion shall fail.

(Ord. 552 § §2, 3, 1981) (Fort Bragg Municipal Code §2.04.038)

J. A motion to reconsider shall not be in order except on the same day or at the next session of the Commission after which the action proposed to be reconsidered took place. Such motion must be made by a member who voted with the majority on the question, except that a member who was necessarily absent may, at the next meeting at which he or she is present, have a right to move a reconsideration of the same. A motion to reconsider shall require a majority vote. Whenever a motion to reconsider fails, further reconsideration shall not be granted.

K. No member of the Planning Commission shall be permitted to interrupt another during debate or discussion of any subject. (Ord. 674 §1, 1987; Ord. 84 §10, 1905) (Fort Bragg Municipal Code §2.04.120)

L. 1. Every member of the Planning Commission present shall vote on every question or matter when put, except when disqualified from voting by operation of law, or unless the Planning Commission for special reasons entered in the minutes, excuses the member from voting on a particular matter then under consideration. Should a member abstain from voting, they shall state the reason for abstaining, and said reason shall be recorded in the minutes of said meeting. (Ord. 738§5, 1992; Ord. 84§11, 1905) (Fort Bragg Municipal Code §2.04.130)

2. Any member of the Planning Commission who votes in the minority, on any question or matter, may file a minority opinion. The minority opinion may be verbal at the time of the vote, or written and submitted for inclusion into the minutes of the question or matter. A minority opinion shall be shown as the personal comments of an individual member and not subject to change by a majority of the Commission. A written minority opinion must be submitted to the Planning Director between the vote on the question or matter and the beginning of the next regular meeting when the minutes on the question or matter are considered.
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After the Planning Commission has studied the substantial question, it shall adopt a finding to be used by the Planning Director.

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- A. The Chair will announce the item from the agenda;
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 1. The Community Development Director and/or planner will present a staff summary report and answer questions of the Commissioners;
 2. If it is apparent that there is considerable public interest in the matter, the Chair may poll the audience for an indication of the number of persons who wish to address the Commission; and,
 3. The Chair may:
 - a) impose a three (3) minute time limit on each person who addresses the Commission;
 - b) request that testimony be combined through a spokesperson where possible; and,
 - c) limit each person who has addressed the Commission to a single opportunity to clarify their testimony.

- C. The applicant shall be given an opportunity to present the matter and answer questions from staff or Commissioners, unless they waive that right by letter in advance of the meeting;
- D. Members of the public and/or public agencies will be given an opportunity to present their comments;
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 - 3. Close the public hearing, stating the time and then the Commission can discuss action to be taken. (Ord. 740 §1, 1992) (Fort Bragg Municipal Code §2.20.100)

Peters, Sarah

From: Jacob Patterson <jacob.patterson.esq@gmail.com>
Sent: Wednesday, February 23, 2022 1:44 PM
To: cdd
Cc: Peters, Sarah; O'Neal, Chantell
Subject: Public Comment -- 2/23/22 PC Mtg., Item No. 7A, Bylaws revisions
Attachments: PC Bylaws PC01-2022 - redline.docx; PC Bylaws PC01-2022 - redline.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Planning Commission,

I have attached my own redline of the PC's bylaws for your consideration for Item 7A. My version is based off of the staff recommended revisions and I made further changes, including some minor changes to capitalization and punctuation for consistency. Staff's suggested revisions concerning public comments would not satisfy legal requirements for quasi-adjudicative public hearing items, in my opinion, and you may want to consult the City Attorney if he attends tonight. In fact, most of these changes appear to be for staff's convenience despite the likely negative impacts on the public, which could be construed as interfering with public participation and reducing transparency. You should reject some of the staff-recommended revisions for that reason.

I have attached Word and PDF versions of my recommended changes to staff's suggested revisions.

