



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, March 23, 2022

6:00 PM

Town Hall, 363 N. Main Street
and Via Video Conference

MEETING CALLED TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

ZOOM WEBINAR INVITATION

You are invited to a Zoom webinar.

When: Mar 23, 2022 06:00 PM Pacific Time (US and Canada)

Topic: Planning Commission Meeting

Please click the link below to join the webinar:

<https://us06web.zoom.us/j/82269843396>

*Or Telephone: US: +1 253 215 8782 or +1 346 248 7799 (*6 mute/unmute; *9 raise hand)*

Webinar ID: 822 6984 3396

TO SPEAK DURING PUBLIC COMMENT PORTIONS OF THE AGENDA VIA ZOOM, PLEASE JOIN THE MEETING AND USE THE RAISE HAND FEATURE WHEN THE CHAIR OR ACTING CHAIR CALLS FOR PUBLIC COMMENT ON THE ITEM YOU WISH TO ADDRESS.

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.

WRITTEN PUBLIC COMMENTS: To submit written public comments to the Planning Commissioners, email CDD@fortbragg.com. Any written public comments received after agenda publication will be forwarded to the Commissioners as soon as possible after receipt and will be available for inspection at City Hall, 416 N. Franklin

Street, Fort Bragg, California. All comments will become a permanent part of the agenda packet on the day after the meeting or as soon thereafter as possible, except those written comments that are in an unrecognized file type or too large to be uploaded to the City's agenda software application.

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.

- A. [22-132](#) Minutes of the March 9, 2022 Planning Commission Meeting

Attachments: [Minutes of the March 9, 2022 Planning Commission Meeting](#)

5. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS

6. PUBLIC HEARINGS

- 6A. [22-127](#) Receive Report, Hold a Public Hearing, and Consider Recommending to the Fort Bragg City Council Adding Chapter 18.42.200 "Movable Tiny Homes" and Modifications to Section 18.42.110 "Mobile/Manufactured Homes and Mobile Home Parks" to the City of Fort Bragg Inland Land Use and Development Code.

Attachments: [Tiny Homes Staff Report](#)
[Att. 1 PC Resolution XX-2022](#)
[Att. 2 Ch 18.42.200 Tiny Homes](#)
[Att. 3 Amendments to ILUDC](#)
[Att. 4 Public Comment](#)

- 6B. [22-130](#) Receive Report, Continue Deliberations, and Consider Adoption of a Resolution Recommending that City Council Adopt the Inland Land Use and Development Code Amendment #1-22 which Includes New Regulations for Commercial Cannabis Cultivation, Cannabis Retail and Cannabis Retail-Delivery.

- Attachments:** [Staff Report Cannabis Regulations 3-16-2022](#)
[ATT 1 - Proposed Changes to ILUDC Chapter 18.22 & 18.24](#)
[ATT 2 - Proposed Changes to ILUDC Chapter 18.42](#)
[ATT 3 - Proposed Changes to ILUDC Chapter 18.100](#)
[ATT 4 - Resolution Cannabis Ordinance](#)
[ATT 5 - Draft Ordinance](#)
[ATT 6 - Draft Ordinance - Modified](#)
[ATT 7 - Resolution Cannabis Ordinance - Modified](#)
[ATT 8 - Proposed Changes to ILUDC Chapter 18.42 - Modified](#)
[ATT 9 - Public Comment](#)

7. CONDUCT OF BUSINESS

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.

STATE OF CALIFORNIA)
)ss.
COUNTY OF MENDOCINO)

I declare, under penalty of perjury, that I am employed by the City of Fort Bragg and that I caused this agenda to be posted in the City Hall notice case on March 18, 2022.

Sarah Peters
Administrative Assistant, Community Development Department

NOTICE TO THE PUBLIC

Materials related to an item on this agenda submitted to the Commission after distribution of the agenda packet are available for public inspection in the Community Development Department at 416 North Franklin Street, Fort Bragg, California, during normal business hours. Such documents are also available on the City’s website at www.fortbragg.com subject to staff’s ability to post the documents before the meeting.

ADA NOTICE AND HEARING IMPAIRED PROVISIONS:

It is the policy of the City of Fort Bragg to offer its public programs, services and meetings in a manner that is readily accessible to everyone, including those with disabilities. Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities.

If you need assistance to ensure your full participation, please contact the City Clerk at (707) 961-2823. Notification 48 hours in advance of any need for assistance will enable the City to make reasonable arrangements to ensure accessibility.

This notice is in compliance with the Americans with Disabilities Act (28 CFR, 35.102-35.104 ADA Title II).



City of Fort Bragg

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

Text File

File Number: 22-132

Agenda Date: 3/23/2022

Version: 1

Status: Consent Agenda

In Control: Planning Commission

File Type: Minutes

Agenda Number: A.

Minutes of the March 9, 2022 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, March 9, 2022

6:00 PM

Town Hall, 363 N. Main Street
and Via Video Conference

MEETING CALLED TO ORDER

Chair Logan called the meeting to order at 6:00 PM.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present 5 - Chair Jeremy Logan, Vice Chair Michelle Roberts, Commissioner Jay Andreis, Commissioner Stan Miklose, and Commissioner Nancy Rogers

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

Public Comments on Non-Agenda Items: Jacob Patterson

Public Comments on Consent Calendar Items: None.

2. STAFF COMMENTS

None.

3. MATTERS FROM COMMISSIONERS

Commissioner Andreis announced the upcoming Blue Economy Symposium and Learning Festival; a two-day event happening in May on the possibilities of bringing the blue economy to Fort Bragg.

Vice Chair Roberts clarified that Commissioners did not intend to say at a prior meeting that cannabis businesses are incompatible with residential neighborhoods as was stated by staff at a recent City Council meeting.

Commissioner Rogers would like to know what staff learned about City Council and I.T. staff opinions on hybrid meetings in the future.

4. CONSENT CALENDAR

Item 4A. was removed from the Consent Calendar.

ITEMS REMOVED FROM CONSENT CALENDAR

4A. [22-110](#) Minutes of the February 23, 2022 Planning Commission Meeting

Commissioner Rogers stated that at the last meeting, Commissioners had discussed including in the Planning Commission By-Laws information about the process for appointing Commissioners and terms of service. Staff agreed this had been discussed but was not part of the motion that was brought forward for a vote. After discussion about how to handle this item it was decided staff would bring forward a revised Resolution and set of By-Laws at the next Planning Commission meeting for review.

A motion was made by Chair Logan, seconded by Commissioner Rogers, that these Minutes be approved. The motion carried by the following vote:

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

5. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS

None.

6. PUBLIC HEARINGS

6A. [22-105](#) 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.

At 6:06 PM Chair Logan reopened the public hearing that was continued from February 23, 2022.

Associate Planner Gurewitz presented the prepared report. She and City Consultant Marie Jones responded to Commissioners' clarifying questions, which included the subjects of youth centers, potential impacts of new buffers on existing cannabis businesses, and the definition of Accessory Use.

Public Comment:

-Jacob Patterson.

Chair Logan closed the public hearing at 6:38 PM.

Discussion:

Under deliberation, Commissioners discussed sensitive use categories; buffer configurations; limitation on the number of cannabis businesses in the Central Business District; clarification of cannabis business categories and terminology; and accessory uses.

A motion was made by Commissioner Rogers, seconded by Chair Logan, that these deliberations be continued to March 23, 2022. The motion carried by the following vote:

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

7. CONDUCT OF BUSINESS

ADJOURNMENT

Chair Logan adjourned the meeting at 8:04 PM.

Jeremy Logan, Chair

Sarah Peters, Administrative Assistant

IMAGED (_____)



City of Fort Bragg

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

Text File

File Number: 22-127

Agenda Date: 3/23/2022

Version: 1

Status: Passed

In Control: Planning Commission

File Type: Planning Resolution

Agenda Number: 6A.

Receive Report, Hold a Public Hearing, and Consider Recommending to the Fort Bragg City Council Adding Chapter 18.42.200 "Movable Tiny Homes" and Modifications to Section 18.42.110 "Mobile/Manufactured Homes and Mobile Home Parks" to the City of Fort Bragg Inland Land Use and Development Code.



AGENCY:	Planning Commission
MEETING DATE:	March 23, 2022
DEPARTMENT:	CDD
PREPARED BY:	K. Locke
PRESENTED BY:	K. Locke

AGENDA ITEM SUMMARY

TITLE:

Receive Report, Hold a Public Hearing, and Consider Recommending to the Fort Bragg City Council Adding Chapter 18.42.200 “Movable Tiny Homes” and Modifications to Section 18.42.110 “Mobile/Manufactured Homes and Mobile Home Parks” to the City of Fort Bragg Inland Land Use and Development Code.

BACKGROUND AND OVERVIEW:

The construction of Accessory Dwelling Units (ADUs) brings much needed housing to our community. ADUs, commonly referred to as “second units” or “in-law units”, are additional attached or detached residential dwellings that provide complete independent living facilities for one or more persons; ADUs are regulated in the cities Inland Land Use & Development Code (ILUDC) section 18.42.170 “Second Units – Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU)”.

The City of Fort Bragg Inland General Plan, Element 9 Goal H-1 seeks to “provide a range of housing, including single-family homes, townhouses, apartments, and other housing types to meet the housing needs of all economic segments of the community.” Furthermore, Program H-1.3.5 provides direction to “Allow tiny homes as second units.” Tiny homes are small, independent, livable dwelling units that are less than 400 Sq. Ft., excluding lofts. These units can be categorized into two types, ones with a foundation, and moveable mobile residences that maintain the appearance of a single-family residence. Tiny homes on foundation are currently regulated through ILUDC section 18.42.170 as they are just considered small ADU’s, but moveable tiny homes are not allowed in the City.

Deliverables associated with grant funding through Senate Bill 2, has brought staff to the creation of a moveable tiny home ordinance to address program H-1.3.5. The primary focus of the proposed ordinance is to treat movable tiny houses as an alternative ADU rather than stand-alone housing. As well, the grant also considers “tiny home communities” where multiple tiny homes on a singular lot are allowed.

OPTIONS FOR REGULATIONS FOR MOVEABLE TINY HOMES

On January 25, 2022, staff met with the Community Development Committee (CDC) to discuss a proposed tiny home ordinance. Staff covered a variety of regulation considerations and sought feedback from the committee and the public. Based on responses from CDC as well as in written and oral comments, staff have seen an overwhelming support from the public for adopting regulations to allow moveable tiny homes as permanent residences. However, based on responses received, modifications to original proposals from staff were necessary prior to bringing an official ordinance forward. As a result, staff have modified the original proposals to be in line with what Fort Bragg residents and leaders are looking for. The

topics discussed herein include the recommended changes requested; however, there are additional regulations which may be found on the draft ordinance in **Attachment 2**.

Configuration and Number per Parcel

Based on feedback from the public and at CDC, most felt that the City should be as flexible as possible with the amount of units permitted. The goal should also be that the units fit in with the neighborhood. Therefore, staff are proposing to allow three tiny homes per lot. One tiny home as the “primary unit” and two as ADUs subject to certain standards.

There was also some discussion regarding the idea of a “tiny home village” with multiple rental units beyond what a typical parcel would allow. In addition, Program H-1.7.10 of the Fort Bragg General Plan Housing Element seeks to consider adopting new zoning regulations to allow for small home subdivisions. However, there is some concern about adding more residential units than are currently allowed due to impact to neighbors and City facilities. As a result, staff believe the best way to allow these tiny home communities is by modifying ILUDC section 18.42.110 Mobile/Manufactured Homes and Mobile Home parks. Mobile home parks are currently allowed in all residential zoning districts with a use permit. As of now, moveable tiny homes are not allowed in these parks due to certain design and construction standards. By modifying this section, it would allow tiny home communities while still giving the City regulatory control to ensure it is compatible with adjacent uses.

Staff Recommendation: Allow tiny homes to count as one or more of the allowed dwellings on a parcel. A tiny home could take the place of a primary dwelling, ADU or attached ADU, as long as the total number of dwellings does not exceed the maximum allowed on the parcel. For example, on a vacant single-family parcel where three dwellings are allowed (primary unit, ADU, JADU), three tiny homes would be allowed.

*Staff also recommend modifying section 18.42.110 Mobile/Manufactured Homes and Mobile Home Parks to allow tiny homes. A modified code section can be found as **Attachment 3**.*

Development Standards

There are a variety of options to regulate tiny homes such as unit size, height, lot coverage, and setbacks. Overall, based on responses received, since the City would consider tiny homes as a form of second unit, they should comply with accessory dwelling unit standards set forth in 18.42.170. However, as mentioned the City is also considering allowing a tiny home as the primary unit. One option staff explored at the CDC meeting was to allow tiny homes in the driveway, but feedback was generally negative. So allowing the primary unit to have the same flexibility as accessory units may create neighborhood incompatibilities. Therefore, staff believe holding the “primary unit” tiny home to standards of a “typical” primary residence would resolve this conflict.

Staff Recommendation: Accessory unit tiny homes should generally follow second unit standards. A “primary unit” tiny home should follow standards based on the applicable zoning district set forth in 18.21.050 – Residential District Site Planning & Building Standards.

Architectural Standards

In terms of design, since tiny homes are generally pre-fabricated they are built to resemble a typical home. This is what sets tiny homes apart from other moveable homes such as RVs and travel trailers. With design requirements, it is important to keep in mind that DMV towing requirements would generally result in a “boxy” home. As a result, staff have prepared prescriptive requirements such as allowed siding materials, building grade windows, and skirting. Based on comments received at CDC, flexibility of design is a high priority for these units, however general consensus is that the units must look like a house. Flexibility to the point of allowing RVs and travel trailers was met with a negative response.

Staff Recommendation: *Staff have prepared multiple design standards that a tiny home shall conform with. These standards are the minimum staff believe a unit can be to maintain a “residential look.” Standards include guidelines on undercarriage skirting, foundation or pad, mechanical equipment, materials, windows, and utility connections.*

Ownership

Since a tiny home can be moved off site, they are considered “personal property” as opposed to land or buildings, which are considered “real property.” For this reason, ownership of tiny homes does not need to be tied to the land. Based on responses from CDC and review from other similar jurisdictions, most feel the City should either be silent on ownership or be as flexible as possible. Therefore, staff is proposing the following:

Staff Recommendation: *Allow tiny home ownership to be separate from the ownership of the property where a tiny home locates. However, if a “primary unit” tiny home is used, the primary unit shall be owned by the landowner.*

Permitting

Construction of a primary residence or an accessory dwelling unit in most cases only requires a building permit with the City. Due to utility and foundation requirements, a building permit would be required for all new tiny homes. At building permit submittal, staff would ensure that the proposed tiny home(s) meet City regulations set forth in the proposed code. Staff will also check that the applicants either meet standards from the American National Standards Institute (ANSI) 119.5 or National Fire Protection Agency (NFPA) 1192 and that the tiny home is licensed and registered with the Department of Motor Vehicles (DMV). It will be the burden of the applicant to show proof of meeting these standards, and staff would keep a log of tiny homes located throughout the City.

Staff Recommendation: *At building permit submittal, Community Development Department Staff would review the code to ensure the proposed tiny home meets all provisions listed.*

FINDINGS FOR APPROVAL

An amendment to the development code may only be approved if all of the following findings are made:

1. The proposed amendment is consistent with the General Plan and any applicable specific plan;

- a. *The proposed amendment is consistent with Program H-1.3.5 to allow Tiny Homes as Second Units and Program H.-1.7.10 to allow Tiny Home Communities. This zoning code update would allow for implementation of these two programs. The proposed amendment is not in conflict with any other goals, policies, and programs in the General Plan and could be used to support many of the Housing goals, policies, and programs.*
2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.
 - a. *The proposed amendment was reviewed by staff to ensure that the allowance of tiny homes would not create a substantial impact to public services and utilities. The proposed ordinance amendment does not propose a change in density or operating characteristics not already allowed in a City, it simply allows an alternative type of unit to be considered an allowable housing type. Impact to City services would be minimal, and the ordinance was created with support from the public and city leaders, and amended based on response from the public.*

ADDITIONAL TALKING POINTS

Throughout staffs' research into tiny homes, there were numerous additional topics that came up that were not addressed in the CDC meetings. These are ideas that local members of the community provided and are potentially worthwhile to add into the ordinance with Planning Commission approval:

- **Storage:** Require all new tiny homes to have an additional storage shed. These are small homes and will generally produce some outdoor storage due to lack of interior space. These sheds would be small (120Sq. Ft.) or less so they would not require a building permit, and they would help keep yards clean.
- **Roof-decks:** A roof mounted deck on top of the tiny home may present privacy concerns and since tiny homes are not regulated clearly under the building code, may lead to shoddy construction. These additional structures may be worth prohibiting
- **Yearly Renewal:** To ensure these homes maintain the requirements listed in the code, it may be worthwhile to require a yearly inspection with staff. This will ensure that the applicants are maintaining their DMV registration and the appearance of the home.

