

CHAPTER 9.32

CANNABIS CULTIVATION

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9.32.010 PURPOSE

The purpose and intent of this Ordinance is to regulate Cannabis Cultivation to promote the health, safety, morals, and general welfare of the residents and businesses within the City.

9.32.015 DEFINITIONS

For purposes of this chapter, the following words shall have the following meaning, unless the context clearly indicates otherwise. Words not defined in this section or section 9.30 of the Municipal Code or Chapter 18 Inland Land Use Development Code will use the State of California Code of Regulations.

ABATEMENT. The removal of cannabis plants and the improvements that support cannabis cultivation which are in excess of the amount, type, or square footage allowed under this ordinance.

CANNABIS. As defined in Municipal Code 9.30.020, 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 CULTIVATION. The planting, growing, harvesting, drying, curing, grading, or trimming of cannabis plants, or any part thereof.

CANNABIS MICROBUSINESS. A cannabis-related business operating under a State Type 12 license for microbusinesses, or a State cannabis license type subsequently established, and meeting the definition of "microbusiness" set forth in Business and Professions Code section 26070(a)(3)(A), as may be amended from time to time, which cultivates less than ten thousand

(10,000) square feet of cannabis and acts as a licensed distributor, Level 1 manufacturer, and retailer.

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 ACTIVITY. As defined in Municipal Code 9.30.020, the planting, growing or harvesting of cannabis plants that are intended to be transported, processed, distributed, dispensed, delivered or sold or bartered.

COMMERCIAL CANNABIS CULTIVATION. The planting, growing, harvesting, drying, curing, grading, or trimming of cannabis for the purpose of either wholesale distribution or retail sales.

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.

FULLY ENCLOSED AND SECURE STRUCTURE. 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. Flexible 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 the California Building, Electrical, and Fire Codes as adopted in the County of Mendocino.

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

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

IMMATURE PLANT OR IMMATURE. A cannabis plant that has a first true leaf measuring greater than one half inch long from base to tip (if started from seed) or a mass of roots measuring greater than one half inch wide at its widest point (if vegetatively propagated), but which is not flowering.

INDOORS or INDOOR CULTIVATION. The cultivation of cannabis within a fully enclosed and secure structure.

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

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

NONCOMMERCIAL CANNABIS. Cannabis for personal recreational or medicinal use as allowed by California State Law that shall not be sold or bartered.

NONCOMMERCIAL CANNABIS CULTIVATION. The cultivation of cannabis for personal recreational or medicinal use as allowed by Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) and that shall not be sold or bartered.

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 location within the City of Fort Bragg that is not within a fully enclosed and secure structure including hoop houses and green houses that do not qualify as a fully enclosed and secure structures.

PARCEL. Property assigned a separate parcel number by the Mendocino County Assessor.

PRIMARY CAREGIVER. The individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, as more particularly as set forth in California Health and Safety Code §11362.7(d), as may be amended.

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

QUALIFIED PATIENT. A person who is entitled to the protections of Section 11362.5 of the California Health and Safety Code and who meets the definition of “qualified patient” as defined in the Health and Safety Code section 11362.7(f).

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.

9.32.020 CULTIVATION OF NON-COMMERCIAL CANNABIS

A. Outdoor cultivation: It is hereby declared to be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any parcel within any zoning district in the City of Fort Bragg to cause or allow such parcel to be used for the outdoor cultivation of cannabis plants as allowed by the California Health and Safety Code Division 10 Chapter 6 Article 2 11362.2(3)

B. Indoor cultivation of cannabis is restricted to adults over the age of 21, Qualified Patients, and Primary Caregivers: It is hereby declared to be unlawful and a public nuisance for any

person owning, leasing, occupying, or having charge or possession of any parcel in the City of Fort Bragg to cause or allow such parcel to be used for the non-commercial cultivation of cannabis plants, except as outlined below in Sections 9.32.020(C). Commercial Cannabis Cultivation is permitted only as outlined in section 09.32.030 of this Code.

C. Non-Commercial Cannabis for Personal Use. Non-Commercial Cannabis for personal use shall be cultivated within the City of Fort Bragg in conformance with the following standards:

1. An individual over the age of 21 years or a qualified patient shall be allowed to cultivate Non-Commercial Cannabis indoors on the parcel where they reside for personal use only.
2. A primary caregiver shall only cultivate Non-Commercial Cannabis for a qualified patient for whom he/she is the primary caregiver.
3. The resident shall obtain permission of the property owner for the cultivation of Cannabis.
4. The cultivation shall not be visible by normal unaided vision from a public space, per California HSC Division 10 Chapter 6 Article 2 11362.2(a)(2).
5. The use of volatile solvents or other chemicals for non-commercial cannabis cultivation or processing is prohibited.
6. Non-Commercial Cannabis cultivation is permitted only within a residential unit, a garage, or a self-contained outside accessory building that is secured, locked, and fully enclosed.
7. The Non-Commercial Cannabis cultivation shall not exceed more than six plants per household in accordance with California Health and Safety Code Division 10 Chapter Six Article 2 [11362.2(a)(3)].
8. It is recommended that Non-Commercial Cannabis cultivation use energy efficient LED lighting to minimize the environmental impact of indoor cultivation.
9. It is recommended that non-commercial cultivators use water-recycling systems and minimize the use of fertilizers and pesticides to lessen impacts on the City's water and wastewater systems.
10. The cannabis cultivation area shall not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, noxious gases, odor, smoke, traffic, vibration, or other impacts, and shall not be hazardous due to use or storage of materials, processes, products, or wastes.

