



# Updating the City's Cannabis Codes

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# Council Direction to Date

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- Treat cannabis businesses like other businesses
- Whenever possible incorporate cannabis businesses into the existing code
- Reduce duplication of state processes and streamline the cannabis business permitting process.



# What needs to be updated

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- Sections of the code that are outdated.
- Different sections have different definitions for the same thing.
- There is a lack of clarity in the definitions which has created difficulties for applicants and staff in providing a clear process.
- Cannabis Microbusinesses are not addressed in their own right, which has made it difficult for decision makers to approve them.

# Drug Paraphernalia

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- Code is outdated
- Two elements to existing code
  1. Expresses opposition to drug abuse and youth drug use
  2. Codified that sale of drug paraphernalia is illegal
- Has been difficult to enforce
- Seeking Direction on how to revise

# Cannabis Cultivation Ordinance

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- The current category for “Crop Production, Horticulture, Orchard, and Vineyard” is designed to allow agriculture in all parts of the City to encourage local food production and accommodate activities like the Noyo Food Forest.
- Including cannabis in this category would put unnecessary restrictions on cultivating crops that could negatively impact local food security efforts.
- It is also not appropriate because cannabis does not flourish outdoors in Fort Bragg City limits and it is almost never grown “in ground” which is a specification for this category.

# Cannabis Cultivation Ordinance Continued

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- A new 9.32 can be amended to put in minimal restrictions on personal cultivation and to provide a framework for commercial cannabis cultivation.
- In addition to the Municipal Code Chapter 9, ILUDC Title 18 needs to be amended to distinguish “cannabis cultivation” as a unique activity and provide the necessary zoning to allow cannabis cultivation.

# Recommendations to Achieve Council Goals

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- Provide direction on Municipal Code 9.28 Drug Paraphernalia
- AMEND Municipal Code Chapter 9.30 Cannabis Business Ordinance
- ADD Municipal Code Chapter 9.32 Cannabis Cultivation
- AMEND Title 18 Article 2 Inland Land Use and Development Code (ILUDC) Zoning Districts and Allowable Land Uses
- AMEND Title 18 Article 4 of the ILUDC Standards for Specific Land Uses
- AMEND Title 18 Article 10 of the ILUDC Glossary

# Business License v. Conditional Use Permit

Business License	Conditional Use Permit
<ul style="list-style-type: none"><li>• Business must apply for renewal annual</li><li>• Requires applicant to be proactive in renewal process.</li></ul>	<ul style="list-style-type: none"><li>• Typically issued once and only revoked if serious issue.</li><li>• CA law says even if there is an expiration, it can't be enforced unless very good reason (could be sued)</li><li>• Goes with the land, once its allowed it must be transferrable.</li><li>• Requires city staff to be pro-active in code enforcement against a business</li></ul>