RECOMMENDATION & NEXT STEPS:

Staff recommends adoption of the resolution recommending approval of ILUDC Amendment 2-22 Adding Chapter 18.42.200 "Moveable Tiny Homes" and Modifications to Section 18.42.110 "Mobile/Manufactured Homes and Mobile Home Parks" to the City of Fort Bragg Inland Land Use and Development Code in Order to Allow Moveable Tiny Homes.

The subsequent steps for full approval of an ordinance would be to bring it to City Council for a first and second reading. The final ordinance would become effective on the 31st day following the adoption of the amendment.

ALTERNATIVE ACTIONS

1. Hold a hearing, close the hearing, deliberate without a decision, and revisit the application at the next scheduled meeting for a decision after providing feedback to staff.
2. Deny the amendment.

ENVIRONMENTAL DETERMINATION:

The proposed ordinance amendment is exempt from review under the California Environmental Quality Act under California Code of Regulations, Title 14, Section 15301 of the CEQA Guidelines and is also exempt from review because it does not meet the definition of a project under CEQA Guidelines section 15061, subdivision (b)(3) and section 15378, subdivision (a) and subdivision (b)(5). The proposed changes of allowing and adopting standards for moveable tiny houses as a new type of accessory dwelling unit as authorized by state law, has no potential for resulting in physical changes in the environment because it consists of changes in the standards governing issuance of ministerial permits for accessory dwelling units and does not directly or indirectly approve any applications for particular accessory dwelling units. As well, the proposed text amendments would not change the overall number of dwelling units allowed on any parcel.

ATTACHMENTS:

- Att. 1: Draft Resolution
- Att. 2: Draft Ordinance ILUDC Section 18.42.200
- Att. 3: Draft Amendments to ILUDC Section 18.21.030 and 18.42.110

RESOLUTION NO. PC XX-2022

RECEIVE REPORT, HOLD A PUBLIC HEARING, AND CONSIDER RECOMMENDING TO THE FORT BRAGG CITY COUNCIL ILUDC AMENDMENT 2-22 ADDING CHAPTER 18.42.200 “TINY HOMES” AND MODIFICATION OF ILUDC SECTION 18.42.110 MOBILE/MANUFACTURED HOMES AND MOBILE HOME PARKS TO THE CITY OF FORT BRAGG INLAND LAND USE AND DEVELOPMENT CODE

WHEREAS, the City of Fort Bragg (“City”) adopted an Inland General Plan and certified an Environmental Impact Report Addendum for the General Plan on December 2, 2012; 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 the City Council policy direction; and

WHEREAS, the City updated the Inland General Plan, Housing Element in 2019, the Housing Element encourages a variety of housing types for all income levels; and

WHEREAS, the City of Fort Bragg currently regulates alternative housing models that contribute to addressing housing supply shortages and affordability, such as accessory dwelling units (ADUs); and

WHEREAS, alternative housing models, such as movable tiny homes, can provide flexible housing options for a variety of households living at different income levels; and

WHEREAS, State law allows local agencies to adopt less restrictive requirements for the development of ADUs; and

WHEREAS, The City received grant funding through Senate Bill 2 to create a tiny home ordinance; and

WHEREAS, this Ordinance adds movable tiny houses as a separately regulated residential use and in mobile home parks; and

WHEREAS, the Planning Commission held a properly noticed public hearing on March 23, 2022, during which all interested persons were heard,

WHEREAS, the Planning Commission did hear and consider all said reports, recommendations and testimony herein above set forth and used independent judgement to evaluate the project.

NOW THEREFORE BE IT RESOLVED that the Planning Commission of the City of Fort Bragg does hereby find that the foregoing recitals are true and correct and made a part of this resolution; and the Planning Commission hereby recommends that the City Council adopt Inland Land Use and Development Code Amendment 2-22 based on the following findings as required by Section 18.94.060(B):

1. 18.94.060(B)(1)(a) – The proposed amendment is consistent with the General Plan and any applicable specific plan, because the proposed amendments are consistent with applicable land use designations and comply with State law. Furthermore, the City’s Housing Element promotes a variety of housing types accessible to all income levels, including accessory

dwelling units and multifamily developments, as illustrated in the following policies and programs:

Policy H-1.3 Secondary Dwelling Units. Continue to facilitate the construction of secondary dwelling units on residential properties.

Program H-1.3.2 No Development Impact Fees for Secondary Units. Continue to refrain from charging Capacity Fees for second units.

Program H-1.3.5 Allow Tiny Homes as Second Units: Consider revising the zoning ordinance so that people can park mobile residences (residences built under the vehicle code) as a second unit, so long as the residence looks like a house (e.g. external siding that is compatible with the residential neighborhood, skirted if the wheels would otherwise be visible from the public right of way, etc.).

Program H-1.3.6 Alternative Designs for Second Units: Explore options for allowing cutting edge construction techniques for second units including but not limited to: straw bale, rammed earth, prefabricated second units, etc.

Program H-1.7.10: Tiny Home Community. Consider adopting new zoning regulations to allow for small home subdivisions, with small individual parcel ownership, in all residential zoning districts. Consider changing the minimum lot size and minimum parcel dimensions of the LUDC to accommodate tiny home communities as part of a planned unit development.

Policy H-1.7 Workforce Housing. Encourage multi-unit housing developments in order to encourage market rate rental housing, affordable housing and lower cost ownership opportunities such as townhomes and condominiums.

Program H-2.4.5 Prioritize City Services for Housing Developments. Continue to implement procedures to grant priority service for sewer and water services to residential developments.

Program H-5.2.1 Discourage Vacation Rentals: Continue to prohibit vacation rentals in all zoning districts except for the CBD. Undertake proactive undercover code enforcement activity on a regular basis against all illegal vacation rentals in Fort Bragg. Work with the County of Mendocino at all levels to reduce or eliminate further conversions of residential units into vacation rentals as this practice has greatly increased the magnitude of the housing crisis on the Mendocino coast and in the City of Fort Bragg.

2. 18.94.060(B)(1)(b) – The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City because movable tiny homes can be an invaluable tool for providing much needed affordable and/or available housing stock in our community. All existing and proposed residential units are constructed in compliance with City development standards.
3. The proposed ordinance is exempt from review under the California Environmental Quality Act under California Code of Regulations, Title 14, Section 15301 of the CEQA Guidelines and is also exempt from review because it does not meet the definition of a project under CEQA Guidelines section 15061, subdivision (b)(3) and section 15378, subdivision (a) and subdivision (b)(5). The proposed changes of allowing and adopting standards for moveable tiny houses as a new type of accessory dwelling unit as

authorized by state law, has no potential for resulting in physical changes in the environment because it consists of changes in the standards governing issuance of ministerial permits for accessory dwelling units and does not directly or indirectly approve any applications for particular accessory dwelling units. As well, the proposed text amendments would not change the overall number of dwelling units allowed on any parcel.

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 March 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSE:

Jeremy Logan
Planning Commission Chair

ATTEST:

Sarah Peters
Administrative Assistant

18.42.200 –Tiny Homes

- A. Applicability.** Where allowed by Article 2 (Zoning Districts and Allowable Land Uses), Tiny Homes shall comply with the standards of this section.
- B. Definitions.** A tiny home is a small towable residential unit that is not on a permanent foundation, and that meets the design and construction criteria listed in C below.
- C. Standards.** Tiny homes shall be allowed as a type of accessory dwelling unit and/or primary unit subject to all of the following criteria:
- 1. Limitation on location.**
 - a. Tiny homes are allowed on any residentially zoned parcel (RS, RR, RM, RH, and/or RVH).
 - 2. Development Standards.** A tiny home shall conform with the following requirements:
 - a. **Height.** A tiny home shall have a maximum height of 13' 6" to comply with Department of Motor Vehicles (DMV) towing requirements.
 - b. **Location.** A tiny home shall comply with standard setbacks for the zoning district, unless established in place of an ADU which shall comply with Section 18.42.170.
 - c. **Size.** The minimum square footage of a tiny home shall be 150 square feet to comply with California Health & Safety Code. The maximum size shall be 400 square feet.
 - d. **Number of Units Allowed.** Tiny homes are a type of Accessory Dwelling Unit as defined in ILUDC section 18.42.170, therefore tiny homes are allowed on a parcel in the following configurations:
 - i. On a parcel with an existing primary unit, a maximum of two tiny homes are permitted.
 - ii. On a vacant parcel, three tiny homes are permitted. One tiny home may act as the primary unit and shall comply with standards listed in section 18.21.050 – Residential District Site Planning and Building Standards.
 - iii. Tiny homes are permitted in mobile home parks, and the maximum allowed shall be determined in the use permit process.
 - e. **Parking.** No additional parking is required for a tiny home unless it is the primary unit, in which case it shall comply with ILUDC section 18.36.
 - 3. Design Standards.** A tiny home shall maintain a residential appearance through the following design standards.
 - a. **Skirting.** The undercarriage (wheels, axles, tongue and hitch) shall be hidden from view with a solid wood, metal or concrete apron when parked.
 - b. **Roof Pitch.** Roofs shall have a minimum of a 3:12 for greater than 50% of the roof area.
 - c. **Foundation or Pad.** A paved parking pad shall be required and include bumper guards, curbs, or other installations adequate to prevent movement of the unit. Alternative paving methods may be permitted at the discretion of the Community Development Director.
 - d. **Mechanical Equipment.** Mechanical equipment shall be incorporated into the structure and not be located on the roof (except for solar panels). Generators are prohibited.

18.21.030 - Residential District Allowable Land Uses and Permit Requirements

A. General permit requirements. Table 2-1 identifies the uses of land allowed by this Development Code in each residential zoning district, and the planning permit required to establish each use, in compliance with § 18.20.030 (Allowable Land Uses and Planning Permit Requirements).

B. Requirements for certain specific land uses. Where the last column in Table 2-1 (“Specific Use Regulations”) includes a section number, the referenced section may affect whether the use requires a Zoning Clearance, Minor Use Permit, or Use Permit, and/or may establish other requirements and standards applicable to the use.

TABLE 2-1 Allowed Land Uses and Permit Requirements for Residential 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
	RR	RS	RL	RM	RH	RVH	

AGRICULTURAL, RESOURCE AND OPEN SPACE USES

Agricultural accessory structure	P	P	–	–	–	–	18.42.030
Animal keeping	S	S	S	S	S	S	18.42.040
Crop production, horticulture, orchard, vineyard	P	P	P	P	P	P	

RECREATION, EDUCATION AND PUBLIC ASSEMBLY USES

Equestrian facility	UP	–	–	–	–	–	
Meeting facility, public or private	UP	UP	UP	UP	UP	UP	
Park, playground	P	P	P	P	P	P	
Private residential recreation facility	UP	UP	MUP	MUP	MUP	MUP	
School - Private	UP	UP	UP	UP	UP	UP	
School - Public	P	P	P	P	P	P	

Key to Zoning District Symbols

RR	Rural Residential	RM	Medium Density Residential
RS	Suburban Residential	RH	High Density Residential
RL	Low Density Residential	RVH	Very High Density Residential

Notes:

- (1) See Article 10 for land use definitions.

TABLE 2-1 Allowed Land Uses and Permit Requirements for Residential 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
	RR	RS	RL	RM	RH	RVH	

RESIDENTIAL USES

Condominium conversion - 3 units maximum per parcel	—	—	—	P	UP	UP	
Home occupation	P	P	P	P	P	P	18.42.080
Mobile home park	UP	UP	UP	UP	UP	UP	18.42.110
Manufactured home	P	P	P	P	P	P	18.42.110
Multifamily housing, 3 units	—	—	—	P	P	P	18.42.120
Multifamily housing, 4 or more units	—	—	—	UP	UP	P	18.42.120
Co-housing, 4 or more units	—	—	—	UP	UP	P	18.42.120
Organizational housing/care facility (sorority, monastery, residential care, etc.) of more than 3,000 SF or 3 units	—	—	—	UP	UP	UP	
Residential accessory use or structure	P	P	P	P	P	P	18.42.160
Residential care facility for the elderly (RCFE)	—	—	—	UP	UP	UP	
Second unit – ADU/JADU	P	P	P	P	P	P	18.42.170
<u>Movable Tiny Homes</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>18.42.200</u>
Single residential unit	P	P	P	P	P	P	

RETAIL TRADE AND GENERAL SERVICES

Accessory retail and services	—	—	—	P	P	P	18.42.020
Artisan shop	—	—	—	UP	UP	UP	
Neighborhood market	—	—	UP	UP	UP	UP	18.21.060
Restaurant, cafe, coffee shop	—	—	UP	UP	UP	UP	18.21.060

Key to Zoning District Symbols

RR	Rural Residential	RM	Medium Density Residential
RS	Suburban Residential	RH	High Density Residential
RL	Low Density Residential	RVH	Very High Density Residential

Notes:

- (1) See Article 10 for land use definitions.

TABLE 2-1 Allowed Land Uses and Permit Requirements for Residential 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
	RR	RS	RL	RM	RH	RVH	

SERVICES - BUSINESS AND PROFESSIONAL (2)

Medical services - Clinic, lab, urgent care	—	—	—	UP	UP	UP	
Medical services - Doctor office	—	—	—	UP	UP	P	18.21.060
Medical services - Extended care	—	—	—	UP	UP	UP	
Medical services - Hospital	—	—	—	UP	UP	UP	
Office - Accessory	P	P	P	P	P	P	
Office - Professional or administrative	—	—	—	—	—	UP	18.21.060

SERVICES

Day care, adult - 6 or fewer clients	MUP	MUP	MUP	MUP	MUP	MUP	
Day care, adult - 7 or more clients	—	—	—	UP	UP	UP	
Day care, child - Small family day care home	P	P	P	P	P	P	
Day care, child - Large family day care home	MUP	MUP	MUP	MUP	MUP	MUP	18.42.060
Day care, child - Day care center	—	—	—	MUP	MUP	MUP	18.42.060
Mortuary, funeral home (not including cremation)	—	—	—	—	—	UP	
Personal services	—	—	UP	UP	UP	UP	18.21.060
Public safety facilities	UP	UP	UP	UP	UP	UP	

TRANSPORTATION, COMMUNICATIONS AND INFRASTRUCTURE

Pipelines, transmission lines	S	S	S	S	S	S	18.42.145
Utility facility	UP	UP	UP	UP	UP	UP	
Roof mounted solar and wind for on-site use	P	P	P	P	P	P	
Utility infrastructure	P	P	P	P	P	P	

Key to Zoning District Symbols

RR	Rural Residential	RM	Medium Density Residential
RS	Suburban Residential	RH	High Density Residential
RL	Low Density Residential	RVH	Very High Density Residential

Notes:

- (1) See Article 10 for land use definitions.

(2) A doctor's office or professional or administrative office may be approved in a residential zoning district only on a site that is adjacent to or separated only by a street or alley from a commercial or industrial zoning district.

(Ord. 930, § 2, passed 06-12-2017; Am. Ord. 959, § 2, passed 02-10-2020)

18.42.110 - Mobile/Manufactured Homes and Mobile Home Parks

This Section provides requirements and development standards for the use of mobile homes and manufactured homes as single-family dwellings outside of mobile home parks, and for mobile home parks, where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

A. Mobile home outside of a mobile home park.

- 1. Site requirements.** The site, and the placement of the mobile home on the site, shall comply with all zoning, subdivision, and development standards applicable to a conventional single-family dwelling on the same parcel.
- 2. Mobile home design and construction standards.** A mobile home outside of a mobile home park shall comply with the following design and construction standards:
 - a. The exterior siding, trim, and roof shall be of the same materials and treatment found in conventionally built residential structures in the surrounding area, and shall appear the same as the exterior materials on any garage or other accessory structure on the same site.
 - b. The roof shall have eave and gable overhangs of not less than 12 inches measured from the vertical side of the mobile home, and the roof pitch shall be no less than 3:12. Moveable tiny homes are not required to have a roof pitch.
 - c. The mobile home shall be placed on a foundation system or concrete pad, subject to the approval of the Building Official.
 - d. The mobile home is certified under the National Mobile Home Construction and Safety Standards Act of 1974 (42 USC Section 4401 et seq.), American National Standards Institute 119.5, or National Fire Protection Agency 1192 and has been constructed after January 1, 1989.

