



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
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Meeting Agenda Special City Council

**THE FORT BRAGG CITY COUNCIL MEETS CONCURRENTLY AS
THE FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT NO. 1
AND THE FORT BRAGG REDEVELOPMENT SUCCESSOR
AGENCY**

Monday, May 3, 2021

6:00 PM

Via Video Conference

Cannabis Ordinance

CALL TO ORDER

ROLL CALL

PLEASE TAKE NOTICE

DUE TO THE PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDERS N-25-20 AND N-29-20 WHICH SUSPEND CERTAIN REQUIREMENTS OF THE BROWN ACT, AND THE ORDER OF THE HEALTH OFFICER OF THE COUNTY OF MENDOCINO TO SHELTER IN PLACE TO MINIMIZE THE SPREAD OF COVID-19, CITY COUNCIL MEMBERS AND STAFF WILL BE PARTICIPATING BY VIDEO CONFERENCE IN THE SPECIAL CITY COUNCIL MEETING OF MONDAY, MAY 3, 2021.

In compliance with the Shelter-in-Place Orders of the County and State, the Town Hall Council Chamber will be closed to the public. The meeting will be live-streamed on the City's website at <https://city.fortbragg.com/> and on Channel 3. Public Comment regarding matters on the agenda may be made in any of the following ways: (1) By joining the Zoom video conference and using the Raise Hand feature during Public Comment, (2) Through the City's online eComment agenda feature, (3) By emailing comments to City Clerk June Lemos, jlemos@fortbragg.com, (4) By delivering written comments through the drop-box for utility payments to the right of the front door at City Hall, 416 N. Franklin Street, or (5) By leaving a voice mail comment at (707) 961-1694.

THE DEADLINE TO SUBMIT PUBLIC COMMENTS IS 3:00 PM ON THE DATE OF THE MEETING. Any written or emailed comments received after 3:00 pm and before the meeting is ended will be forwarded to the Councilmembers by email. All comments on agendized matters will be included in the public record as part of the agenda packet the next business day after the meeting.

We appreciate your patience and willingness to protect the health and wellness of our community and staff. If you have any questions regarding this meeting, please contact the City Clerk at (707) 961-1694 or jlemos@fortbragg.com.

ZOOM WEBINAR INVITATION

*You are invited to a Zoom webinar.
When: May 3, 2021 06:00 PM Pacific Time (US and Canada)
Topic: Special City Council - Cannabis Ordinance*

*Please click the link below to join the webinar:
<https://zoom.us/j/99610108323>
Or One tap mobile :*

US: +16699009128,,99610108323# or +13462487799,,99610108323#
Or Telephone:
Dial(for higher quality, dial a number based on your current location):
US: +1 669 900 9128 or +1 346 248 7799 or +1 253 215 8782 or +1 301 715 8592 or +1 312 626 6799
or +1 646 558 8656
Webinar ID: 996 1010 8323
International numbers available: <https://zoom.us/j/99610108323>

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

1. CONDUCT OF BUSINESS

- 1A. [21-198](#)** Receive Report and Recommend Edits to Ordinance to Update Municipal Code 9.30 Cannabis Businesses

Attachments: [05032021 Staff Report - FBMC 9.30 Update](#)
[ATT 1 - DRAFT Chapter 9.30](#)
[Public Comment 1A - 1D](#)

- 1B. [21-201](#)** Receive Report and Provide Direction on a Cannabis Cultivation Policy

Attachments: [Staff Report - Cannabis Cultivation Policy](#)
[ATT 1 - PowerPoint Presentation - Cannabis Cultivation Policy](#)
[Public Comment 1B](#)

- 1C. [21-199](#)** Receive Report and Provide Direction to Staff on Where Commercial Cannabis Cultivation, as a Primary Use, Should be Allowed

Attachments: [05032021 Cannabis Cultivation Zoning Staff Report](#)
[ATT 1 - Cannabis Cultivation Zoning Presentation](#)

- 1D. [21-202](#)** Receive Report and Provide Direction to Staff on Whether to Create a Cannabis Microbusiness Category or Enhance the Accessory Use Definition in Inland Land Use and Development Code Section 18.42.057

Attachments: [05032021 Accessory Use v. Microbusiness Staff Report](#)
[ATT 1 - Accessory v Microbusiness Presentation](#)

ADJOURNMENT

The adjournment time for all Council meetings is no later than 10:00 p.m. If the Council is still in session at 10:00 p.m., the Council 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 April 29, 2021.

June Lemos, CMC
City Clerk

NOTICE TO THE PUBLIC:

DISTRIBUTION OF ADDITIONAL INFORMATION FOLLOWING AGENDA PACKET DISTRIBUTION:

- *Materials related to an item on this Agenda submitted to the Council/District/Agency after distribution of the agenda packet are available for public inspection upon making reasonable arrangements with the City Clerk for viewing same during normal business hours.*
- *Such documents are also available on the City of Fort Bragg's website at <https://city.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).



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Text File

File Number: 21-198

Agenda Date: 5/3/2021

Version: 1

Status: Business

In Control: Special City Council

File Type: Staff Report

Agenda Number: 1A.

Receive Report and Recommend Edits to Ordinance to Update Municipal Code 9.30 Cannabis Businesses



AGENCY: City of Fort Bragg
MEETING DATE: May 3, 2021
DEPARTMENT: Community Development
PRESENTED BY: Heather Gurewitz
EMAIL ADDRESS: hgurewitz@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

Receive Report and Recommend Edits to Ordinance to Update Municipal Code 9.30 Cannabis Businesses

ISSUE:

Now that the City has implemented the existing Municipal Code 9.30 regulating Cannabis Businesses, staff has found some code updates that will streamline and improve the process. Members of the public have also requested that Council review the regulations around criminal background checks.