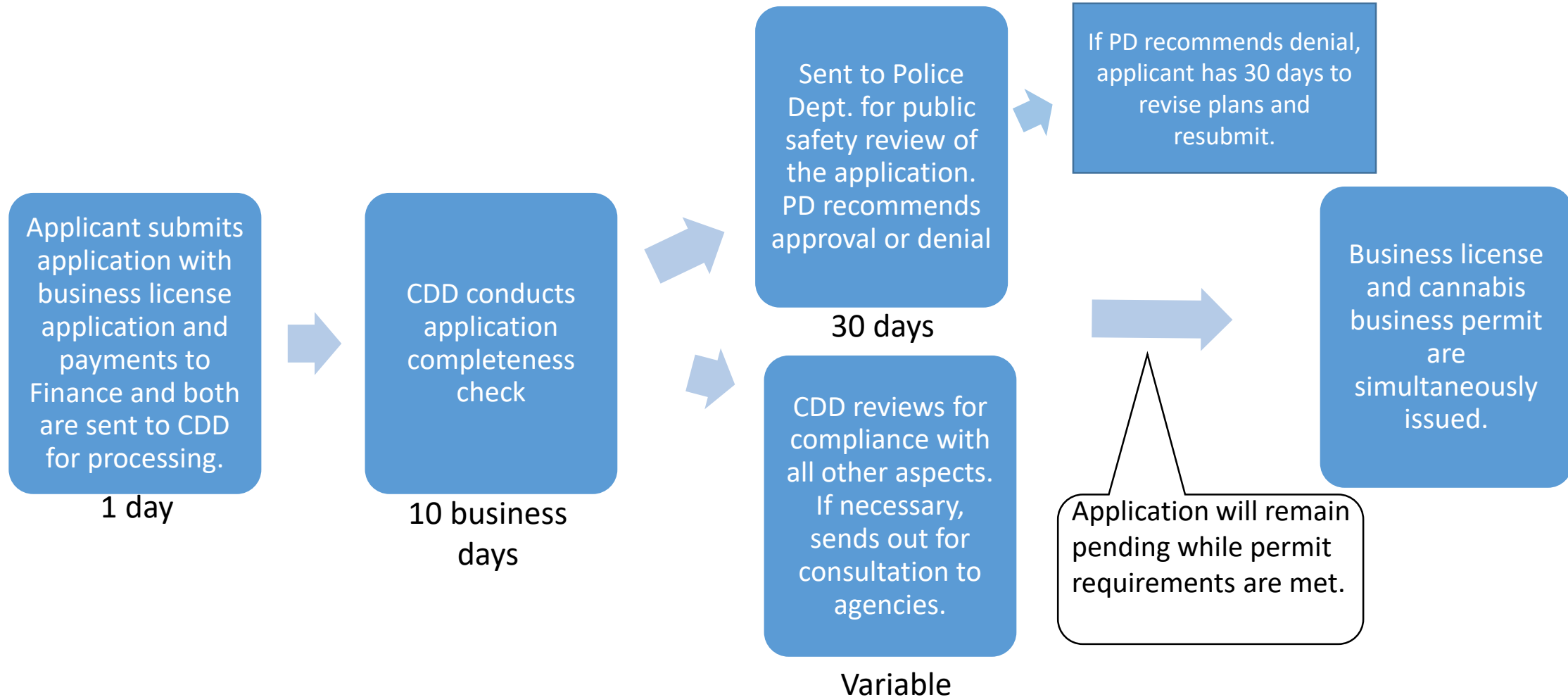


# Amending Muni Code 9.30

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- Update code to:
  - Add and clarify definitions
  - Streamline process for cannabis applicants
  - Minor changes to requirements
  - **NO** changes to authority

# Recommended Process for Cannabis Business Permitting



# Why is CDD the primary contact?

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- Police Department isn't set up to take in and manage land use applications
- Centralizes and streamlines the process to make it easier for the applicant:
  - City Business License and Cannabis Business Permit (issued in conjunction)
  - Land-Use Permits
  - Building Permits
  - Environmental Health (edibles)
  - Air Quality Control (manufacturing and possibly cultivation)
  - Other agencies
- PD will still have authority on applications (CDD can't approve without their review and concurrence)

# Adding Municipal Code 9.32 Cannabis Cultivation

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- Provide minimal standards non-commercial cultivation
  - Provisions for non-commercial cannabis cultivation as allowed under California State Law
  - Provides recommendations for lessening impacts on electricity, water, and wastewater
  - Define difference between commercial and non-commercial
  - Requires that the property owner give permission to cultivate on their property (?)

# Amending Muni code 9.32 Commercial Cannabis Cultivation

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- Add Section to the code to define parameters of allowable commercial cultivation
  - Establish legal framework for commercial cultivation in the city limits
  - Set recommendations (should not shall) for energy conservation
  - Determine types of allowable grows; indoor, outdoor, mixed light
  - License and permit requirements
  - Codify distinction between non-commercial and commercial cultivation
  - Address concerns with water and CEQA