B. Mobile home park standards. The site for the mobile home park shall comply with the following requirements:

- 1. Planning and design objectives.** The City intends that each mobile home park be designed and landscaped to be compatible with adjacent residential and other uses. These standards are intended to provide a means of achieving an environment of stable, desirable character not out of harmony with the surrounding area.
- 2. Permit requirements.** A mobile home park shall require Design Review in compliance with § 18.71.050, in addition to the Use Permit approval required by § 18.21.030 (Residential Zoning District Allowable Land Uses and Permit Requirements).
- 3. Allowable uses.** Use Permit approval for a mobile home park may authorize the following uses in addition to individual mobile homes:
 - a. Accessory uses, limited to awnings, portable, demountable or permanent carports, fences or windbreakers, garages, porches, and storage cabinets.
 - b. A golf course, lake, park, playground, riding and hiking trails, equestrian facilities, other similar recreational structures and facilities, clubhouses, community centers, laundries, and similar uses; provided, that all of these are not allowed on the individual mobile home lots within the mobile home park.
 - c. Public utility and public service uses and structures.

4. Standards. This Section identifies standards for mobile home park development, recognizing the dual need for moderately priced housing, and standards that will adequately protect residents of the parks and the City as a whole.

a. Phased development. Development may be in phases, so long as each phase complies with the minimum standards of this Section, and no mobile home is occupied in any phase until at least 10 mobile home lots are developed and improved on a minimum of 2 acres, and authorized by a permit for occupancy in compliance with Health and Safety Code Section 18505.

b. Density. The Commission shall determine the allowable density for each mobile home park, based on the following criteria:

- i) The provision of the space necessary for compliance with this Section;
- ii) Individual mobile home lots shall be a minimum of 2,400 square feet; and
- iii) In no case shall the density of a mobile home park exceed the maximum density of the General Plan and zoning district designation for the subject site.

c. Building lines. Each structure and mobile home shall have a minimum setback of 15 feet from all exterior property lines; and a minimum setback of 20 feet from the right-of-way of any street adjoining the mobile home park. The resulting setback area shall be landscaped and continually maintained, in compliance with Chapter 18.34 (Landscaping Standards).

d. Parking. Parking shall be provided in compliance with Chapter 18.36 (Parking and Loading).

e. Utilities. All utility distribution facilities (including cable television, communication and electric lines and boxes) within a mobile home park shall be placed underground. The developer is responsible for complying with the requirements of this Subsection, and shall make the necessary arrangements with the utility companies for the installation of the required facilities.

f. Tenant storage. A minimum of 1 75-cubic-foot storage cabinet shall be provided on each mobile home site. Adequate solid waste and recyclable materials storage enclosures shall be provided in compliance with § 18.30.110.

g. Accessory uses. Accessory uses are those that are incidental to the planned residential use, exist for the sole purpose of service to the residents, are customarily found in multifamily developments, and do not alter the character of the residential use.

- i) Any structure used for an accessory use shall meet all requirements for a primary structure.
- ii) Allowable accessory uses include a management facility, laundry facility, swimming facilities, recreation room, recreational vehicle storage areas, vending machines, and other uses that, in the opinion of the Commission, are of a similar nature.
- iii) A mobile home park may contain accessory retail and service uses for park residents as authorized by Use Permit approval, and in compliance with § 18.42.020 (Accessory Retail and Service Uses).

h. Travel trailers. An occupied travel trailer, camper, motor coach, motor home, trailer coach, or any similar vehicle not certified under the National Mobile Home Construction Safety Standards Act of 1974 (42 USC Section 4401 et seq.) shall not be allowed within a mobile home park. Unoccupied trailers and other recreational vehicles may be stored in an approved on-site storage area where authorized by Use Permit.

i. Fencing. A solid masonry wall, fence, or other decorative landscape screening of the maximum height allowed by this Development Code shall be installed as required by the review authority as part of the Use Permit approval for the mobile home park.

j. Landscaping. Landscaping shall be provided in compliance with Chapter 18.34 (Landscaping Standards).

k. Signs. A mobile home park may be allowed 1 externally illuminated identification sign not exceeding 6 feet in height or 24 square feet in area. The sign shall be integrated into the mobile home park landscaping, at a location specified in the Use Permit approval.

l. Skirting. Skirting shall be provided along all sides of each mobile home.

m. Internal streets. Internal street design shall comply with City street standards except where superseded by a standard required by State law.

(Ord. 930, § 2, passed 06-12-2017)

From: [Walter Stillman](#)
To: [cdd](#)
Subject: Tiny Houses
Date: Saturday, March 12, 2022 8:33:49 AM

Greetings!

As a builder and owner of a tiny house on wheels and owner of a city lot in Fort Bragg my wife and I would like to express our support for tiny houses in Fort Bragg. There are many points in favor of tiny houses including environmental, economic and general flexibility, and while trailers are widely despised everyone loves a tiny house. "It's so cute!"

Tiny houses are the future! How will the kids be able to stay here if they can't afford to rent, build or buy? The same can be said for older folks. Tiny houses on wheels provide an opportunity for a young person to build a little equity in something they can keep and take with them when they move or to readily sell if need be.

I congratulate the city planners on being open to tiny houses as a way to balance the influx of wealth with the need for housing to maintain a strong service economy. The changes have come fast and require a response that won't take decades to implement. The wheels give the planners and the community the chance to evolve again in the future if conditions change.

Walter Stillman



City of Fort Bragg

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

Text File

File Number: 22-130

Agenda Date: 3/23/2022

Version: 1

Status: Passed

In Control: Planning Commission

File Type: Planning Resolution

Agenda Number: 6B.

Receive Report, Continue Deliberations, and Consider Adoption of a Resolution Recommending that City Council Adopt the Inland Land Use and Development Code Amendment #1-22 which Includes New Regulations for Commercial Cannabis Cultivation, Cannabis Retail and Cannabis Retail-Delivery.

AGENCY:	City of Fort Bragg
MEETING DATE:	March 23, 2022
PREPARED BY:	Marie Jones
PRESENTED BY:	Marie Jones

AGENDA ITEM SUMMARY REPORT

APPLICATION NO.: ILUDC Amendment 1-22

OWNER: Various

APPLICANT: City of Fort Bragg

AGENT: N/A

PROJECT: Consider Adoption of a Resolution Recommending that City Council Adopt the Inland Land Use and Development Code Amendment #1-22 which Includes New Regulations for Commercial Cannabis Cultivation, Cannabis Retail and Cannabis Retail-Delivery.

LOCATION: All parcels located in the Inland Light Industrial, Heavy Industrial, Central Business District, General Commercial and Visitor Highway Commercial Zoning Districts.

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 circulating for public comment.

BACKGROUND

For a complete review of the background for developing new regulations for Commercial Cannabis Cultivation and modifications for Cannabis Retail, and Cannabis Retail-Delivery please see **Attachment 1** - Staff Report from February 23, 2022.

Most recently, on February 23 and March 9th of 2022, the Planning Commission held public hearings on this matter, and continued deliberations to March 23, 2022.

On February 28, 2022, the City Council considered the Urgency Ordinance and extended the moratorium for 45-days. The Cannabis Business moratorium will expire on April 14, 2022.

PROJECT DESCRIPTION

The proposed ILUDC amendment would establish land use regulations for commercial cannabis cultivation (cannabis cultivation) and includes modifications to existing regulations for retail cannabis regulations.

As recommended by the Planning Commission, Chapters 18.22, 18.42, and 18.100 of the ILUDC have been revised for City Council's consideration as follows:

Chapter 18.22 – Use Tables

1. Require Minor Use Permit approval for cultivation and retail sales of Cannabis. The Minor Use Permit process would allow staff and/or the Planning Commission to set special conditions, ensure compliance with Chapter 18.42 use requirements, and allow the City to rescind a minor use permit if an applicant does not comply with special conditions. (See Attachment 1, page 1 & 2)
2. Set a maximum of 3 Cannabis Retail permits in the Central Business District by resolution (Att 1, page 2 note)
3. Deleted “Cannabis Retail – Delivery” from Table 2-10, as this is an accessory use and does not need to be separately listed in the Use Table. Regulations and definition for this accessory use are included in Chapter 4.

Chapter 18.42.055 – Cannabis Cultivation

4. Inserted appropriate section heading and text regarding applicability, definitions and standards so that the ordinance form matches the rest of the ILUDC. (See Att 2, top of pages 1, 2 & 3)
5. Set various operation requirements for commercial cannabis cultivation, including deleting the need for a log of visitors which would not be allowed in non-retail areas, as this creates an internal conflict in the ordinance. One cannot require logging of something which is not permitted. (Att 2, middle of pg. 1)
6. Defined accessory cannabis uses for commercial cultivation to include Cannabis Retail Delivery and Cannabis Retail. (Att 2, bottom of pg. 1)

Chapter 18.42.057 – Cannabis Retail

7. Set various operation requirements for Cannabis Retail, including adding regulations regarding odor, hours, screening, etc. (Att 2, middle of pg. 2)
8. Established location limitations for Cannabis Retail in order to minimize conflicts with uses that have a potential for incompatibility. Location limits include 1) Cannabis businesses cannot be located within 150 feet of a youth center, school, church and/or day care facility and 2) cannabis businesses are permitted only west of the center line of Franklin Street in all zoning districts. (Att 2, middle of pg. 2)
9. Defined standards for cannabis accessory uses and require a MUP for the addition of such uses to an existing cannabis business. (Att 2, bottom of pg. 2).

Chapter 18.100

10. Defined multiple terms for Cannabis regulations. New definitions include Cannabis Accessory Use and Craft Cannabis Manufacturing.

GENERAL PLAN ANALYSIS

The proposed ordinance will allow Commercial Cannabis Cultivation in Inland industrial zoning districts. The Inland General Plan (IGP), defines the purpose of these zoning district 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 can be found to be consistent with these definitions, as crop production and cannabis manufacturing are already allowable uses in these districts. While Cannabis Cultivation is not spelled out in the General Plan purpose definitions for this zoning districts, it can be inferred by the uses that are allowed.

Likewise, the ILUDC provides the following purposes for the General Commercial, Central Business District and Highway Commercial zoning districts; respectively:

Central Business District (CBD) This designation applies to the core of the downtown which is the civic, cultural, and commercial center of the community. Uses and site development patterns in the Central Business District are typically pedestrian-oriented. This designation is intended to accommodate government and professional offices, retail stores, theaters, and other similar uses. Residential uses on upper floors or on the ground floor at the rear of buildings are encouraged at a density of up to 40 units per net acre.

General Commercial (CG) The General Commercial designation is intended for a less compact and intensive type of development than found in the Central Business District. Typical land uses in this designation depend more on vehicular than pedestrian access and include automotive and service-related outlets, retail sales, hardware, paint or carpeting sales, offices, apparel stores, and food stores. Shopping centers are allowed with approval of a conditional use permit. Residential uses are permitted above the ground floor or on the ground floor at the rear of buildings at a maximum density of up to 24 units per acre. Highway Visitor

Commercial (CH) This land use designation applies to land uses serving residents and visitors on sites which are located along Highway One and arterials at the entry points to the community. Typical uses allowed in this designation include motels and other lodging enterprises, restaurants, and retail outlets. Residential uses are permitted above the ground floor or on the ground floor at the rear of buildings at a maximum density of up to 24 units per acre.

Cannabis Retail and Cannabis Retail-Delivery can be found to be consistent with the purpose of these three zoning districts as both are retail uses, and the regulations as proposed would mitigate any potential impacts due to the nature of the products for sale.

As analyzed below, the proposed ordinance may be found to be consistent with the Inland General Plan as it does not conflict with any Policies in the Inland General Plan. In particular, the proposed ordinance is consistent with the following:

General Plan Consistency Analysis
<i>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.</i>
CONSISTENT – commercial cannabis cultivation is less 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 would be allowed which is similar to these activities and also similar to crop production which is a permitted use.
<i>Policy LU-3.1 Central Business District: Retain and enhance the small-scale, pedestrian friendly, and historic character of the Central Business District (CBD).</i>
CONSISTENT – the proposed ordinance would require a typical retail store front for Cannabis Retail uses in the CBD. Cannabis retail-Delivery would not be permitted in the CBD. Additionally, the maximum number of dispensaries in the Central Business District may be restricted by resolution to limit any potential inconsistencies which could result from over concentration.
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.

<p>CONSISTENT – All commercial buildings in commercial areas are allowed to have retail businesses. The proposed regulations would limit Cannabis Retail businesses to the area west of the Centerline of Redwood Street in order limit potential conflicts with residential areas located within and close to the CBD, CG and Ch zoning districts.</p> <p>Additionally, the proposed regulations would prohibit cannabis businesses within 150 feet of youth centers, churches, schools and day care facilities.</p>
<p><i>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.</i></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. Additionally, §18.42.055 Cannabis Cultivation provides protections for odor.</p>
<p><i>Policy PF-2.2 Program PF-2.2.5 Continue to encourage water conservation techniques and water conserving fixtures in all new development projects</i></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><i>Open Space Goal OS-7 Improve air quality</i></p>
<p>CONSISTENT –Cannabis cultivation is required to have odor control technology.</p>
<p><i>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</i></p>
<p>CONSISTENT – Proposed ILUDC §18.42.055(B)(3)(C) requires that electricity be exclusively provided by a renewable energy source.</p>
<p><i>Policy S-3.1 Reduce Water Use: Minimize the use of potable water in new and existing development.</i></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 recycling and encourages proposed projects to use alternate sources of water from the City’s potable water system.</p>

There are many additional Inland General Plan policies that would apply to future applications for permits. Specifically, the policies that regulate noise, odor, community design, and environmental impacts. Additionally, all future projects are discretionary as they require a Minor Use Permit and therefore would also require review under CEQA and licensing through the State’s Department of Cannabis Control.

ILUDC ANALYSIS

The proposed ordinance adds a new use to two Industrial zoning districts. In the ILUDC, the industrial zoning districts are defined 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

Cannabis cultivation is consistent with other 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 Type	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
Cannabis Cultivation	Conditional - MUP	Conditional - MUP

Indoor commercial cannabis cultivation is similar to other uses that are currently allowed uses in the industrial zoning districts. it would be compatible with other allowable uses in the industrial zoning districts because:

- Potential impacts of Commercial Cannabis Cultivation have been significantly mitigated with existing and proposed regulations for water, energy, and odor control in the Municipal Code and the Inland Land Use and Development Code.

- The proposed ordinances would only allow for indoor cultivation of cannabis in a fully enclosed and secured structure.
- Cannabis Cultivation would require a discretionary MUP and would undergo review to determine if the project would conflict with surrounding land uses.

Cannabis Retail

The existing ordinance, §18.42.057, would be updated to address any potential use compatibility issues, with additional standards for operations (odor, hours, lighting, screening and on-site consumption) and additional requirements around location and accessory uses. Taken together the proposed amendment will significantly reduce the potential for incompatibility between Cannabis Retail, Cannabis Retail-Delivery and other uses in the CBD, CG and CH zoning districts. The proposed amendments also require a MUP for both uses, which will allow staff, and if appealed the Planning Commission, the opportunity to place additional special conditions on a specific proposed project, if warranted.

ENVIRONMENTAL DETERMINATION

An Initial Study and Negative Declaration were prepared, and the project was found to have no significant impacts. The document began circulation on or before February 17, 2022, and is currently in circulation for public review which will be completed on March 17, 2022. If the changes to the proposed ordinances are significant, the document may be recirculated for additional comments.

RECOMMENDED PLANNING COMMISSION ACTION

Review proposed code changes and Consider Adopting a Resolution to recommend that the City Council adopt an ordinance with Planning Commission's recommended changes.

Attachments

1. Proposed Changes to ILUDC Chapter 18.22 & 18.24
2. Proposed Changes to ILUDC Chapter 18.42
3. to ILUDC Chapter 18.100
4. Resolution of the Fort Bragg Planning Commission

Proposed Changes to the ILUDC Chapter 18.22 & 18.24

Black text = original ordinance text

Red Text = changes already agreed to by the Planning Commission

Purple Text = Implemented Planning Commission Direction & Consultant Recommended Changes

Chapter 18.22 Commercial Zoning Districts

Sections:

18.22.030 Commercial District Land Uses and Permit Requirements

TABLE 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	Permitted use, Zoning Clearance					
	P Permitted use, Zoning Clearance required					
	MUP § 18.71.060 Minor Use Permit required (see UP Use Permit required (see § 18.71.060) S 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	
Building and landscape materials sales - Outdoor	—	—	—	UP	UP	18.42.130
Cannabis retail & accessory cannabis uses	—	—	MUP(3,4)	MUP(4)	MUP(4)	18.42.057 Chapter 9.30
Cannabis retail - delivery only	—	—	—	MUP(4)	MUP(4)	18.42.057 Chapter 9.30
Construction and heavy equipment sales and rental	—	—	—	UP	UP	18.42.130
Convenience store	P	—	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.
- (2) Use permit required except for the exceptions set forth in § [18.46.050](#).
- (3) **The number of permissible Cannabis Retail Businesses in the Central Business District shall be set by resolution of the City Council.**
- (4) Retail Cannabis businesses shall be permissible only on parcels located west of the centerline of Franklin Street in the CBD, CG and CH districts.