Best regards,

--Jacob

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FORT BRAGG PLANNING COMMISSION
BYLAWS
02/23/2022

I. PURPOSE

The purpose of the bylaws of the Fort Bragg Planning Commission is to adopt its rules of procedure governing its meetings, its operation, its conduct of public hearings and the performance of its duties. (Ord. 740, §1, 1992) (Fort Bragg Municipal Code §2.20.090 and 2.20.100)

II. MEETINGS

- A. ~~the~~The Commission shall hold its regular meetings on the second and fourth Wednesday of each month at 6:00 p.m. At the first regularly held meeting in nthe month of January of the year, the Commission may adopt a project work plan and specific meeting schedule that provides alternate meeting dates to avoid conflict with recognized City holidays. There will be no fourth Wednesday meetings in November and December. The meeting schedule shall be posted for public review at City Hall and on the City's website. (Ord. 740, §1, 1992) (Fort Bragg Municipal Code§ 2.20.060, 2.20.090 and 2.20.100)
- B. The meeting place of the Planning Commission for the transaction of business is fixed and established at the Town Hall, situated on the southwest corner of North Main and Laurel Streets, and commonly known as 363 North Main Street, Fort Bragg, California, in a hybrid format, or virtually if resolved by the body in accordance with AB361. The meetings will be conducted in person and/or via webinar and televised on local TV as well as livestreamed on the City's website. (Ord. 274, §2, 1947; Ord. 740, §1, 1992) (Fort Bragg Municipal Code §2.04.020).
- C. A special meeting of the Planning Commission may be called at any time by:
1. The Chair; or,
 2. In the Chair's absence, by the Vice-Chair; or,
 3. By a majority of the members of the Planning Commission; or
 4. The City Manager or, Community Development Director, ~~or City Staff.~~

Unless a special meeting is called by a majority vote of the members at a regular or special meeting, a written notice must be delivered, to each member of the Planning Commission at least twenty-four hours prior to the special meeting. The notice must specify the time and place of the special meeting and the business to be considered. The notice must be posted at City Hall in the kiosk, ~~and~~ on the City's website, and emailed to all members of the public who have signed up for the City's notifications concerning Planning Commission meetings. The only business that may be considered at a special meeting is the business shown on the notice. (Ord. 499 §2, 1978; Ord. 740 §1, 1992) (Fort Bragg Municipal Code §2.04.190)

D. All regular and special meetings shall be open to the public. (Ord. 623, 1984; Ord. 602, 1983; Ord. 83, §2, 1905) (Fort Bragg Municipal Code §2.04.010). Public Comments

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10. Matters from Staff

~~40-11.~~ Additional Public Comments

~~11-12.~~ Adjournment

(Ord. 738 §1, 1992; Ord. 674 §1, 1987; Ord. 84 §4, 1905) (Fort Bragg Municipal Code §2.04.060)

F. The adjournment time for all Commission meetings shall be 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. Further, if it appears that the meeting will adjourn, the Planning Commission shall vote upon which items are to be continued to a future meeting.

(Ord. 740§1, 1992) (Fort Bragg Municipal Code §2.20.100)

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C. ~~At the first regularly held meeting of the year~~ During the month of January and as frequently thereafter as they so choose, the Commission may discuss and adopt a work ~~schedule plan~~ for the year as a guide for work on the General Plan of the City. (Ord. 740 §1, 1992) (Fort Bragg Municipal Code §2.20.070)

D. The Community Development Director or designee shall provide a quarterly update to the Commission of all major current planning projects and all ~~long-long~~-range planning activities.