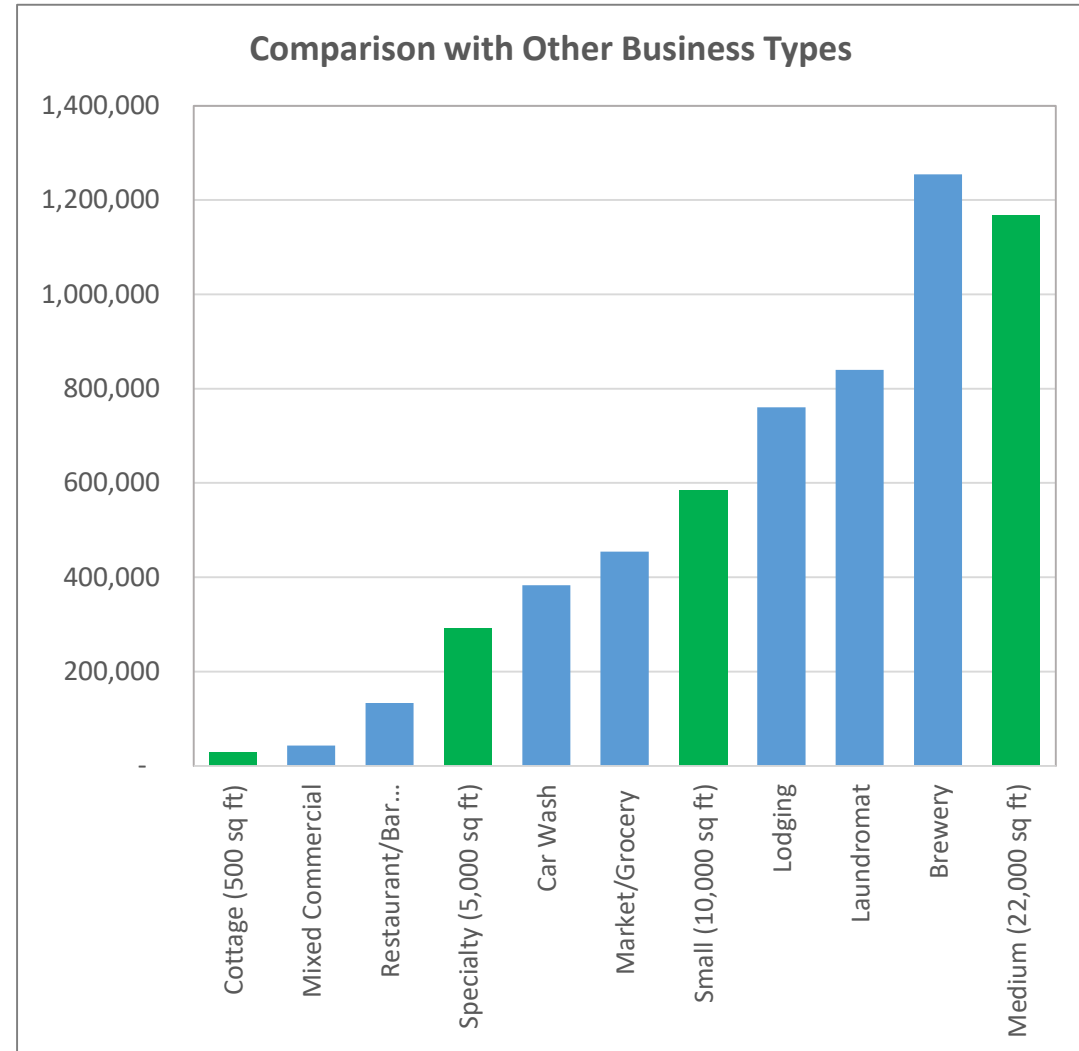