18.24.030 - Industrial District 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 Cultivation (Nurser and/or, Mature Plants)	MUP	MUP	Chapter 9.30 and 18.42.055

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—Delivery only	MUP (2)	MUP (2)	18.42.057 Chapter 9.30
Construction and heavy equipment sales and rental	UP	P	18.42.130
Farm supply and feed store	P	P	
Fuel dealer (propane for home and farm use, etc.)	P	—	
Mobile home, boat or RV sales	UP	UP	
Service station	UP	UP	18.42.180

SERVICES - BUSINESS, FINANCIAL, PROFESSIONAL

Business support service	P	UP	
Office - Accessory	P	P	
Office - Processing	P	P	

Notes:

(1) See Article [10](#) for land use definitions.

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

Proposed Changes to the ILUDC Chapter 4

Black text = original ordinance text

Red Text = changes already agreed to by the Planning Commission

Purple Text = Implemented Planning Commission Direction & Consultant Recommended Changes

18.42.055 Commercial Cannabis Cultivation

A. **Applicability.** Where allowed by Article 2 (Zoning Districts and Allowable Land Uses) Commercial Cannabis Cultivation shall comply with the standards of this Section. These standards apply in addition to the other provisions of this Development Code and requirements imposed by Chapter 9.30 of the Municipal Code and any required State licenses prior to operation.

B. **Definitions.** Definitions of the Commercial Cannabis Cultivation facilities regulated by this Section are in Article 10 (Definitions) under “Cannabis.”

C. **Standards for Commercial Cannabis Cultivation.** A Minor Use Permit for Commercial Cannabis Cultivation shall be approved, if it complies with the following standards:

1. **Additional Permits and Licenses Required.** A cannabis storefront retail business shall obtain a cannabis business permit subject to Chapter 9.30 of the Municipal Code and any required state licenses prior to operation.
2. **Operational requirements.** Operational requirements may include project specific conditions of approval, the requirements set forth in Chapter 9.30, and the following operational requirements:
 - a. **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.
 - b. **Visitors.** Only employees, managers, owners, and government agency representatives are allowed in non-retail areas of the business. ~~Any other visitors to non-public areas must be documented in a log.~~
 - c. **Utilities.** 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. 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. Electricity must be exclusively provided by a renewable energy source(s), including but not limited to: 1) documented grid power supplied from a 100% renewable source, or 2) on-site renewable energy system.
 - d. **Environmentally Friendly Practices.** Cultivation projects shall use environmentally friendly practices, including integrative pest management and waste reduction.
 - e. **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.
3. **Accessory uses to commercial cultivation.** As defined in Article 10, certain accessory uses are permissible with Minor Use Permit approval, including: Retail Delivery and Cannabis Retail.

18.42.057 Cannabis Retail

A. **Applicability.** Where allowed by Article 2 (Zoning Districts and Allowable Land Uses) Cannabis Retail shall comply with the standards of this Section. These standards apply in addition to the other provisions of this Development Code and requirements imposed by Chapter 9.30 of the Municipal Code and any required State licenses prior to operation.

B. **Definitions.** Definitions of the Cannabis Retail facilities regulated by this Section are in Article 10 (Definitions) under “Cannabis.”

C. **Standards for Cannabis Retail.** A Minor Use Permit for Cannabis Retail shall be approved if it complies with the following standards:

1. **Additional Permits and Licenses Required.** A cannabis storefront retail business shall obtain a cannabis business permit subject to Chapter 9.30 of the Municipal Code and any required state licenses prior to operation.
2. **Operation Requirements.**
 - a. **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.
 - b. **Hours of Operation.** Cannabis retail may operate between the hours of 9:00 a.m. to 9:00 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.
 - c. **Lighting and Screening.** Projects that are on properties adjacent to residential properties shall comply with §18.30.050(F) and §18.30.070.
 - d. **On-Site Consumption Prohibited.** The consumption of cannabis at a cannabis retail use or within the parking lot or public right-of-way are prohibited.
 - e. **Drive-through services.** Drive-through or walk-up window services in conjunction with cannabis retail are prohibited.
3. **Location Requirements.** In order to avoid the concentration of Cannabis Retail land uses and maintain the downtown commercial character, and compatibility with adjacent residential uses, A cannabis retail business shall **not** be:
 - a. Located within 150 feet of a school providing instruction in kindergarten or any grades 1 through 12, a child day care center or facility, a youth center as defined in the State of California Health and Safety Code Section 11353.1(e)(2) or a church. 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/day care facility/church to the closest property line of the lot on which the cannabis business is proposed.
 - b. Located east of the centerline of Franklin Street.
4. **Accessory Uses.** The primary use of a cannabis retail use shall be to sell products directly to on-site customers.
 - a. **Accessory Uses.** The following uses are permissible as accessory uses to Cannabis Retail. More than one accessory use is permissible however the combined accessory uses shall not exceed the total square footage of the primary use.
 - i. Central Business District & General Commercial zones: Office, Nursery (non-flowering) cultivation (area of not more than 100 SF) for on-site sales only; Retail Delivery; On-Site Distribution.

- ii. Highway Visitor Commercial: Office, Nursery (non-flowering) cultivation, Craft Cannabis Manufacturing – no volatile solvents permitted, Distribution, Wholesale, Retail Delivery, On-Site Distribution
- b. **Minor Use Permit Amendments.** If a permitted cannabis retail use chooses to provide an accessory use or services at a later date, an amendment to the Minor Use Permit shall be required.
- c. **Accessory Delivery.** Sales may also be conducted by delivery, subject to the requirements of Section 18.42.059:

18.42.059 - Cannabis Retail - Delivery Only

- A. **Applicability.** Where allowed by Article 2 (Zoning Districts and Allowable Land Uses) Cannabis Retail-Delivery shall comply with the standards of this Section. These standards apply in addition to the other provisions of this Development Code and requirements imposed by Chapter 9.30 of the Municipal Code and any required State licenses prior to operation.
- B. **Definitions.** Definitions of the Cannabis Retail-Delivery facilities regulated by this Section are in Article 10 (Definitions) under “Cannabis.”
- C. **Standards for Cannabis Retail-Delivery.** A Minor Use Permit for Cannabis Retail shall be approved if it complies with the following standards:
- D. **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 ([section 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.

Proposed Changes to the ILUDC Chapter 10

Black text = original ordinance text

Red Text = changes already agreed to by the Planning Commission

Purple Text = Implemented Planning Commission Direction & Consultant Recommended Changes

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 to a primary use on the same parcel and which does not alter the primary use, nor serve property other than the parcel where the primary use is located.

Accessory Use - Cannabis. See Cannabis Accessory Use.

Agricultural Accessory Structure. A structure for sheltering animals, or agricultural equipment, hay, feed, etc. Examples of these structures include barns, noncommercial greenhouses, coops, corrals, and pens. May also include the storage of petroleum products for an on-site agricultural use allowed by the applicable zoning district. Does not include pasture fencing, which requires no City approval when in compliance with § 18.30.050 (Fences, Walls, and Screening). **Does not include structures for commercial cannabis cultivation (see Cannabis).**

Agricultural Product Processing. The processing of harvested crops to prepare them for on-site marketing or processing and packaging elsewhere. Examples of this land use include the following:

- custom milling of flour, feed and grain
- pre-cooling and packaging of fresh or farm-dried fruits and vegetables
- dairies (but not feedlots, see instead "Livestock Operations, Sales Yards, Feedlots, Stockyards")
- sorting, grading and packing of fruits and vegetables
- drying of corn, rice, hay, fruits and vegetables
- tree nut hulling and shelling
- grain cleaning and custom grinding
- wineries
- hay baling and cubing
- **cannabis processing**

C. Definitions, "C."

Cannabis. The following terms and phrases are defined for the purposes of Chapters 18.2 and Chapter 18.4

1. **Cannabis.** As defined in Municipal Code 9.30.
2. **Cannabis Cultivation.** The planting, growing, harvesting, and/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 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 Cannabis Accessory uses and Chapter 9.30.
4. **Cannabis Retail - Delivery Only.** A cannabis business that is closed to the public and conducts sales exclusively by delivery.
5. **Craft Cannabis Manufacturing** – small scale, small batch manufacturing by hand, with or without the aid of tools. Craft Cannabis Manufacturing does not involve volatile chemicals.
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, 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 made of flexible construction materials, typically pvc pipe or similar material. The ends may be covered or left open and the material covering the structural 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.

Cannabis Accessory Use. A use that is customarily incidental related and clearly subordinate to the 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. The following cannabis accessory uses are permissible, with a Minor Use Permit, as accessory uses to primary cannabis uses in the following districts:

1. **Central Business District & General Commercial zones:** Nursery (non-flowering) cultivation (area of not more than 100 SF), for on-site sales only; Retail Delivery; On-Site Distribution.
2. **Highway Visitor Commercial:** Nursery (non-flowering) cultivation, Craft Cannabis Manufacturing – no volatile solvents permitted, Distribution and Wholesale, Retail Delivery, On-Site Distribution
3. **Light and Heavy Industrial:** Retail Delivery and Cannabis Retail.

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.

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
- **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

DRAFT

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”).

P. Definitions, “P.”

Plant Nursery. A commercial agricultural establishment engaged in the production of ornamental plants and other nursery products, grown under cover either in containers or in the soil on the site, or outdoors in

containers. The outdoor production of ornamental plants in the soil on the site is instead included under “Crop Production, Horticulture, Orchard, Vineyard.” Also includes establishments engaged in the sale of these products (e.g., wholesale and retail nurseries) and commercial-scale greenhouses (home greenhouses are included under “Residential Accessory Use or Structure”). The sale of house plants or other nursery products entirely within a building is also included under “General Retail.” **Does not include cannabis nurseries which are defined separately under cannabis cultivation - nursery.**

Primary Use. The main purpose for which a site is developed and occupied, including the activities that are conducted on the site a majority of the hours during which activities occur.

W. Definitions, “W.”

Wholesaling and Distribution. An establishment engaged in selling merchandise to retailers; to contractors, industrial, commercial, institutional, farm, or professional business users; to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise, including **cannabis products**, to such persons or companies. Examples of these establishments include:

- agents, merchandise or commodity brokers, and commission merchants
- assemblers, buyers and associations engaged in the cooperative marketing of farm products
- merchant wholesalers
- stores primarily selling electrical, plumbing, heating and air conditioning supplies and equipment

Also includes storage, processing, packaging, and shipping facilities for mail order and electronic-commerce retail establishments.

RESOLUTION NO. PC XX-2022

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 for 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 received public input and directed staff to update the rules and regulations to streamline permitting under the Community Development Department and determined that specific regulations and requirements were necessary to allow the commercial cultivation of cannabis 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 placed a permitting moratorium on new cannabis businesses to provide time to amend City cannabis regulations for the Central Business District; and

WHEREAS, on October 25, 2021 and November 8, 2021, the City Council provided direction to staff regarding land use standards for retail cannabis, commercial cannabis cultivation, and cannabis microbusinesses; and

WHEREAS, on December 13, 2021, the City Council provided direction to staff on comprehensive updates to the City's cannabis regulations including Title 18 ("Inland Land Use and Development Code" of the City's Municipal Code; and determined that cannabis cultivation may impact City infrastructure and water availability; and

WHEREAS, a Negative Declaration and Initial Study was prepared and was circulated to the public on February 17, 2022.

WHEREAS, on February 28, 2022 the moratorium on cannabis businesses was renewed to allow for the completion of the aforementioned study; and

WHEREAS, on February 23, 2022, the Planning Commission held a duly noticed public hearing to make a recommendation regarding the adoption of the proposed amendments to Title 18 Inland Land Use and Development Code and continued the meeting to a date certain;

WHEREAS, on March 9, and March 23, 2022, the Planning Commission continued deliberations and made additional recommendation regarding proposed amendments to Title 18 Inland Land Use and Development Code and continued the meeting to a date certain;

WHEREAS, on March 23, 2022, the Planning Commission continued their deliberations and made the following recommendations to the City Council regarding the proposed amendments to Title 18 Inland Land Use and Development Code:

Chapter 18.22 – Use Tables

1. Require Minor Use Permit approval for cultivation and retail sales of Cannabis. The Minor Use Permit process would allow staff and/or the Planning Commission to set special conditions, ensure compliance with Chapter 18.42 use requirements, and allow the City to rescind a minor use permit if an applicant does not comply with special conditions.
2. Set a maximum of 3 Cannabis Retail permits in the Central Business District by resolution.

3. Deleted “Cannabis Retail – Delivery” from Table 2-10, as this is an accessory use and does not need to be separately listed in the Use Table. Regulations and definition for this accessory use are included in Chapter 4.

Chapter 18.42.055 – Cannabis Cultivation

4. Insert appropriate section heading and text regarding applicability, definitions and standards so that the ordinance form matches the rest of the ILUDC.
5. Set various operation requirements for commercial cannabis cultivation, including deleting the need for a log of visitors which would not be allowed in non-retail areas, as this creates an internal conflict in the ordinance. One cannot require logging of something which is not permitted.
6. Defined accessory cannabis uses for commercial cultivation to include Cannabis Retail Delivery and Cannabis Retail.

Chapter 18.42.057 – Cannabis Retail

7. Set various operation requirements for Cannabis Retail, including adding regulations regarding odor, hours, screening, etc.
8. Established location limitations for Cannabis Retail in order to minimize conflicts with uses that have a potential for incompatibility. Location limits include 1) Cannabis businesses cannot be located within 150 feet of a youth center, school, church and/or day care facility and 2) cannabis businesses are permitted only west of the center line of Franklin Street in all zoning districts.
9. Defined standards for cannabis accessory uses and require a MUP for the addition of such uses to an existing cannabis business.

Chapter 18.100

10. Defined multiple terms for Cannabis regulations.

WHEREAS, on March 23, 2022, the Planning Commission also established the following:

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.

NOW, THEREFORE, 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:

- a. The proposed amendment is consistent with the policies of the Inland General Plan.
- b. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

- c. The proposed amendment is internally consistent with other applicable provisions of this Development Code.

NOW, THEREFORE, BE IT RESOLVED that the Fort Bragg Planning Commission does hereby recommend that City Council approve ILUDC Amendment 1-22, as modified.