09.32.030 COMMERCIAL CANNABIS CULTIVATION

A. Outdoor cultivation. It is hereby declared to be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any parcel within any zoning district in the City of Fort Bragg to cause or allow such parcel to be used for the outdoor cultivation of cannabis plants.

B. Compliance with City Code. Cannabis businesses shall only be allowed in compliance with this chapter and all applicable regulations set forth in the City Code, including but not limited to the City's Land Use Development Codes and all regulations governing building, grading, plumbing,

septic, and electrical, fire, hazardous materials, nuisance, water, sewer, and public health and safety.

C. Compliance with State Laws and Regulations. Commercial Cannabis Cultivations 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 cultivations 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.

D. Compliance with California Environmental Quality Control Act. Commercial Cannabis Cultivations shall comply with the requirements of the California Environmental Quality Control Act unless the Lead Agency determines that they are exempt.

E. Indoor Cultivation, Mixed-Light Cultivation, and Nursery Cultivation of Cannabis. Cultivation of Cannabis within the City of Fort Bragg shall conform to the following standards.

1. It is unlawful for commercial cannabis to be grown on residential properties.
2. Commercial Cannabis shall be cultivated in a fully enclosed and secured structure.
3. Commercial Cannabis cultivation may be allowed in a green house if it meets the criteria for a fully enclosed and secure structure and the cultivation is not detectable from any public right of way.
4. A commercial cannabis cultivation shall have:
 - a. A Cannabis Cultivation License from the State of California or a Microbusiness License from the California Bureau of Cannabis Control,
 - b. A valid City of Fort Bragg Business License,
 - c. A valid City of Fort Bragg Cannabis Business Permit, per Municipal Code 9.30,
 - d. Zoning Clearance or Conditional Use Permits as required by the Land Use Development Code
 - e. Any other permissions, permits or licenses deemed necessary by any California State Agency, the County of Mendocino, or the City of Fort Bragg.
5. The maximum size of a Commercial Cannabis Cultivation in the City of Fort Bragg shall not exceed XX,000 square feet of cultivation space including nursery stock, immature, and mature plants. If cultivations will have multiple levels, each level of cultivation counts as additional square footage to be added to the total. For example a 10 square foot grow with three levels would count as 30 square feet.
6. Commercial Cannabis Cultivations shall use the most energy and water efficient technology whenever possible.
7. Cannabis cultivations that exceed the projected water usage for commercial/industrial new development as identified in the most recently adopted General Plan for the City of Fort Bragg may be required to provide their own water source.
8. Cannabis cultivators shall provide a waste management plan for byproducts and waste generated by the cultivation of cannabis.

9. Commercial Cannabis cultivations should use environmentally friendly practices including Integrative Pest Management, waste reduction, and water and energy conservation.

09.32.040 PUBLIC NUISANCE.

It is hereby declared to be unlawful for any person owning, leasing, occupying, or having charge or possession of any parcel within the City of Fort Bragg to create a public nuisance in the course of cultivating cannabis plants or any part thereof for any purpose in any location. A public nuisance may be deemed to exist, if such activity produces:

1. Odors which are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public;
2. Repeated responses (more than three times in a one year time period) to the parcel from law enforcement officers;
3. Repeated disruption (more than three times in a one year time period) to the free passage of persons or vehicles in the neighborhood;
4. Excessive noise which is disturbing to people of normal sensitivity on adjacent or nearby property or areas open to the public; or
5. Any other impacts on the neighborhood which are disruptive of normal activity in the area.

9.32.030 ENFORCEMENT.

A. The violation of this ordinance is hereby declared to be a public nuisance. Any person violating any provision of this Chapter shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$1,000.00, by imprisonment in the County jail not to exceed six months, or by both a fine and imprisonment.

B. A violation of the ordinance may be abated by the City Attorney by the prosecution of a civil action for injunctive relief and by the abatement procedure set forth in Chapter 6.12 of the Municipal Code.

C. Abatement procedure. The Code Enforcement Officer and/or the Chief of Police, or his or her designee (hereafter, the "Enforcement Official"), are hereby authorized to order the abatement of any violation of this Chapter by following the abatement procedure as defined in the Municipal Code chapter 6.12. In addition, the Code Enforcement Officer may require the property owner or tenant to personally abate/remove all Cannabis plants and improvements to the property that exceed the limits set by this ordinance or that are allowed under the permitted use.

D. Commercial cannabis cultivation sites in violation of this ordinance may not be allowed to renew their cannabis business permit.

9.32.040 PENALTY FOR VIOLATION.

Cultivation of cannabis on parcels within the City that does not comply with this Chapter 9.32 is subject to the penalties and enforcement as provided in Chapter 1.12, Chapter 6.12, and Chapter 9.32.

The remedies and penalties provided herein are cumulative, alternative and non-exclusive. The use of one does not prevent the use of any others and none of these penalties and remedies prevent the City from using any other remedy at law or in equity which may be available to enforce this section or to abate a public nuisance.

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