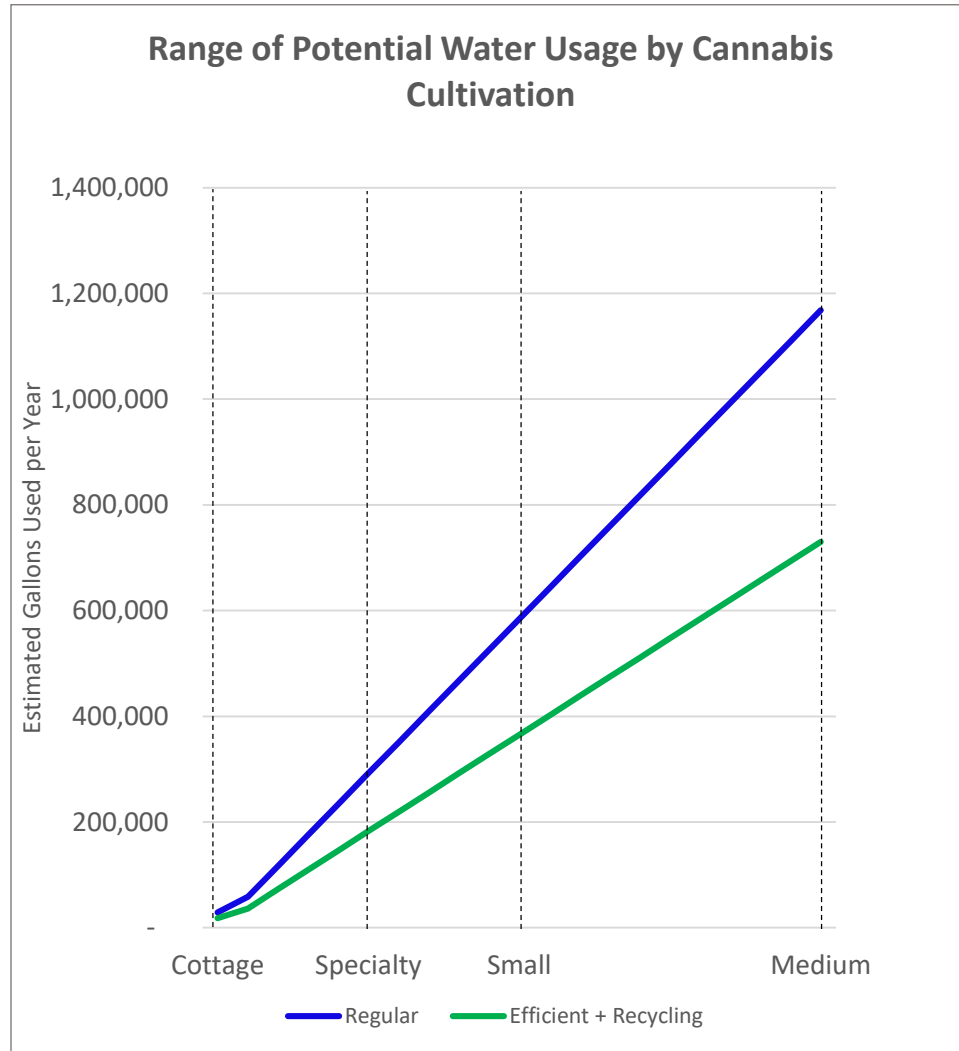