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2. Any member of the Planning Commission who votes in the minority, on any question or matter, may file a minority opinion. The minority opinion may be verbal at the time of the vote, or written and submitted for inclusion into the minutes of the question or matter, or prepared in writing after the conclusion of the meeting. A minority opinion shall be shown as the personal comments of an individual member and not subject to change by a majority of the Commission. A written minority opinion must be submitted to the Planning Community Development Director between the vote on the question or matter and the beginning of the next regular meeting when the minutes on the question or matter are considered.
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 - 2. If it is apparent that there is considerable public interest in the matter, the Chair may poll the audience for an indication of the number of persons who wish to address the Commission; and,
 - 3. The Chair may:
 - a) impose a three (3) minute time limit on each person who addresses the Commission;
 - b) request that testimony be combined through a spokesperson where possible; and,
 - c) limit each person who has addressed the Commission to a single opportunity to clarify their testimony.
- C. The applicant shall be given an opportunity to present the matter and answer questions from staff or Commissioners, unless they waive that right by letter in advance of the meeting;
- D. Members of the public and/or public agencies will be given an opportunity to present their comments;
- E. For meeting held in person or in a hybrid format, speakers before the Planning Commission shall approach the public podium and give their comments or provide comments by telephone or virtually via the software used to facilitate the hybrid meeting. They may also provide their name, address, and whether they live or work in the City prior to addressing the Commission;
- F. For meetings held virtually via webinar, public comments can be made at any time prior to the meeting in writing, including via email, and in real-time while the item is being considered by the Planning Commission via the software used to facilitate the webinar.
- F.G. All public comments or emails received by the City until one hour prior to the start of the meeting will be uploaded to the City's online agenda management platform for review by the public and will be printed and made available at the meeting location for in-person or hybrid meetings. Public comments received after that time but before or during the meeting that have not been published with the agenda packet or otherwise published online will be forwarded to the Committee Members as soon as possible after receipt and will be available for inspection by the public at the meeting, online, and at City Hall, 416 N. Franklin Street, Fort Bragg, California, during normal business hours. All comments will become a

permanent part of the agenda packet on the day after the meeting or as soon thereafter as possible.

G.H. Public comments are restricted to three minutes per item unless the Chair elects to extend that time. Written comments on agendized and non-agendized matters ~~and those exceeding three minutes~~ will be included in the public record as part of the agenda packet the next business day after the meeting.

H.I. Questions from the public or Commissioners should be directed through the Chair, unless the Chair decides to manage questions in a different manner;

I.J. When all comments have been presented to the Commission, any of the following options may be selected:

1. Continue the public hearing until a future date ~~if there are issues raised during the hearing that need further review~~;
2. Leave the public hearing open while the Commission discusses action proposed to be taken; and,
3. Close the public hearing, stating the time and then the Commission can discuss action to be taken. (Ord. 740 §1, 1992) (Fort Bragg Municipal Code §2.20.100)

Exhibit A
FORT BRAGG PLANNING COMMISSION
BYLAWS
02/23/2022

I. PURPOSE

The purpose of the bylaws of the Fort Bragg Planning Commission is to adopt its rules of procedure governing its meetings, its operation, its conduct of public hearings and the performance of its duties. (Ord. 740, §1, 1992) (Fort Bragg Municipal Code §2.20.090 and 2.20.100)

II. MEETINGS

- A. ~~the~~The Commission shall hold its regular meetings on the second and fourth Wednesday of each month at 6:00 p.m. At the first regularly held meeting in nthe month of January of the year, the Commission may adopt a project work plan and specific meeting schedule that provides alternate meeting dates to avoid conflict with recognized City holidays. There will be no fourth Wednesday meetings in November and December. The meeting schedule shall be posted for public review at City Hall and on the City's website. (Ord. 740, §1, 1992) (Fort Bragg Municipal Code §2.20.060, 2.20.090 and 2.20.100)
- B. The meeting place of the Planning Commission for the transaction of business is fixed and established at the Town Hall, situated on the southwest corner of North Main and Laurel Streets, and commonly known as 363 North Main Street, Fort Bragg, California, in a hybrid format, or virtually if resolved by the body in accordance with AB361. The meetings will be conducted in person and/or via webinar and televised on local TV as well as livestreamed on the City's website. (Ord. 274, §2, 1947; Ord. 740, §1, 1992) (Fort Bragg Municipal Code §2.04.020).
- C. A special meeting of the Planning Commission may be called at any time by:
1. The Chair; or,
 2. In the Chair's absence, by the Vice-Chair; or,
 3. By a majority of the members of the Planning Commission; or
 4. The City Manager or, Community Development Director, ~~or City Staff.~~

Unless a special meeting is called by a majority vote of the members at a regular or special meeting, a written notice must be delivered, to each member of the Planning Commission at least twenty-four hours prior to the special meeting. The notice must specify the time and place of the special meeting and the business to be considered. The notice must be posted at City Hall in the kiosk, ~~and~~ on the City's website, and emailed to all members of the public who have signed up for the City's notifications concerning Planning Commission meetings. The only business that may be considered at a special meeting is the business shown on the notice. (Ord. 499 §2, 1978; Ord. 740 §1, 1992) (Fort Bragg Municipal Code §2.04.190)