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 March 2022, by the following vote:

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

Jeremy Logan, Chair

ATTEST:

Sarah Peters, Administrative Assistant

BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

**AN ORDINANCE AMENDING CHAPTER
9.30 (CANNABIS BUSINESSES) OF
TITLE 9 (PUBLIC PEACE, SAFETY AND
MORALS) OF THE FORT BRAGG
MUNICIPAL CODE**

ORDINANCE NO. XXX-2022

WHEREAS, the City of Fort Bragg’s (“City”) previously adopted ordinances governing cannabis businesses do not provide regulations for commercial cannabis cultivation; and

WHEREAS, in 1970, Congress enacted the Controlled Substances Act (21 U.S.C. Section 801 et seq.) which, among other things, makes it illegal to import, manufacture, distribute, possess, or use marijuana for any purpose in the United States and further provides criminal penalties for marijuana possession, cultivation and distribution; and

WHEREAS, the People of the State of California have enacted Proposition 215, the Compassionate Use Act of 1996 (codified at Health and Safety Code Section 11362.5 et seq.) (the “CUA”), which exempts qualified patients and their primary caregivers from criminal prosecution under enumerated Health and Safety Code sections for use of marijuana for medical purposes; and

WHEREAS, the California Legislature enacted Senate Bill 420 in 2003, the Medical Marijuana Program Act (codified at Health and Safety Code Section 11362.7 et seq.) (the “MMPA”), as amended, which created a state-wide identification card scheme for qualified patients and primary caregivers; and

WHEREAS, on October 11, 2015, the Governor signed into law Senate Bill 643, Assembly Bill 266, and Assembly Bill 243, collectively referred to as the Medical Cannabis Regulation and Safety Act (MCRSA) formerly known as (the Medical Marijuana Regulation and Safety Act or MMRSA), effective January 1, 2016, which established a state licensing system for medical marijuana cultivation, manufacturing, testing, delivery, and dispensing, regulating these activities with licensing requirements and regulations that are only applicable if cities and counties also permit marijuana cultivation, manufacturing, testing, dispensing, and delivery within their jurisdictions. Under the MCRSA, cities and counties may continue to regulate and/or prohibit medical marijuana cultivation, manufacturing, dispensing, and delivery, consistent with their respective police powers, in which case the new law would not allow or permit these activities within the cities and counties where such activities are not otherwise permitted; and

WHEREAS, on February 3, 2016, Assembly Bill 21 (Wood) was signed by the Governor, amending provisions of MCRSA pertaining to cultivation licenses by

eliminating a March 1, 2016 deadline for local jurisdictions for the promulgation of cultivation regulations or cultivation bans, or local jurisdictions would lose the ability to regulate to the State. Assembly Bill 21 also modified language in Health & Safety Code section 11362.777(g), which pertained to exemptions from licensing requirements for qualified patients and caregivers. The prior language, which specifically stated that local governments retained the right to prohibit cultivation without exception, was revised to state: “Exemption from the requirements of this section does not limit or prevent a city, county, or city and county from exercising its police authority under Section 7 of Article XI of the California Constitution;” and

WHEREAS, on November 8, 2016, the electorate of the State of California approved Proposition 64 (“Prop 64”) which enacted the Adult Use of Marijuana Act (“AUMA”), to be codified in California Health and Safety Code at various sections and in California Business and Professions Code at various sections. The AUMA allows adults 21 and over to use, possess, and cultivate limited amounts of marijuana, establishes a state licensing and regulatory scheme for marijuana businesses serving the recreational market; and expressly allows local jurisdictions to prohibit outdoor cultivation of marijuana for personal use, to regulate indoor cultivation of marijuana for personal use, and to prohibit all non-medical and recreational marijuana businesses from locating and operating within their jurisdictions; and

WHEREAS, on June 27, 2017, the Governor approved Senate Bill 94 which combined the regulatory schemes for MMRSA and AUMA into a single, comprehensive regulatory scheme known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”); and

WHEREAS, notwithstanding the CUA, MMPA, MMRSA, and MAUCRSA as amended, marijuana remains a schedule I substance pursuant to California Health & Safety Code § 11054 (d) (13); and

WHEREAS, the California Supreme Court has established that neither the CUA nor the MMPA preempt local cannabis regulation in the case of *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.*, 56 Cal.4th 729 (2013); and

WHEREAS, on February 25, 2019, the City Council of the City of Fort Bragg (“City Council”) sought to establish rules and regulations by which cannabis businesses may be permitted by considering an ordinance regulating retail, laboratory testing, manufacturing, and distribution cannabis businesses and accessory uses; and

WHEREAS, through multiple public meetings, the Public Safety Committee, Fort Bragg Police Department and City staff have received input from citizens and discussed various options for permitting cannabis businesses; and

WHEREAS, on November 21, 2019, the City Council of the City of Fort Bragg (“City Council”) adopted Ordinance 953-2019 which established rules and regulations by which cannabis businesses may be permitted; and

WHEREAS, on October 13, 2020, the City Council of the City of Fort Bragg (“City Council”) directed staff to develop regulations on commercial cannabis cultivation; and

WHEREAS, the Community Development Committee met on February 23, 2021 and March 23, 2021 to review recommended updates to the Municipal Code and Inland Land Use and Development Code to include cannabis cultivation and receive public input; and

WHEREAS, on May 3, 2021, the City Council of the City of Fort Bragg received public input and directed staff to update the rules and regulations to streamline permitting under the Community Development Department; and

WHEREAS, also on May 3, 2021, the City Council determined that specific regulations and requirements were necessary to allow the commercial cultivation of cannabis cultivation in the City of Fort Bragg; and

WHEREAS, on May 20, 2021, the City Council determined that additional regulations were necessary for conducting retail cannabis activities; and

WHEREAS, on September 27, 2021, the City Council put a moratorium on more cannabis businesses to study whether it would be appropriate to amend how the City regulates cannabis dispensaries in the Central Business District; and

WHEREAS, on October 25, 2021 and November 8, 2021, the City Council provided direction to staff on zoning and specific land use standards for retail cannabis, commercial cannabis cultivation, and cannabis microbusinesses; and

WHEREAS, on December 13, 2021, the City Council provided direction to staff on comprehensive updates to the City’s cannabis regulations including Title 18 (“Inland Land Use and Development Code” of the City’s Municipal Code; and

WHEREAS, a Negative Declaration and Initial Study was prepared and was circulated to the public on February 17, 2022.

WHEREAS, on February 23, 2022, and March 9, 2022 the Planning Commission held a duly noticed public hearing to review and make a recommendation on the adoption of the proposed amendments to Title 18 Inland Land Use and Development Code and continued the meeting to a date certain; and

WHEREAS, City Council has determined that Title 18 should be amended to regulate the commercial cannabis activities; and

WHEREAS, the City Council finds that the adoption of this ordinance will not have a significant impact on the environment under the California Environmental Quality Act

(CEQA) pursuant to California Business and Professions Code 26055(h). CEQA document language for (probably ND).

NOW, THEREFORE, the City Council ordains as follows:

Section 1. Legislative Findings. The City Council hereby finds as follows:

1. The foregoing recitals are true and correct and are incorporated into this ordinance.
2. Amending Title 18 of the Fort Bragg Municipal Code in the manner described will ensure that cannabis businesses are effectively regulated so that they will not be detrimental to the public interest, health, safety, convenience or welfare of the City.
3. A Negative Declaration and Initial Study was prepared and circulated to the public on February 17, 2022, pursuant to the California Environmental Quality Act (“CEQA”) and the CEA review found no significant impacts.

Section 2. Title 18.22 (“Inland Land Use and Development Code”) of the Fort Bragg Municipal Code is hereby amended to include the following specific additions and changes:

18.22.030 Commercial District Land Uses and Permit Requirements

TABLE 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	Permitted use, Zoning Clearance P required Minor Use Permit required (see MUP § 18.71.060) UP Use Permit required (see § 18.71.060) S Permit requirement set by Specific Use Regulations — Use not allowed					
	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
LAND USE (1)	CN	CO	CBD	CG	CH	
RETAIL TRADE						
Cannabis retail & accessory cannabis uses	—	—	MUP(3,4)	MUP (4)	MUP (4)	18.42.057 Chapter 9.30
Cannabis retail - delivery only	—	—	—	MUP (4)	MUP (4)	18.42.057 Chapter 9.30

Notes:(3) The number of permissible Cannabis Retail Businesses in the Central Business District shall be set by resolution of the City Council.

- (4) Retail Cannabis businesses shall be permissible only on parcels located west of the centerline of Redwood Street in the CBD, CG and CH districts.

18.24.030 - Industrial District 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

LAND USE (1)	IL	IH	Specific Use Regulations
Cannabis – Indoor Cultivation (Nurser and/or, Mature Plants)	MUP	MUP	Chapter 9.30 and 18.42.055

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

LAND USE (1)	IL	IH	Specific Use Regulations
Cannabis retail – Delivery only	MUP (2)	MUP (2)	18.42.057 Chapter 9.30

Notes:

- (1) See Article 10 for land use definitions.
- (2) ~~Use shall only be allowable as an accessory use to a cannabis business engaged in manufacturing and/or distribution.~~

Section 3. Sections 18.42.055, 18.42.057 and 18.42.059 of the Inland Land Use and Development Code of the Fort Bragg Municipal Code are hereby replaced in their entirety with the following as noted below:

18.42.055 Commercial Cannabis Cultivation

A. **Applicability.** Where allowed by Article 2 (Zoning Districts and Allowable Land Uses) Commercial Cannabis Cultivation shall comply with the standards of this Section. These standards apply in addition to the other provisions of this Development Code and requirements imposed by Chapter 9.30 of the Municipal Code and any required State licenses prior to operation.

B. **Definitions.** Definitions of the Commercial Cannabis Cultivation facilities regulated by this Section are in Article 10 (Definitions) under “Cannabis.”

C. **Standards for Commercial Cannabis Cultivation.** A Minor Use Permit for Commercial Cannabis Cultivation shall be approved, if it complies with the following standards:

1. **Additional Permits and Licenses Required.** A cannabis storefront retail business shall obtain a cannabis business permit subject to Chapter 9.30 of the Municipal Code and any required state licenses prior to operation.
2. **Operational requirements.** Operational requirements may include project specific conditions of approval, the requirements set forth in Chapter 9.30, and the following operational requirements:
 - a. **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.
 - b. **Visitors.** Only employees, managers, owners, and government agency representatives are allowed in non-retail areas of the business.
 - c. **Utilities.** 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. 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. Electricity must be exclusively provided by a renewable energy source(s), including but not limited to: 1) documented grid power supplied from a 100% renewable source, or 2) on-site renewable energy system.
 - d. **Environmentally Friendly Practices.** Cultivation projects shall use environmentally friendly practices, including integrative pest management and waste reduction.
 - e. **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.
3. **Accessory uses to commercial cultivation.** As defined in Article 10, certain accessory uses are permissible with Minor Use Permit approval, including: Retail Delivery and Cannabis Retail.

18.42.057 Cannabis Retail

A. **Applicability.** Where allowed by Article 2 (Zoning Districts and Allowable Land Uses) Cannabis Retail shall comply with the standards of this Section. These standards apply in addition to the other provisions of this Development Code and requirements imposed by Chapter 9.30 of the Municipal Code and any required State licenses prior to operation.

B. **Definitions.** Definitions of the Cannabis Retail facilities regulated by this Section are in Article 10 (Definitions) under “Cannabis.”

C. **Standards for Cannabis Retail.** A Minor Use Permit for Cannabis Retail shall be approved if it complies with the following standards:

1. **Additional Permits and Licenses Required.** A cannabis storefront retail business shall obtain a cannabis business permit subject to Chapter 9.30 of the Municipal Code and any required state licenses prior to operation.
2. **Operation Requirements.**
 - a. **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.
 - b. **Hours of Operation.** Cannabis retail may operate between the hours of 9:00 a.m. to 9:00 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.
 - c. **Lighting and Screening.** Projects that are on properties adjacent to residential properties shall comply with §18.30.050(F) and §18.30.070.
 - d. **On-Site Consumption.** The consumption of cannabis at a cannabis retail use or within the parking lot or public right-of-way are prohibited.
 - e. **Drive-through services.** Drive-through or walk-up window services in conjunction with cannabis retail are prohibited.
3. **Location Requirements.** In order to avoid the concentration of Cannabis Retail land uses and maintain the downtown commercial character, and compatibility with adjacent residential uses, A cannabis retail business shall **not** be:
 - a. Located within 150 feet of a school providing instruction in kindergarten or any grades 1 through 12, a child day care center or facility, a youth center as defined in the State of California Health and Safety Code Section 11353.1(e)(2) or a church. 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/day care facility/church to the closest property line of the lot on which the cannabis business is proposed.
 - b. Located east of the centerline of Redwood Avenue.
4. **Accessory Uses.** The primary use of a cannabis retail use shall be to sell products directly to on-site customers.
 - a. **Accessory Uses.** The following uses are permissible as accessory uses to Cannabis Retail. More than one accessory use is permissible however the combined accessory uses shall not exceed the total square footage of the primary use.
 - i. Central Business District & General Commercial zones: Office, Nursery (non-flowering) cultivation (area of not more than 100 SF) for on-site sales only; Retail Delivery; On-Site Distribution.

- ii. Highway Visitor Commercial: Office, Nursery (non-flowering) cultivation, Craft Cannabis Manufacturing – no volatile solvents permitted, Distribution, Wholesale, Retail Delivery, On-Site Distribution
- b. **Minor Use Permit Amendments.** If a permitted cannabis retail use chooses to provide an accessory use or services at a later date, an amendment to the Minor Use Permit shall be required.
- c. **Accessory Delivery.** Sales may also be conducted by delivery, subject to the requirements of Section 18.42.059:

18.42.059 - Cannabis Retail - Delivery Only

- A. **Applicability.** Where allowed by Article 2 (Zoning Districts and Allowable Land Uses) Cannabis Retail-Delivery shall comply with the standards of this Section. These standards apply in addition to the other provisions of this Development Code and requirements imposed by Chapter 9.30 of the Municipal Code and any required State licenses prior to operation.
- B. **Definitions.** Definitions of the Cannabis Retail-Delivery facilities regulated by this Section are in Article 10 (Definitions) under “Cannabis.”
- C. **Standards for Cannabis Retail-Delivery.** A Minor Use Permit for Cannabis Retail shall be approved if it complies with the following standards:
- D. **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 (section 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.

Section 4. Section 18.100 of the Inland Land Use and Development Code of the Fort Bragg Municipal Code is hereby amended to include the following additional definitions and definition revisions.

18.100.020 - Definitions of Specialized Terms and Phrases

Accessory Use - Cannabis. See Cannabis Accessory Use.

Agricultural Accessory Structure. A structure for sheltering animals, or agricultural equipment, hay, feed, etc. Examples of these structures include barns, noncommercial greenhouses, coops, corrals, and pens. May also include the storage of petroleum products for an on-site agricultural use allowed by the applicable zoning district. Does not include pasture fencing, which requires no City approval when in compliance with § 18.30.050 (Fences, Walls, and Screening). **Does not include structures for commercial cannabis cultivation (see Cannabis).**

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**

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, and/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 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 Cannabis Accessory uses and Chapter 9.30.
4. **Cannabis Retail - Delivery Only.** A cannabis business that is closed to the public and conducts sales exclusively by delivery.
5. **Craft Cannabis Manufacturing** – small scale, small batch manufacturing by hand, with or without the aid of tools. Craft Cannabis Manufacturing does not involve volatile chemicals.
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, 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 made of flexible construction materials, typically pvc pipe or similar material. The ends may be covered or left open and the material covering the structural 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.

Cannabis Accessory Use. A use that is customarily incidental related and clearly subordinate to the 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. The following cannabis accessory uses are permissible, with a Minor Use Permit, as accessory uses to primary cannabis uses in the following districts:

1. **Central Business District & General Commercial zones:** Nursery (non-flowering) cultivation (area of not more than 100 SF), for on-site sales only; Retail Delivery; On-Site Distribution.
2. **Highway Visitor Commercial:** Nursery (non-flowering) cultivation, Craft Cannabis Manufacturing – no volatile solvents permitted, Distribution and Wholesale, Retail Delivery, On-Site Distribution
3. **Light and Heave Industrial:** Retail Delivery and Cannabis Retail.

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.

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.

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
- edible cannabis products

Does not include: bakeries, which are separately defined.

4. Furniture and Fixtures Manufacturing. Manufacturers producing: wood and metal household furniture and appliances; bedsprings and mattresses; all types of office furniture and public building furniture and partitions, shelving, lockers and store furniture; and miscellaneous drapery hardware, window blinds and shades. Does not include wood workers and custom cabinet shops, which are separately regulated under “Artisan/Craft Product Manufacturing.” Does not include sawmills or planing mills, which are instead included under “Manufacturing/Processing - Heavy.”

5. Small-Scale Manufacturing. Includes manufacturing establishments producing small products not classified in another major manufacturing group, including: brooms and brushes; buttons, costume novelties; pens, pencils, and other office and artists’ materials; sporting and athletic goods; toys; etc.

6. Metal Products Fabrication, Machine and Welding Shops. An establishment engaged in the production and/or assembly of metal parts, including the production of metal cabinets and enclosures, cans and shipping containers, doors and gates, duct work, forgings and stampings, hardware and tools, plumbing fixtures and products, tanks, towers, and similar products. Examples of these uses include:

- blacksmith and welding shops
- sheet metal shops
- plating, stripping, and coating shops
- machine shops and boiler shops

7. Paper Product Manufacturing. An establishment that converts pre-manufactured paper or paperboard into boxes, envelopes, paper bags, wallpaper, etc., and/or that coats or glazes pre-manufactured paper. Does not include the manufacturing of pulp, paper, or paperboard (see “Manufacturing/Processing - Heavy - Pulp and Pulp Product Manufacturing”).

Manufacturing/Processing - Medium Intensity. A facility accommodating manufacturing processes that involve and/or produce building materials, fabricated metal products, machinery, and/or transportation equipment, where the intensity and/or scale of operations is greater than those classified under "Manufacturing/Processing - Light," but where impacts on surrounding land uses or the community can typically be mitigated to acceptable levels. Also includes cannabis manufacturing and processing facilities with similar operational characteristics to the examples below. Examples of intensive manufacturing uses include the following:

1. Lumber and Wood Product Manufacturing. Manufacturing, processing, and sales involving the milling of forest products to produce rough and finished lumber and other wood materials for use in other manufacturing, craft, or construction processes. Includes the following processes and products:
 - containers, pallets and skids
 - manufactured and modular homes
 - milling operations
 - trusses and structural beams
 - wholesaling of basic wood products
 - wood product assembly
2. Machinery Manufacturing. An establishment that makes or processes raw materials into finished machines or parts for machines. Does not include the manufacture of electronics, equipment, or appliances ("Electronics, Equipment, and Appliance Manufacturing").
3. Motor Vehicles and Transportation Equipment. Manufacturers of equipment for transporting passengers and cargo by land, air and water, including motor vehicles, aircraft, spacecraft, ships, boats, railroad and other vehicles such as motorcycles, bicycles and snowmobiles. Includes manufacture of motor vehicle parts and accessories; trailers and campers for attachment to other vehicles; self-contained motor homes; and van conversions. Does not include mobile home and modular home assembly (listed under "Lumber and Wood Product Manufacturing").
4. Stone and Cut Stone Product Manufacturing. An establishment that cuts, shapes, and/or finishes marble, granite, slate, and/or other stone for construction and miscellaneous uses. Does not include establishments engaged primarily in buying or selling partly finished monuments and tombstones ("Artisan/Craft Product Manufacturing").
5. Structural Clay and Pottery Product Manufacturing. An establishment that produces brick and structural clay products, including pipe, china plumbing fixtures, vitreous china articles, and/or fine earthenware and porcelain products. Does not include artist/craftsman uses (see "Artisan/Craft Product Manufacturing," "Home Occupation").