# Water

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- A commercial grow can range from under 500 ft<sup>2</sup> to over 20,000 ft<sup>2</sup>.
- Estimated water usage ranges from **less than** 20,000 gallons/yr to **over** 6 Million Gallons/year depending on size, set up, and technique.
- Microbusiness with cultivations might be comparable to existing intended uses with no significant impact on water resources
- The 2012 General Plan indicates that the city produced 78 gallons of water per 1,000 square feet of commercial/industrial space per day. Its reasonable to use this with a margin of 10% since this is average, or to use comparable uses.

# Estimated Water Usage & Comparisons



# Water for a new Cannabis Facility

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- 2012 General Plan is guiding Document
- Assumes 78 gallons /1,000 Square Feet of Commercial/Industrial
- City projected 20% growth in water demand
- New development for cannabis that exceeds existing general plan may be required to provide their own water source
- Moratorium on growing during dry months?
- CEQA analysis required based on merits of application and potential environmental impact

# Key Water Questions

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- Should the city require a water usage plan for each cultivation site or just for sites over a certain size?
- What is the threshold that requires independent water source?
- Can we incorporate timing into the code?
  - Growing season is 240 – 270 days/year
  - Months when water is tight August – October
  - Restrict to good water months? November to July

# CEQA Requirements

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- Potential Environmental Impacts:
  - Water Usage\*
  - Electricity Usage\*
  - Wastewater Discharge\*
- All projects will be evaluated to determine if it is subject to the California Environmental Quality Act (CEQA). Applicants of projects that require an Environmental Impact Report shall complete the report prior to the public hearing phase of the project.

\* Environmental impact means that it is outside of planned usage/exceeds the ability of the grid and forces



# Amending the ILUDC

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- Amend Article 2 land use tables to identify where cannabis cultivation and cannabis microbusinesses may be allowable
- Amend Article 4 to describe specific land use requirements for cultivation and microbusiness
- Amend Article 10 Glossary to include necessary definitions

# Definition Changes Examples:

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**Commercial Cannabis Cultivation.** The planting, growing or harvesting of cannabis plants that are intended to be transported, processed, distributed, dispensed, delivered or sold. Commercial cannabis cultivation is permitted as an accessory use to a permitted cannabis business.

**Cannabis Cultivation.** The planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

**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.

**Mixed Light Cultivation.** 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 artificial lighting

# Should there be a cap on size of cultivations?

State License size	Indoor Canopy	Mixed-Light Canopy
Specialty Cottage	Up to 500 ft <sup>2</sup>	Up to 2,500 ft <sup>2</sup>
Specialty	501- 5,000 ft <sup>2</sup>	2,501-5,000 ft <sup>2</sup>
Small	5,001-10,000 ft <sup>2</sup>	5,001-10,000 ft <sup>2</sup>
Medium Indoor	10,001 -20,000 ft <sup>2</sup>	10,001-22,000 ft <sup>2</sup>
Microbusiness	Up to 10,000 ft <sup>2</sup> of cultivation	

Building	Size
Safeway	~51,693 ft <sup>2</sup>
Rite Aid	~27,254 ft <sup>2</sup>
Brewery	~15,700 ft <sup>2</sup>
Former Sears Building	~9,864 ft <sup>2</sup>
Shed on GP Mill Site	~70,275ft <sup>2</sup>
Root 1 Botanicals	~5,800 ft <sup>2</sup>

# Three options for the Microbusiness Question

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1. Add more detail to existing cannabis retail definition in 18.42.57
2. Create a separate definition in 18.42 for “Cannabis Microbusiness”
3. Create a separate definition in 18.42 for “Microbusiness” and include cannabis in the new category.

# Option #1: Amend Retail Definition

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- Council approved code indicating that microbusinesses should be allowable via this method.
- Did not provide adequate direction for a project to be approvable.
- This method requires:
  - More explicit language to allow cultivation and/or manufacturing
  - Create a separate definition that removes the need to conform to accessory use.



# Option #2: Cannabis Microbusiness

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- State definition says 3 or more types of activity
  - Retail, cultivation, distribution/wholesale
  - Retail, cultivation manufacturing
  - Cultivation, manufacturing, distribution
- Previous council direction is to allow these businesses
- Creates a specific definition and defines the project as an allowable use.

# Option #3: Create Microbusiness Category

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- Direction from Council is to treat cannabis like all other businesses, therefore, create a category for all businesses that can apply to cannabis.
- Commercial retail vacancy has been a longstanding issue in CBD
- Across America, retail is changing shape  
<https://www.planning.org/planning/2018/jul/retailrealities/>
- Preserves the pedestrian nature of downtown
- Promotes and expands business opportunities
- Will require a minor use permit

# Restrictions on Microbusiness

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- Retail must take up the building frontage and have a main public entrance on the main street.
- Non-retail activities shall not be visible from the public right of way
- Allowable activities will be ones that do not create significant noise, odor, traffic, or public nuisance.
- All non-retail activities must take place in a fully enclosed space not visible from the public right of way

# Next Steps

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