D. All regular and special meetings shall be open to the public. (Ord. 623, 1984; Ord. 602, 1983; Ord. 83, §2, 1905) (Fort Bragg Municipal Code §2.04.010). Public Comments

E. The order of business of the Planning Commission shall be as follows:

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Approval of Minutes
5. Public Comments on Non-Agenda Items
6. Disclosure of Ex Parte Communications on Agenda Items
7. Public Hearings
8. Conduct of Business
9. Matters from Commissioners

10. Matters from Staff

40.11. Additional Public Comments

41.12. Adjournment

(Ord. 738 §1, 1992; Ord. 674 §1, 1987; Ord. 84 §4, 1905) (Fort Bragg Municipal Code §2.04.060)

F. The adjournment time for all Commission meetings shall be 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. Further, if it appears that the meeting will adjourn, the Planning Commission shall vote upon which items are to be continued to a future meeting.

(Ord. 740§1, 1992) (Fort Bragg Municipal Code §2.20.100)

III. OPERATIONS

A. A majority of the Planning Commission constitutes a quorum for the transaction of business. (Government -Code §36810)

B. At the first ~~regularly held~~ meeting in the month of January of the year, the Planning Commission shall select one of its members as Chair and one member as Vice-Chair of the Commission. In case of the absence of the Chair, the Vice-Chair shall act as the Chair. If the Chair and Vice-Chair leave the Commission, and there are no officers, the Commission shall elect a Chair and Vice-Chair at the next Commission meeting. (Ord. 740 §1, 1992) (Fort Bragg Municipal Code §2.20.050)

C. ~~At the first regularly held meeting of the year~~ During the month of January and as frequently thereafter as they so choose, the Commission may discuss and adopt a work ~~schedule plan~~ for the year as a guide for work on the General Plan of the City. (Ord. 740 §1, 1992) (Fort Bragg Municipal Code §2.20.070)

D. The Community Development Director or designee shall provide a quarterly update to the Commission of all major current planning projects and all ~~long long~~-range planning activities.

- E. After the close of the calendar year, the Commission may discuss and prepare a summary report of its work for the calendar year. The report may be submitted to the City Council and may be used for reporting to County, State or Federal agencies. (Ord. 740§1, 1992) (Fort Bragg Municipal Code §2.20.010)

- F. To allow for efficient consideration of planning and zoning matters, Ad Hoc committees may be appointed to consider specific matters and report to the Commission. Ad Hoc committees will be appointed by the Chair, after consultation with the Commission as to the purpose and composition of the committee. Not more than two commissioners may be appointed to an Ad Hoc committee. (Ord. 500 §3, 1978; Ord. 740 §1, 1992) (Fort Bragg Municipal Code §2.04.075)
 - 1. At the first meeting of each Ad Hoc committee, one member shall be elected as Chair. The Chair shall be responsible to direct the committee and to report to the Commission when the committee believes it has completed its task. The Chair shall ensure that proper notices are posted at City Hall for meetings of the Ad Hoc committee. The Chair shall account for member participation and attendance at meetings or other work related to the task, including records of action or progress. The Chair may report to the Commission periodically, about progress and/or about member attendance. Each member of an Ad Hoc committee is responsible to attend meetings of the committee. Committee meeting dates shall be set by a consensus of the committee.
 - 2. If one or more members of an Ad Hoc committee is/are absent from one (1) meeting that has been set by consensus, the Chair shall attempt to contact the member and determine his/her interest in serving on the committee. The Chair shall report to the Commission, requesting a replacement member, if the member is not willing to continue or if failure to attend meetings continues.
 - 3. Final Ad Hoc committee recommendations shall be presented to the Commission by the Chair in writing. When the committee report is received, the Commission may receive majority and minority opinions from committee members.