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.

W. Definitions, "W."

Wholesaling and Distribution. An establishment engaged in selling merchandise to retailers; to contractors, industrial, commercial, institutional, farm, or professional business users; to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise, including cannabis products, to such persons or companies. Examples of these establishments include:

- agents, merchandise or commodity brokers, and commission merchants
- assemblers, buyers and associations engaged in the cooperative marketing of farm products
- merchant wholesalers
- stores primarily selling electrical, plumbing, heating and air conditioning supplies and equipment

Also includes storage, processing, packaging, and shipping facilities for mail order and electronic-commerce retail establishments.

Section 5. Effective Date and Publication. This ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage. Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause a summary of said Ordinance to be published as provided in Government Code §36933, in a newspaper of general circulation published and circulated in the City of Fort Bragg, along with the names of the City Council voting for and against its passage.

The foregoing Ordinance was introduced by ___ at a regular meeting of the City Council of the City of Fort Bragg held on _____ and adopted at a regular meeting of the City of Fort Bragg held on _____ by the following vote:

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

BERNIE NORVELL
Mayor

ATTEST:

June Lemos, CMC
City Clerk

PUBLISH: date XX, 2022 and date XX, 2022 (by summary).
EFFECTIVE DATE: Date XX, 2022.

BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

**AN ORDINANCE AMENDING TITLE
18.22, 18.24, 18.42.055, 18.42.057,
18.42.059 AND 18.100.020 OF TITLE 18
(INLAND LAND USE AND
DEVELOPMENT CODE) OF THE FORT
BRAGG MUNICIPAL CODE**

ORDINANCE NO. XXX-2022

WHEREAS, the City of Fort Bragg’s (“City”) previously adopted ordinances governing cannabis businesses do not provide regulations for commercial cannabis cultivation; and

WHEREAS, in 1970, Congress enacted the Controlled Substances Act (21 U.S.C. Section 801 et seq.) which, among other things, makes it illegal to import, manufacture, distribute, possess, or use marijuana for any purpose in the United States and further provides criminal penalties for marijuana possession, cultivation and distribution; and

WHEREAS, the People of the State of California have enacted Proposition 215, the Compassionate Use Act of 1996 (codified at Health and Safety Code Section 11362.5 et seq.) (the “CUA”), which exempts qualified patients and their primary caregivers from criminal prosecution under enumerated Health and Safety Code sections for use of marijuana for medical purposes; and

WHEREAS, the California Legislature enacted Senate Bill 420 in 2003, the Medical Marijuana Program Act (codified at Health and Safety Code Section 11362.7 et seq.) (the “MMPA”), as amended, which created a state-wide identification card scheme for qualified patients and primary caregivers; and

WHEREAS, on October 11, 2015, the Governor signed into law Senate Bill 643, Assembly Bill 266, and Assembly Bill 243, collectively referred to as the Medical Cannabis Regulation and Safety Act (MCRSA) formerly known as (the Medical Marijuana Regulation and Safety Act or MMRSA), effective January 1, 2016, which established a state licensing system for medical marijuana cultivation, manufacturing, testing, delivery, and dispensing, regulating these activities with licensing requirements and regulations that are only applicable if cities and counties also permit marijuana cultivation, manufacturing, testing, dispensing, and delivery within their jurisdictions. Under the MCRSA, cities and counties may continue to regulate and/or prohibit medical marijuana cultivation, manufacturing, dispensing, and delivery, consistent with their respective police powers, in which case the new law would not allow or permit these activities within the cities and counties where such activities are not otherwise permitted; and

WHEREAS, on February 3, 2016, Assembly Bill 21 (Wood) was signed by the Governor, amending provisions of MCRSA pertaining to cultivation licenses by eliminating a March 1, 2016 deadline for local jurisdictions for the promulgation of cultivation regulations or cultivation bans, or local jurisdictions would lose the ability to regulate to the State. Assembly Bill 21 also modified language in Health & Safety Code section 11362.777(g), which pertained to exemptions from licensing requirements for qualified patients and caregivers. The prior language, which specifically stated that local governments retained the right to prohibit cultivation without exception, was revised to state: “Exemption from the requirements of this section does not limit or prevent a city, county, or city and county from exercising its police authority under Section 7 of Article XI of the California Constitution;” and

WHEREAS, on November 8, 2016, the electorate of the State of California approved Proposition 64 (“Prop 64”) which enacted the Adult Use of Marijuana Act (“AUMA”), to be codified in California Health and Safety Code at various sections and in California Business and Professions Code at various sections. The AUMA allows adults 21 and over to use, possess, and cultivate limited amounts of marijuana, establishes a state licensing and regulatory scheme for marijuana businesses serving the recreational market; and expressly allows local jurisdictions to prohibit outdoor cultivation of marijuana for personal use, to regulate indoor cultivation of marijuana for personal use, and to prohibit all non-medical and recreational marijuana businesses from locating and operating within their jurisdictions; and

WHEREAS, on June 27, 2017, the Governor approved Senate Bill 94 which combined the regulatory schemes for MMRSA and AUMA into a single, comprehensive regulatory scheme known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”); and

WHEREAS, notwithstanding the CUA, MMPA, MMRSA, and MAUCRSA as amended, marijuana remains a schedule I substance pursuant to California Health & Safety Code § 11054 (d) (13); and

WHEREAS, the California Supreme Court has established that neither the CUA nor the MMPA preempt local cannabis regulation in the case of *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.*, 56 Cal.4th 729 (2013); and

WHEREAS, on February 25, 2019, the City Council of the City of Fort Bragg (“City Council”) sought to establish rules and regulations by which cannabis businesses may be permitted by considering an ordinance regulating retail, laboratory testing, manufacturing, and distribution cannabis businesses and accessory uses; and

WHEREAS, through multiple public meetings, the Public Safety Committee, Fort Bragg Police Department and City staff have received input from citizens and discussed various options for permitting cannabis businesses; and

WHEREAS, on November 21, 2019, the City Council of the City of Fort Bragg (“City Council”) adopted Ordinance 953-2019 which established rules and regulations by which cannabis businesses may be permitted; and

WHEREAS, on October 13, 2020, the City Council of the City of Fort Bragg (“City Council”) directed staff to develop regulations on commercial cannabis cultivation; and

WHEREAS, the Community Development Committee met on February 23, 2021 and March 23, 2021 to review recommended updates to the Municipal Code and Inland Land Use and Development Code to include cannabis cultivation and receive public input; and

WHEREAS, on May 3, 2021, the City Council of the City of Fort Bragg received public input and directed staff to update the rules and regulations to streamline permitting under the Community Development Department; and

WHEREAS, also on May 3, 2021, the City Council determined that specific regulations and requirements were necessary to allow the commercial cultivation of cannabis cultivation in the City of Fort Bragg; and

WHEREAS, on May 20, 2021, the City Council determined that additional regulations were necessary for conducting retail cannabis activities; and

WHEREAS, on September 27, 2021, the City Council put a moratorium on more cannabis businesses to study whether it would be appropriate to amend how the City regulates cannabis dispensaries in the Central Business District; and

WHEREAS, on October 25, 2021 and November 8, 2021, the City Council provided direction to staff on zoning and specific land use standards for retail cannabis, commercial cannabis cultivation, and cannabis microbusinesses; and

WHEREAS, on December 13, 2021, the City Council provided direction to staff on comprehensive updates to the City’s cannabis regulations including Title 18 (“Inland Land Use and Development Code” of the City’s Municipal Code; and

WHEREAS, a Negative Declaration and Initial Study was prepared and was circulated to the public on February 17, 2022.

WHEREAS, on February 23, 2022, and March 9, 2022 the Planning Commission held a duly noticed public hearing to review and make a recommendation on the adoption of the proposed amendments to Title 18 Inland Land Use and Development Code and continued the meeting to a date certain; and

WHEREAS, City Council has determined that Title 18 should be amended to regulate the commercial cannabis activities; and

WHEREAS, the City Council finds that the adoption of this ordinance will not have a significant impact on the environment under the California Environmental Quality Act (CEQA) as a Negative Declaration and Initial Study, that were prepared and circulated to the public on February 17, 2022, pursuant to the California Environmental Quality Act (“CEQA”), found no significant impacts.

NOW, THEREFORE, the City Council ordains as follows:

Section 1. Legislative Findings. The City Council hereby finds as follows:

1. The foregoing recitals are true and correct and are incorporated into this ordinance.
2. Amending Title 18 of the Fort Bragg Municipal Code in the manner described will ensure that cannabis businesses are effectively regulated so that they will not be detrimental to the public interest, health, safety, convenience or welfare of the City.
3. A Negative Declaration and Initial Study was prepared and circulated to the public on February 17, 2022, pursuant to the California Environmental Quality Act (“CEQA”) and the environmental review found no significant impacts.

Section 2. Title 18.22 (“Inland Land Use and Development Code”) of the Fort Bragg Municipal Code is hereby amended to include the following specific additions and changes:

18.22.030 Commercial District Land Uses and Permit Requirements

TABLE 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	Permitted use, Zoning Clearance						Specific Use Regulations
	P required						
	Minor Use Permit required (see MUP § 18.71.060)						
LAND USE (1)	UP Use Permit required (see § 18.71.060)					Specific Use Regulations	
	CN	CO	CBD	CG	CH		
RETAIL TRADE							
Cannabis retail & accessory cannabis uses	—	—	MUP(3,4)	MUP (4)	MUP (4)	18.42.057 Chapter 9.30	
Cannabis retail - delivery only	—	—	—	MUP (4)	MUP (4)	18.42.057 Chapter 9.30	

Notes:

(3) The number of permissible Cannabis Retail Businesses in the Central Business District shall be set by resolution of the City Council.

(4) Retail Cannabis businesses shall be permissible only on parcels located west of the centerline of Franklin Street in the CBD, CG and CH districts.

18.24.030 - Industrial District Land Uses and Permit Requirements

TABLE 2-10 Allowed Land Uses and Permit Requirements for Industrial Zoning Districts	P MUP UP S —	Permitted use, Zoning Clearance required	
		Minor Use Permit required (see § 18.71.060)	
LAND USE (1)	PERMIT REQUIRED BY DISTRICT	Specific Use Regulations	
		IL	IH
		Use Permit required (see § 18.71.060)	
		Permit requirement set by Specific Use Regulations	
		Use not allowed	

AGRICULTURAL, RESOURCE AND OPEN SPACE USES

LAND USE (1)	PERMIT REQUIRED BY DISTRICT	Specific Use Regulations
Cannabis – Indoor Cultivation (Nurser and/or, Mature Plants)	MUP	Chapter 9.30 and 18.42.055

TABLE 2-10 Allowed Land Uses and Permit Requirements for Industrial Zoning Districts	P MUP UP S —	Permitted use, Zoning Clearance required	
		Minor Use Permit required (see § 18.71.060)	
LAND USE (1)	PERMIT REQUIRED BY DISTRICT	Specific Use Regulations	
		IL	IH
		Use Permit required (see § 18.71.060)	
		Permit requirement set by Specific Use Regulations	
		Use not allowed	

RETAIL TRADE

LAND USE (1)	PERMIT REQUIRED BY DISTRICT	Specific Use Regulations
Cannabis retail - Delivery only	MUP (2)	18.42.057 Chapter 9.30

Notes:

(1) See Article 10 for land use definitions.

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

Section 3. Sections 18.42.055, 18.42.057 and 18.42.059 of the Inland Land Use and Development Code of the Fort Bragg Municipal Code are hereby replaced in their entirety with the following as noted below:

18.42.055 Commercial Cannabis Cultivation

A. **Applicability.** Where allowed by Article 2 (Zoning Districts and Allowable Land Uses) Commercial Cannabis Cultivation shall comply with the standards of this Section. These standards apply in addition to the other provisions of this Development Code and requirements imposed by Chapter 9.30 of the Municipal Code and any required State licenses prior to operation.

B. **Definitions.** Definitions of the Commercial Cannabis Cultivation facilities regulated by this Section are in Article 10 (Definitions) under “Cannabis.”

C. **Standards for Commercial Cannabis Cultivation.** A Minor Use Permit for Commercial Cannabis Cultivation shall be approved, if it complies with the following standards:

1. **Additional Permits and Licenses Required.** A cannabis storefront retail business shall obtain a cannabis business permit subject to Chapter 9.30 of the Municipal Code and any required state licenses prior to operation.
2. **Operational requirements.** Operational requirements may include project specific conditions of approval, the requirements set forth in Chapter 9.30, and the following operational requirements:
 - a. **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.
 - b. **Visitors.** Only employees, managers, owners, and government agency representatives are allowed in non-retail areas of the business.
 - c. **Utilities.** 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. 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. Electricity must be exclusively provided by a renewable energy source(s), including but not limited to: 1) documented grid power supplied from a 100% renewable source, or 2) on-site renewable energy system.
 - d. **Environmentally Friendly Practices.** Cultivation projects shall use environmentally friendly practices, including integrative pest management and waste reduction.
 - e. **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.
3. **Accessory uses to commercial cultivation.** As defined in Article 10, certain accessory uses are permissible with Minor Use Permit approval, including: Retail Delivery and Cannabis Retail.

18.42.057 Cannabis Retail

A. **Applicability.** Where allowed by Article 2 (Zoning Districts and Allowable Land Uses) Cannabis Retail shall comply with the standards of this Section. These standards apply in addition to the other provisions of this Development Code and requirements imposed by Chapter 9.30 of the Municipal Code and any required State licenses prior to operation.

B. **Definitions.** Definitions of the Cannabis Retail facilities regulated by this Section are in Article 10 (Definitions) under “Cannabis.”

C. **Standards for Cannabis Retail.** A Minor Use Permit for Cannabis Retail shall be approved if it complies with the following standards:

1. **Additional Permits and Licenses Required.** A cannabis storefront retail business shall obtain a cannabis business permit subject to Chapter 9.30 of the Municipal Code and any required state licenses prior to operation.
2. **Operation Requirements.**
 - a. **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.
 - b. **Hours of Operation.** Cannabis retail may operate between the hours of 9:00 a.m. to 9:00 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.
 - c. **Lighting and Screening.** Projects that are on properties adjacent to residential properties shall comply with §18.30.050(F) and §18.30.070.
 - d. **On-Site Consumption.** The consumption of cannabis at a cannabis retail use or within the parking lot or public right-of-way are prohibited.
 - e. **Drive-through services.** Drive-through or walk-up window services in conjunction with cannabis retail are prohibited.
3. **Location Requirements.** In order to avoid the concentration of Cannabis Retail land uses and maintain the downtown commercial character, and compatibility with adjacent residential uses, A cannabis retail business shall **not** be:
 - a. Located within 150 feet of a school providing instruction in kindergarten or any grades 1 through 12, a child day care center or facility, a youth center as defined in the State of California Health and Safety Code Section 11353.1(e)(2) or a church. 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/day care facility/church to the closest property line of the lot on which the cannabis business is proposed.
 - b. Located east of the centerline of Franklin Avenue.
4. **Accessory Uses.** The primary use of a cannabis retail use shall be to sell products directly to on-site customers.
 - a. **Accessory Uses.** The following uses are permissible as accessory uses to Cannabis Retail. More than one accessory use is permissible however the combined accessory uses shall not exceed the total square footage of the primary use.
 - i. Central Business District & General Commercial zones: Office, Nursery (non-flowering) cultivation (area of not more than 100 SF) for on-site sales only; Retail Delivery; On-Site Distribution.

- ii. Highway Visitor Commercial: Office, Nursery (non-flowering) cultivation, Craft Cannabis Manufacturing – no volatile solvents permitted, Distribution, Wholesale, Retail Delivery, On-Site Distribution
- b. **Minor Use Permit Amendments.** If a permitted cannabis retail use chooses to provide an accessory use or services at a later date, an amendment to the Minor Use Permit shall be required.
- c. **Accessory Delivery.** Sales may also be conducted by delivery, subject to the requirements of Section 18.42.059:

18.42.059 - Cannabis Retail - Delivery Only

- A. **Applicability.** Where allowed by Article 2 (Zoning Districts and Allowable Land Uses) Cannabis Retail-Delivery shall comply with the standards of this Section. These standards apply in addition to the other provisions of this Development Code and requirements imposed by Chapter 9.30 of the Municipal Code and any required State licenses prior to operation.
- B. **Definitions.** Definitions of the Cannabis Retail-Delivery facilities regulated by this Section are in Article 10 (Definitions) under “Cannabis.”
- C. **Standards for Cannabis Retail-Delivery.** A Minor Use Permit for Cannabis Retail shall be approved if it complies with the following standards:
- D. **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 (section 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.

Section 4. Section 18.100 of the Inland Land Use and Development Code of the Fort Bragg Municipal Code is hereby amended to include the following additional definitions and definition revisions.

18.100.020 - Definitions of Specialized Terms and Phrases

Accessory Use - Cannabis. See Cannabis Accessory Use.

Agricultural Accessory Structure. A structure for sheltering animals, or agricultural equipment, hay, feed, etc. Examples of these structures include barns, noncommercial greenhouses, coops, corrals, and pens. May also include the storage of petroleum products for an on-site agricultural use allowed by the applicable zoning district. Does not include pasture fencing, which requires no City approval when in compliance with § 18.30.050 (Fences, Walls, and Screening). Does not include structures for commercial cannabis cultivation (see Cannabis).

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

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, and/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 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 Cannabis Accessory uses and Chapter 9.30.
4. **Cannabis Retail - Delivery Only.** A cannabis business that is closed to the public and conducts sales exclusively by delivery.
5. **Craft Cannabis Manufacturing** – small scale, small batch manufacturing by hand, with or without the aid of tools. Craft Cannabis Manufacturing does not involve volatile chemicals.
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, 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 made of flexible construction materials, typically pvc pipe or similar material. The ends may be covered or left open and the material covering the structural 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.

Cannabis Accessory Use. A use that is customarily incidental related and clearly subordinate to the 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. The following cannabis accessory uses are permissible, with a Minor Use Permit, as accessory uses to primary cannabis uses in the following districts:

1. **Central Business District & General Commercial zones:** Nursery (non-flowering) cultivation (area of not more than 100 SF), for on-site sales only; Retail Delivery; On-Site Distribution.
2. **Highway Visitor Commercial:** Nursery (non-flowering) cultivation, Craft Cannabis Manufacturing – no volatile solvents permitted, Distribution and Wholesale, Retail Delivery, On-Site Distribution
3. **Light and Heave Industrial:** Retail Delivery and Cannabis Retail.

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.

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.

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
- edible cannabis products

Does not include: bakeries, which are separately defined.

4. Furniture and Fixtures Manufacturing. Manufacturers producing: wood and metal household furniture and appliances; bedsprings and mattresses; all types of office furniture and public building furniture and partitions, shelving, lockers and store furniture; and miscellaneous drapery hardware, window blinds and shades. Does not include wood workers and custom cabinet shops, which are separately regulated under “Artisan/Craft Product Manufacturing.” Does not include sawmills or planing mills, which are instead included under “Manufacturing/Processing - Heavy.”

5. Small-Scale Manufacturing. Includes manufacturing establishments producing small products not classified in another major manufacturing group, including: brooms and brushes; buttons, costume novelties; pens, pencils, and other office and artists’ materials; sporting and athletic goods; toys; etc.

6. Metal Products Fabrication, Machine and Welding Shops. An establishment engaged in the production and/or assembly of metal parts, including the production of metal cabinets and enclosures, cans and shipping containers, doors and gates, duct work, forgings and stampings, hardware and tools, plumbing fixtures and products, tanks, towers, and similar products. Examples of these uses include:

- blacksmith and welding shops
- sheet metal shops
- plating, stripping, and coating shops
- machine shops and boiler shops

7. Paper Product Manufacturing. An establishment that converts pre-manufactured paper or paperboard into boxes, envelopes, paper bags, wallpaper, etc., and/or that coats or glazes pre-manufactured paper. Does not include the manufacturing of pulp, paper, or paperboard (see “Manufacturing/Processing - Heavy - Pulp and Pulp Product Manufacturing”).

Manufacturing/Processing - Medium Intensity. A facility accommodating manufacturing processes that involve and/or produce building materials, fabricated metal products, machinery, and/or transportation equipment, where the intensity and/or scale of operations is greater than those classified under "Manufacturing/Processing - Light," but where impacts on surrounding land uses or the community can typically be mitigated to acceptable levels. Also includes cannabis manufacturing and processing facilities with similar operational characteristics to the examples below. Examples of intensive manufacturing uses include the following:

1. Lumber and Wood Product Manufacturing. Manufacturing, processing, and sales involving the milling of forest products to produce rough and finished lumber and other wood materials for use in other manufacturing, craft, or construction processes. Includes the following processes and products:
 - containers, pallets and skids
 - manufactured and modular homes
 - milling operations
 - trusses and structural beams
 - wholesaling of basic wood products
 - wood product assembly
2. Machinery Manufacturing. An establishment that makes or processes raw materials into finished machines or parts for machines. Does not include the manufacture of electronics, equipment, or appliances ("Electronics, Equipment, and Appliance Manufacturing").
3. Motor Vehicles and Transportation Equipment. Manufacturers of equipment for transporting passengers and cargo by land, air and water, including motor vehicles, aircraft, spacecraft, ships, boats, railroad and other vehicles such as motorcycles, bicycles and snowmobiles. Includes manufacture of motor vehicle parts and accessories; trailers and campers for attachment to other vehicles; self-contained motor homes; and van conversions. Does not include mobile home and modular home assembly (listed under "Lumber and Wood Product Manufacturing").
4. Stone and Cut Stone Product Manufacturing. An establishment that cuts, shapes, and/or finishes marble, granite, slate, and/or other stone for construction and miscellaneous uses. Does not include establishments engaged primarily in buying or selling partly finished monuments and tombstones ("Artisan/Craft Product Manufacturing").
5. Structural Clay and Pottery Product Manufacturing. An establishment that produces brick and structural clay products, including pipe, china plumbing fixtures, vitreous china articles, and/or fine earthenware and porcelain products. Does not include artist/craftsman uses (see "Artisan/Craft Product Manufacturing," "Home Occupation").

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.

W. Definitions, "W."

Wholesaling and Distribution. An establishment engaged in selling merchandise to retailers; to contractors, industrial, commercial, institutional, farm, or professional business users; to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise, including cannabis products, to such persons or companies. Examples of these establishments include:

- agents, merchandise or commodity brokers, and commission merchants
- assemblers, buyers and associations engaged in the cooperative marketing of farm products
- merchant wholesalers
- stores primarily selling electrical, plumbing, heating and air conditioning supplies and equipment

Also includes storage, processing, packaging, and shipping facilities for mail order and electronic-commerce retail establishments.

Section 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 ___ at a regular meeting of the City Council of the City of Fort Bragg held on _____ and adopted at a regular meeting of the City of Fort Bragg held on _____ by the following vote:

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

BERNIE NORVELL
Mayor

ATTEST:

**June Lemos, CMC
City Clerk**

**PUBLISH: date XX, 2022 and date XX, 2022 (by summary).
EFFECTIVE DATE: Date XX, 2022.**

RESOLUTION NO. PC XX-2022

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 for 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 received public input and directed staff to update the rules and regulations to streamline permitting under the Community Development Department and determined that specific regulations and requirements were necessary to allow the commercial cultivation of cannabis 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 placed a permitting moratorium on new cannabis businesses to provide time to amend City cannabis regulations for the Central Business District; and

WHEREAS, on October 25, 2021 and November 8, 2021, the City Council provided direction to staff regarding land use standards for retail cannabis, commercial cannabis cultivation, and cannabis microbusinesses; and

WHEREAS, on December 13, 2021, the City Council provided direction to staff on comprehensive updates to the City's cannabis regulations including Title 18 ("Inland Land Use and Development Code" of the City's Municipal Code; and determined that cannabis cultivation may impact City infrastructure and water availability; and

WHEREAS, a Negative Declaration and Initial Study was prepared and was circulated to the public on February 17, 2022.

WHEREAS, on February 28, 2022 the moratorium on cannabis businesses was renewed to allow for the completion of the aforementioned study; and

WHEREAS, on February 23, 2022, the Planning Commission held a duly noticed public hearing to make a recommendation regarding the adoption of the proposed amendments to Title 18 Inland Land Use and Development Code and continued the meeting to a date certain;

WHEREAS, on March 9, and March 23, 2022, the Planning Commission continued deliberations and made additional recommendation regarding proposed amendments to Title 18 Inland Land Use and Development Code and continued the meeting to a date certain;

WHEREAS, on March 23, 2022, the Planning Commission continued their deliberations and made the following recommendations to the City Council regarding the proposed amendments to Title 18 Inland Land Use and Development Code:

Chapter 18.22 – Use Tables

1. Require Minor Use Permit approval for cultivation and retail sales of Cannabis. The Minor Use Permit process would allow staff and/or the Planning Commission to set special conditions, ensure compliance with Chapter 18.42 use requirements, and allow the City to rescind a minor use permit if an applicant does not comply with special conditions. *However, if Council agrees that Retail sales of Cannabis would be limited to the western side of the centerline of Franklin Street, a Minor Use Permit Would not be required.*

2. Deleted “Cannabis Retail – Delivery” from Table 2-10, as this is an accessory use and does not need to be separately listed in the Use Table. Regulations and definition for this accessory use are included in Chapter 4.

Chapter 18.42.055 – Cannabis Cultivation

3. Insert appropriate section heading and text regarding applicability, definitions and standards so that the ordinance form matches the rest of the ILUDC.
4. Set various operation requirements for commercial cannabis cultivation, including deleting the need for a log of visitors which would not be allowed in non-retail areas, as this creates an internal conflict in the ordinance. One cannot require logging of something which is not permitted.
5. Defined accessory cannabis uses for commercial cultivation to include Cannabis Retail Delivery and Cannabis Retail.

Chapter 18.42.057 – Cannabis Retail

6. Set various operation requirements for Cannabis Retail, including adding regulations regarding odor, hours, screening, etc.
7. Established location limitations for Cannabis Retail in order to minimize conflicts with uses that have a potential for incompatibility. Location limits include 1) Cannabis businesses cannot be located within 150 feet of a youth center, school, church and/or day care facility and 2) cannabis businesses are permitted only west of the center line of Franklin Street in all zoning districts.
8. Defined standards for cannabis accessory uses and require a MUP for the addition of such uses to an existing cannabis business.

Chapter 18.100

9. Defined multiple terms for Cannabis regulations.

WHEREAS, on March 23, 2022, the Planning Commission also established the following:

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.

NOW, THEREFORE, 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:

- a. The proposed amendment is consistent with the policies of the Inland General Plan.
- b. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

- c. The proposed amendment is internally consistent with other applicable provisions of this Development Code.

NOW, THEREFORE, BE IT RESOLVED that the Fort Bragg Planning Commission does hereby recommend that City Council approve ILUDC Amendment 1-22, as modified.

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 March 2022, by the following vote:

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

Jeremy Logan, Chair

ATTEST:

Sarah Peters, Administrative Assistant

DRAFT

Proposed Changes to the ILUDC Chapter 4

Black text = original ordinance text

Red Text = changes already agreed to by the Planning Commission

Purple Text = Implemented Planning Commission Direction & Consultant Recommended Changes

18.42.055 Commercial Cannabis Cultivation

A. **Applicability.** Where allowed by Article 2 (Zoning Districts and Allowable Land Uses) Commercial Cannabis Cultivation shall comply with the standards of this Section. These standards apply in addition to the other provisions of this Development Code and requirements imposed by Chapter 9.30 of the Municipal Code and any required State licenses prior to operation.

B. **Definitions.** Definitions of the Commercial Cannabis Cultivation facilities regulated by this Section are in Article 10 (Definitions) under “Cannabis.”

C. **Standards for Commercial Cannabis Cultivation.** A Minor Use Permit for Commercial Cannabis Cultivation shall be approved, if it complies with the following standards:

1. **Additional Permits and Licenses Required.** A cannabis storefront retail business shall obtain a cannabis business permit subject to Chapter 9.30 of the Municipal Code and any required state licenses prior to operation.
2. **Operational requirements.** Operational requirements may include project specific conditions of approval, the requirements set forth in Chapter 9.30, and the following operational requirements:
 - a. **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.
 - b. **Visitors.** Only employees, managers, owners, and government agency representatives are allowed in non-retail areas of the business. ~~Any other visitors to non-public areas must be documented in a log.~~
 - c. **Utilities.** 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. 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. Electricity must be exclusively provided by a renewable energy source(s), including but not limited to: 1) documented grid power supplied from a 100% renewable source, or 2) on-site renewable energy system.
 - d. **Environmentally Friendly Practices.** Cultivation projects shall use environmentally friendly practices, including integrative pest management and waste reduction.
 - e. **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.
3. **Accessory uses to commercial cultivation.** As defined in Article 10, certain accessory uses are permissible with Minor Use Permit approval, including: Retail Delivery and Cannabis Retail.

18.42.057 Cannabis Retail

A. **Applicability.** Where allowed by Article 2 (Zoning Districts and Allowable Land Uses) Cannabis Retail shall comply with the standards of this Section. These standards apply in addition to the other provisions of this Development Code and requirements imposed by Chapter 9.30 of the Municipal Code and any required State licenses prior to operation.

B. **Definitions.** Definitions of the Cannabis Retail facilities regulated by this Section are in Article 10 (Definitions) under “Cannabis.”

C. **Standards for Cannabis Retail.** A Minor Use Permit for Cannabis Retail shall be approved if it complies with the following standards:

1. **Additional Permits and Licenses Required.** A cannabis storefront retail business shall obtain a cannabis business permit subject to Chapter 9.30 of the Municipal Code and any required state licenses prior to operation.
2. **Operation Requirements.**
 - a. **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.
 - b. **Hours of Operation.** Cannabis retail may operate between the hours of 9:00 a.m. to 9:00 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.
 - c. **Lighting and Screening.** Projects that are on properties adjacent to residential properties shall comply with §18.30.050(F) and §18.30.070.
 - d. **On-Site Consumption.** The consumption of cannabis at a cannabis retail use or within the parking lot or public right-of-way are prohibited.
 - e. **Drive-through services.** Drive-through or walk-up window services in conjunction with cannabis retail are prohibited.
3. **Location Requirements.** In order to avoid the concentration of Cannabis Retail land uses and maintain the downtown commercial character, and compatibility with adjacent residential uses, A cannabis retail business shall **not** be:
 - a. Located within 150 feet of a school providing instruction in kindergarten or any grades 1 through 12, a child day care center or facility, a youth center as defined in the State of California Health and Safety Code Section 11353.1(e)(2) or a church. 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/day care facility/church to the closest property line of the lot on which the cannabis business is proposed.
 - b. Located east of the centerline of Franklin Avenue.
4. **Accessory Uses.** The primary use of a cannabis retail use shall be to sell products directly to on-site customers.
 - a. **Accessory Uses.** The following uses are permissible as accessory uses to Cannabis Retail. More than one accessory use is permissible however the combined accessory uses shall not exceed the total square footage of the primary use.
 - i. Central Business District & General Commercial zones: Office, Nursery (non-flowering) cultivation (area of not more than 100 SF) for on-site sales only; Retail Delivery; On-Site Distribution.

- ii. Highway Visitor Commercial: Office, Nursery (non-flowering) cultivation, Craft Cannabis Manufacturing – no volatile solvents permitted, Distribution, Wholesale, Retail Delivery, On-Site Distribution
- b. **Minor Use Permit Amendments.** If a permitted cannabis retail use chooses to provide an accessory use or services at a later date, an amendment to the Minor Use Permit shall be required.
- c. **Accessory Delivery.** Sales may also be conducted by delivery, subject to the requirements of Section 18.42.059:

18.42.059 - Cannabis Retail - Delivery Only

- A. **Applicability.** Where allowed by Article 2 (Zoning Districts and Allowable Land Uses) Cannabis Retail-Delivery shall comply with the standards of this Section. These standards apply in addition to the other provisions of this Development Code and requirements imposed by Chapter 9.30 of the Municipal Code and any required State licenses prior to operation.
- B. **Definitions.** Definitions of the Cannabis Retail-Delivery facilities regulated by this Section are in Article 10 (Definitions) under “Cannabis.”
- C. **Standards for Cannabis Retail-Delivery.** A Minor Use Permit for Cannabis Retail shall be approved if it complies with the following standards:
- D. **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 ([section 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.