- G. The Chair shall decide all questions of order.
(Ord. 674 §1, 1987; Ord. 84 §2, 1905) (Fort Bragg Municipal Code §2.04.040)

- H. The Chair may make or second any motion before the Planning Commission and present and discuss any matter as a member of the Planning Commission.
(Ord. 498 §6, 1978) (Fort Bragg Municipal Code §2.04.034)

- I. In the event of a tie vote, the motion shall fail.
(Ord. 552 § §2, 3, 1981) (Fort Bragg Municipal Code §2.04.038)

- J. A motion to reconsider shall not be in order except on the same day or at the next session of the Commission after which the action proposed to be reconsidered took place. Such motion must be made by a member who voted with the majority on the question, except that a member who was necessarily absent may, at the next meeting at which he or she is present, have a right to move a reconsideration of the same. A motion to reconsider shall

require a majority vote. Whenever a motion to reconsider fails, further reconsideration shall not be granted.

- K. No member of the Planning Commission shall be permitted to interrupt another during debate or discussion of any subject. (Ord. 674 §1, 1987; Ord. 84 §10, 1905) (Fort Bragg Municipal Code §2.04.120)
- L. 1. Every member of the Planning Commission present shall vote on every question or matter when put, except when disqualified from voting by operation of law, or unless the Planning Commission for special reasons entered in the minutes, excuses the member from voting on a particular matter then under consideration. Should a member abstain from voting, they shall state the reason for abstaining, and said reason shall be recorded in the minutes of said meeting. (Ord. 738§5, 1992; Ord. 84§11, 1905) (Fort Bragg Municipal Code §2.04.130)
2. Any member of the Planning Commission who votes in the minority, on any question or matter, may file a minority opinion. The minority opinion may be verbal at the time of the vote, or written and submitted for inclusion into the minutes of the question or matter, or prepared in writing after the conclusion of the meeting. A minority opinion shall be shown as the personal comments of an individual member and not subject to change by a majority of the Commission. A written minority opinion must be submitted to the Planning Community Development Director between the vote on the question or matter and the beginning of the next regular meeting when the minutes on the question or matter are considered.

~~M. When the Commission revises staff recommendations on an application and the applicant is not present or represented, the Commission shall defer a decision until the applicant can be present or represented.~~

N.M. Each member of the Planning Commission is responsible to attend Commission meetings. Section 2.20.080 of the Fort Bragg Municipal Code shall be enforced for each member.

O.N. If the Planning Community Development Director determines that a substantial question of interpretation on a planning matter needs the review of the Planning Commission, the Planning Community Development Director shall introduce the matter at the next regular meeting. The matter may apply to City ordinances or to a current project. The Planning Community Development Director shall provide a written report to the Planning Commission including the following:

1. A statement of the substantial question for review.
2. A reference to ordinances in the Municipal Code that apply to the substantial question.
3. A reference to the portions of the General Plan that may apply.
4. A reference to previous actions by the Commission or City Council that may apply.

After the Planning Commission has studied the substantial question, it shall adopt a finding to be used by the Planning DirectorCommunity Development Department.

IV. PUBLIC HEARINGS

On any matter before the Planning Commission that requires a public hearing, the following procedure shall be followed:

- A. The Chair will announce the item from the agenda;
- B. The Chair will open the public hearing, stating the time:
 - 1. The Community Development Director and/or planner will present a staff summary report and answer questions of the Commissioners;
 - 2. If it is apparent that there is considerable public interest in the matter, the Chair may poll the audience for an indication of the number of persons who wish to address the Commission; and,
 - 3. The Chair may:
 - a) impose a three (3) minute time limit on each person who addresses the Commission;
 - b) request that testimony be combined through a spokesperson where possible; and,
 - c) limit each person who has addressed the Commission to a single opportunity to clarify their testimony.
- C. The applicant shall be given an opportunity to present the matter and answer questions from staff or Commissioners, unless they waive that right by letter in advance of the meeting;
- D. Members of the public and/or public agencies will be given an opportunity to present their comments;
- E. For meeting held in person or in a hybrid format, speakers before the Planning Commission shall approach the public podium and give their comments or provide comments by telephone or virtually via the software used to facilitate the hybrid meeting. They may also provide their name, address, and whether they live or work in the City prior to addressing the Commission;
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