From: [Jacob Patterson](#)
To: [cdd](#); [Gurewitz, Heather](#)
Cc: [O'Neal, Chantell](#); [Smith, John](#); [Spaur, David](#); [sarah.mccormick](#); [marie@mariejonesconsulting.com](#)
Subject: Comments on the Draft Initial Study & Negative declaration for the proposed ordinances revising commercial cannabis regulations
Date: Friday, March 18, 2022 12:19:30 PM

City of Fort Bragg Team,

Please accept these comments and objections to the draft Initial Study & Negative Declaration (IS/ND) prepared by the City and apparently then prematurely circulated for public review. I object to the process by which the City is attempting to manage the environmental review process for the City-initiated changes to its commercial cannabis regulations. The City issued a Notice of Availability (NOA) and circulated a draft IS/ND for public and responsible agency review purporting to analyze the project, which is the City's intended adoption of related ordinances updating the City's commercial cannabis regulations in Title 9 and Title 18 of the City's Municipal Code. (note that the NOA incorrectly refers to the CEQA document as both an IS/ND and an IS/MND.) However, this project has not been fully defined yet because there still aren't any proposed ordinances for anyone to review. There was a draft ordinance that was included in the agenda packet for the continued public hearing before the Planning Commission on March 9, 2022 purporting to be the draft ordinance for the portion of the project associated with updates to Title 18 but that was not actually the case, which was stated by the City's project consultant during that hearing. The actual proposed ordinance for the updates to Title 18 is yet to be made available for the public to review, although I believe the City indicated it would likely be included in the agenda materials for the special meeting of the Planning Commission scheduled for March 23, 2022.

Please note that the staff materials for the March 9, 2022 Planning Commission meeting included numerous issues and displayed serious problems concerning the CEQA review, which further undermines the credibility of the environmental analysis in the current draft IS/ND. Chief among these issues was staff's reference to a now expired statutory exemption from CEQA review that would have applied to this project had the ordinances been adopted prior to July 1, 2021. That statutory exemption has expired by its explicit terms and a condition of relying on that exemption was that any local land use regulations needed to require future discretionary reviews and site-specific CEQA analysis for each project application. The future discretionary reviews condition of the now-expired statutory exemption is not an aspect that still applies to the CEQA review for the current project but which appears to be improperly incorporated into the proposed analysis in the draft IS/ND now being circulated for review and comment. That should be addressed and likely requires substantial and significant revisions to the CEQA document for this pending project.

The actual draft of the proposed ordinance is not yet available for public or responsible agency review. As such, it is impossible for any member of the public or any responsible agency to evaluate the adequacy of the draft IS/ND because the necessary information, the actual ordinance or ordinances, have not been prepared even though the official review period for the draft IS/ND is scheduled to come to a close today based on the NOA. What we have now, and what is purportedly analyzed in the draft IS/ND, are merely staff assumptions and interpretations about what the ordinances might contain but that is inadequate and substantively and procedurally defective. CEQA requires something more and I respectfully request that the City prepare a new IS/ND (or other appropriate CEQA document, which is likely to be a Mitigated Negative declaration or even an Environmental Impact Report) based

on the actual proposed ordinances and make the ordinances and the CEQA document available at the same time for public and responsible agency review.

That said, even if the ordinances had been made available, if they reflected the prior majority direction of the City Council, the existing IS/ND currently circulating for public review is inadequate and defective as written, at least in my opinion. I would (and do) object to the draft IS/ND on that basis as well, which I have partially addressed in prior written and oral public comments for the Planning Commission public hearing meetings that have already occurred. For example, the IS/ND provides a false and misleading description of the baseline conditions and of the scope of the changes in the (non-existent) proposed ordinances. These errors and omissions include but are not limited to a lack of maximum buildout analysis due to the new cultivation uses being added to the use tables in Title 18. Staff incorrectly asserts that because future discretionary reviews will include CEQA analysis for individual projects, that we do not need to analyze the impacts of the ordinances themselves. That is inconsistent with CEQA requirements and appears to be based on a misunderstanding between what is improper speculation about unknown future events and what level of current review is necessary for a change to the land use regulations. Further, staff asserts that the required cannabis business licenses are "discretionary" and would trigger CEQA review for those uses that are or may be proposed to be permitted by right under the new regulations. The cannabis business licenses do not appear to meet the criteria to be considered discretionary rather than ministerial based on the City's existing code or even based on the summary of proposed amendments that were presented in a working draft at the first meeting of the public hearing before the Planning Commission. There are no discretionary findings (or any findings at all) that are required in order to issue the cannabis business licenses. Just because the City can deny some cannabis business license applications if the applicant doesn't meet some pre-determined objective criteria does not make those licenses discretionary. On the contrary, they appear to be ministerial permits based on a review checklist. The City officials' determinations about whether or not the permit criteria are met are similar in nature to the issuance criteria involved in other ministerial permits like building permits, which are only issued if the application materials satisfy the applicable building code requirements.

The main (but not only) substantive issues that are lacking in the existing draft IS/ND appear to include the following: a lack of water supply analysis due to the new cannabis cultivation uses and transportation and greenhouse gas emissions analysis due to the new distribution activities that would be permitted by right. In my opinion, it is not improper speculation to evaluate the projected water use of newly-permitted commercial cannabis cultivation uses based on the addition of those uses to the existing use tables where they were not permitted before. The same sort of buildout analysis that applies to projects to rezone particular property apply to adding new uses to existing use tables. In my opinion, what is required and what is lacking in the current draft is taking the known area of each relevant zoning district where such uses are proposed to be permitted or conditionally permitted and calculating the projected impacts from now allowing those uses using a maximum buildout analysis of the projected water of these cultivation activities. Similarly, the new distribution uses that will be permitted for the cannabis retail uses including a delivery component need to be analyzed based on the existing areas zoned for each district where it is now proposed to be permitted by right rather than what is currently a discretionary review requiring a minor use permit. of course, without any actual proposed ordinances and with shifting majority direction concerning where such uses are going to be permitted and which level of future review will apply in a particular zoning district factoring in potential exclusion and/or buffer zones, we cannot effectively analyze anything. In that respect, I submit these comments and objections for the City team to

consider not just the adequacy of the existing draft IS/ND but as they further develop the actual proposed ordinances and revise or re-write the appropriate CEQA documents and circulate it for public review and comment again once the proposed ordinances are actually ready and available to the public and responsible agencies.

Thank you for your consideration of these important issues,

Jacob Patterson

From: [Jacob Patterson](#)
To: [Peters, Sarah](#); [Lemos, June](#); [cdd](#)
Subject: Fwd: Planning Commission Hearing on Cannabis 3/23/2022
Date: Monday, March 21, 2022 9:29:49 AM

City of Fort Bragg Staff & Planning Commission,

Please treat this as a public comment and objection for this agenda item. As I recall, no one made a motion to formally continue the public hearing at the previous meeting and I believe the PC merely decided to continue the discussion or continue the deliberations with no mention of the hearing itself being continued. Since this week wasn't noticed in the paper as a public hearing and no motion to continue the prior public hearing beyond the March 9th meeting occurred so far as I can recall, and this is the first meeting when the public actually has the proposed draft ordinance to consider, albeit with some drafting issues like an incorrect title and inapplicable CEQA exemption mentioned in the recitals, I object to this meeting being described as a public hearing or allegedly satisfying the procedural requirements of Government Code section 65854.

In fact, I think it can only be considered an Planning Commission discussion item about the draft ordinances with no possible action since the action would need to happen at a properly-noticed public hearing. "Properly-noticed" public hearings can happen by formally continuing the initial public hearing at a meeting (or series of meetings) where the first one had full notice but that doesn't appear to have been the process this time.

Please schedule the public hearing for a future Planning Commission meeting and be sure to provide the full notice for that meeting as was (prematurely) done for the February 23, 2022 Planning Commission meeting where there was proper notice but the hearing didn't actually include a draft ordinance that they were purportedly reviewing and making a recommendation about.

Regards,

--Jacob

----- Forwarded message -----

From: City of Fort Bragg, CA <CityofFortBragg@public.govdelivery.com>
Date: Mon, Mar 21, 2022, 8:50 AM
Subject: Planning Commission Hearing on Cannabis 3/23/2022
To: <jacob.patterson.esq@gmail.com>

Planning Commission Hearing on Cannabis 3/23/2022

Post Date: 03/21/2022 8:30 AM

Planning Commission Discusses Cannabis on March 23

The Planning Commission's public hearing on cannabis regulations will continue on Wednesday night, March 23, 2022 at 6PM at Town Hall. To read the staff report and agenda materials, please click the following link and scroll to Item 6B: [Planning Commission Agenda 3/23/2022](#).



[Click here for more information](#)

SUBSCRIBER SERVICES:

[Manage Subscriptions](#) | [Unsubscribe All](#) | [Help](#)

This email was sent to jacob.patterson.esq@gmail.com using govDelivery Communications Cloud on behalf of: City of Fort Bragg, CA · 416 North Franklin Street Fort Bragg, CA 95437



From: [Jacob Patterson](#)
To: [cdd; Peters, Sarah](#)
Cc: marie@mariejonesconsulting.com
Subject: Fwd: New draft ordinance for cannabis updates
Date: Monday, March 21, 2022 10:06:06 AM

Sarah,

In case I don't have time to write a more formal public comment, please include this email chain as a public comment for the Planning Commission's consideration of Item 6B on their March 23rd agenda. My suggested revised changes to the draft ordinance are to:

1. Correct the title of the ordinance.
2. Revise the final recital concerning CEQA and include an accurate description of the CEQA process, which is not trying to rely on a now expired statutory exemption that is conditioned on site-specific environmental review due to future discretionary permits.
3. Correct the type in the exclusion zone replacing "Redwood Avenue" with "Franklin Street".
4. Consider limiting the exclusion zone to south of Bush Street to allow potential dispensaries on both sides of Franklin Street in the industrial zone.
5. Consider adding a rebuttable presumption that all cannabis retail proposed west of the centerline of Franklin Street is compatible with the existing and future land uses in the vicinity of the proposed project, even sensitive uses.
6. Consider separating the three commercial zones listed under accessory cannabis uses rather than combining the CBD with GC zoning district. I am not sure why there are more potentially-permitted accessory uses in HVC along Main Street than there would be for GC zoning along Franklin Street.
7. Consider a minor revision to the definitions, although this is the least important of my recommendations since it is just me believing that substantive provisions about which uses are permitted don't belong in a definition of a term and should only be in the substantive operative provisions of the ILUDC. The detailed description of which accessory uses are potentially permitted in which zoning districts is a great substantive tool but I don't think it belongs within the definition for this term in the Title 18, Article 10. The definition should just be the definition and the description of the particular accessory uses for different zoning districts belongs in section 18.42.057. I think the actual definition in section 18.100.020 should just read "Cannabis Accessory Use. A use that is customarily incidental related and clearly subordinate to the 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" although that is redundant from the general definition of accessory use without the additional detail about which accessory uses apply to which zoning district.

I think the first three changes are necessary and the rest are optional but recommended to strengthen the overall regulatory scheme and balance the competing policy interests that have been discussed during public meetings up to this point.

Regards,

--Jacob

----- Forwarded message -----

From: **Jacob Patterson** <jacob.patterson.esq@gmail.com>
Date: Sun, Mar 20, 2022 at 11:55 AM
Subject: New draft ordinance for cannabis updates
To: <marie@mariejonesconsulting.com>
Cc: Gurewitz, Heather <hgurewitz@fortbragg.com>, O'Neal, Chantell <con Neal@fortbragg.com>, McCormick, Sarah <SMcCormick@fortbragg.com>

City Staff & Marie,

I am looking through the agenda materials for Wednesday's meeting and there are still some drafting concerns in the draft ordinance that is included in the packet for the meeting. I will send in formal written and additional oral comments for the meeting so don't treat this as such, rather it is intended as me sharing a couple of big items that stuck out at me for your pre-meeting review. (I will only offer oral public comments if Jeremy offers a public comment opportunity, which he should, although I think there is a potential noticing issue based on the language of their motion last time and now this new ordinance only coming forward after the public comment period).

My three big concerns are:

- 1) The ordinance title is incorrect and talks about Chapter 9.20 not Title 18.
- 2) The final recital (aka "whereas") cites an inapplicable statutory exemption from further environmental review under CEQA because it expired last summer. That recital should be deleted or replaced with accurate CEQA language that is in-line with what the City is doing or will be doing for this project.
- 3) The new language for the exclusion zone incorrectly references Redwood Avenue instead of Franklin Street. I think it should be revised to read "Located east of the centerline of **Franklin Street**, except if proposed for industrially-zoned property north of Bush Street."

I added the north of Bush Street exclusion from the exclusion zone in case a cannabis business wants to operate a one-stop shop in the industrial property on the east side of N. Franklin, perhaps even using a micro business state license type and business model. I doubt anyone thinks that the occupants of the cemetery are a sensitive use next to which a cannabis retail operation shouldn't be located. The only residential zoning or uses that are next to commercially zoned property where a dispensary might be located are exclusively south of Bush Street. However, that might not be necessary since it looks like the proposed use table mechanisms to deal with vertically-integrated cannabis businesses in the industrial zones is to treat potential retail in the industrial zones as accessory to the primary industrial uses (e.g., the primary use is the cultivation, processing, manufacturing, or distribution use and retail would be potentially permitted only as an accessory use rather than the use table entry, which is about cannabis retail being a primary use). That approach is arguably more consistent with the Inland General Plan, which has a policy that discourages storefront retail in the industrial zones (at least that's how I interpret it). My concern is that Section 18.42.057 probably applies to any sort of cannabis retail use, whether primary or accessory, and I don't think anyone is calling for an exclusion or buffer zone within the industrial zoning districts north of Bush Street so limiting that exclusion area east of the centerline of Franklin Street to only south of Bush Street makes sense.

I also want to suggest an additional provision for Section 18.42.057, subdivision 3. I suspect part of why some councilmembers wanted to switch cannabis retail from an MUP to permitted

by right in their earlier discussions is because they are worried that any time a residential use is near a proposed dispensary that the neighbors might come in and convince the Planning Commission that the uses are incompatible and that particular use permit finding won't be made again (e.g., what happened for the former Floor Store location). I recommend pairing the thoughtful and much-appreciated compromise solution of the exclusion zone with an explicit rebuttable presumption that a cannabis retail use proposed west of the centerline of Franklin Street is presumed to be compatible with the nearby uses (but I would use the precise language of the required finding in the provision creating the presumption.) That strengthens this compromise solution because it creates a clear, bright-line rule excluding all dispensaries east of the Franklin Street but it also creates a rebuttable presumption that staff and the Planning Commission would use to help evaluate particular applications. If an applicant wants to be successful, they can have some assurance that, unless their project involves some really weird circumstances or proposed uses, there is a strong presumption that the cannabis retail is considered compatible with nearby uses when proposed west of Franklin Street, even sensitive uses like single-family residential homes, and that required finding that tripped up a particular controversial application would be easy to make. I think pairing a presumption of compatibility for areas west of Franklin with the explicit exclusion zone east of Franklin allows the City Council to keep the public notice, public hearings, and, most importantly, the ability to impose special conditions as part of the approval process, that result from the current MUP process and removes the concerns that led to some councilmembers to preliminarily direct that cannabis retail should be converted to a by-right use.

Finally, I want to suggest adding "potentially" immediately before "permissible" in Section 18.42.057, subdivision 4.a. to read "**Accessory Uses**. The following uses are **potentially** permissible as accessory uses to Cannabis Retail. More than one accessory use is permissible however the combined accessory uses shall not exceed the total square footage of the primary use." I like this provision but I think it is important to remember that desired accessory uses are not automatically permitted and that they are only conditionally permitted/permissible depending on the particular facts and circumstances of an application. The subtle distinction between conditionally permitted and permitted-by-right and varying interpretations of what that means is precisely what caused the conflicts for the prior MUP application reviews. By adding the word "potentially" to this provision, we highlight that difference and it should help avoid situations where staff, some of whom might be relatively inexperienced with planning, treat these accessory uses as being permitted rather than only potentially permitted or conditionally permitted only when the required subjective findings have been made by the proper review authority.

I also think combining CBD and GC into the same category doesn't make any sense and isn't part of the prior direction from either the City Council or Planning Commission. GC direction was more in line with what we want to permit in HVC not the CBD so if any zoning districts are combined, it should be HVC and GC not CBD and GC. I would have each be their own category for three different subdivisions in this provision of the ordinance. On a related note, I would also flesh out "On-Site Distribution" to explicitly reference that that is not really a distribution land use but merely refers to internal distribution between the otherwise permitted uses on the site. (I know Heather said the City Attorney asked that this be included but I think she is either misinterpreting that advice or he is wrong and is apparently confused about the differences between state cannabis license types and local land uses.) That is already done via the Title 18, Article 10 definition but users (including applicants) don't always read cross-referenced definitions and it might help to list that aspect of the definition in the operative provisions, not just the definitions located elsewhere.

Thanks,

--Jacob