ANALYSIS:

Reasons to Updates Code

While this is a relatively new section of the code, there are two main reasons to revise this section:

1. Update the definitions to be more comprehensive. The recommended updates to the definitions are intended to be more comprehensive and better support the allowable uses in the Inland Land Use and Development Code (ILUDC). (See redline version in Attachment 1.)
2. Update the process for City of Fort Bragg Cannabis Business Licenses to streamline the process for applicants and maximize the efficiency of staff time.

The current process is set up under the Police Department. The Community Development Department (CDD) has been assisting the Police Department with the collection of the application and processing, however, Police Department and CDD staff feel that it will be more efficient and effective if the applications are managed through CDD. There will be a required public safety review conducted by the Police Chief for all cannabis business permits, and a license will not be issued without approval from the Police Chief. The Police Department will still have authority to revoke and conduct hearings on a Cannabis Business Permit (CBP). However, CDD will be responsible for receiving, tracking, and managing the applications. This will also allow CDD to process any use permits required concurrently for a streamlined process.

Criminal Background Check

Currently, Municipal Code 9.30.100 states:

The grounds for rejection of a cannabis business permit application shall be 1 or more of the following: ...

D. The applicant, his or her agent, or any person who is exercising managerial authority on behalf of the applicant has been convicted of a felony, or of a misdemeanor involving moral turpitude, or the illegal use, possession, transportation, distribution, or similar activities related to controlled substances, with the exception of cannabis related offenses for which the conviction occurred prior to passage of Proposition 215. A conviction within the meaning of this section means a guilty plea or verdict or a conviction following a plea of nolo contendere.

This policy is stricter than the requirements for the State of California and members of the public have requested that Council review the policy. Staff has no recommendations on whether this should be changed and is seeking direction from Council.

For reference purposes, the following comparable sections from the State of California, the County of Mendocino, the City of Ukiah, and the City of Willits are below:

The State of California provisions in the California Code of Regulations Uniform Business and Professional Code Chapter 10 Section 26057 states:

(4) The applicant, owner, or licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the licensing authority determines that the applicant, owner, or licensee is otherwise suitable to be issued a license, and granting the license would not compromise public safety, the licensing authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant or owner, and shall evaluate the suitability of the applicant, owner, or licensee to be issued a license based on the evidence found through the review....

In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the licensing authority shall include, but not be limited to, the following:

(A) A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.

(B) A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.

(C) A felony conviction involving fraud, deceit, or embezzlement.

(D) A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.

(E) A felony conviction for drug trafficking with enhancements pursuant to Section 11370.4 or 11379.8 of the Health and Safety Code.

(5) Except as provided in subparagraphs (D) and (E) of paragraph (4) and notwithstanding Chapter 2 (commencing with Section 480) of Division 1.5, a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possession, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is not considered

substantially related, and shall not be the sole ground for denial of a license. Conviction for any controlled substance felony subsequent to licensure shall be grounds for revocation of a license or denial of the renewal of a license.

Additionally Section 26059 states:

An applicant shall not be denied a state license if the denial is based solely on any of the following:

- (a) A conviction or act that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made for which the applicant or licensee has obtained a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.
- (b) A conviction that was subsequently dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code or any other provision allowing for dismissal of a conviction.

The Mendocino County Code of Ordinances Title 10A Agriculture Chapter 10A.17.090.M includes the following:

- (1) The applicant or any individual engaged in the management of, or employed by, the applicant has been convicted of any crime listed in subdivision (b)(4) of California Business and Professions Code section 26057, or any crime that if committed in the State of California would have constituted any of the crimes listed in subdivision (b)(4) of California Business and Professions Code section 26057. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
- (2) The applicant or any individual engaged in the management of, or employed by, the applicant has one or more felony convictions, occurring prior to January 1, 2018, for violations of California Health and Safety Code section 11358 that involved pled and proven environmental violations, including but not limited to violations of California Fish and Game Code sections 1602, 5650 and 5652.
- (3) The applicant or any individual engaged in the management of, or employed by, the applicant has been convicted of a felony offense, occurring after January 1, 2018, under California Health and Safety Code section 11358, 11359, or 11360, as amended by Proposition 64 § 8.4, effective November 9, 2016, or any crime that if committed in the State of California would have constituted a felony offense under California Health and Safety Code section 11358, 11359, or 11360, as amended by Proposition 64 § 8.4, effective November 9, 2016.
- (4) The applicant or any individual engaged in the management of, or employed by, the applicant has a conviction under section 11366 of the California Health and Safety Code.
- (5) The applicant or any individual engaged in the management of, or employed by, the applicant has a conviction under section 11366.5(b) of the California Health and Safety Code or any felony conviction under section 11366.5(a) of the California Health and Safety Code involving chemical extraction, chemical synthesis or a controlled substance other than marijuana.

(6) The applicant or any individual engaged in the management of, or employed by, the applicant has a conviction under section 11379.6 of the California Health and Safety Code.

(7) The applicant or any individual engaged in the management of, or employed by, the applicant is subject to a condition of probation, mandatory supervision, Post Release Community Supervision, parole or any other lawful order which prohibits the possession or cultivation of cannabis.

The City of Ukiah’s Municipal Code Division 6 Chapter 8 §5708, says:

A. Criminal History: Any applicant, his or her agent or employees, volunteer workers, or any person exercising managerial authority of a dispensary on behalf of the applicant shall not have been convicted of any of the felony offenses enumerated in Business and Professions Code section 26057(b)(4), or of a felony or misdemeanor involving moral turpitude, or on probation for a drug offense, or engaged in misconduct related to the qualifications, functions or duties of a permittee. Notwithstanding the above, an application shall not be denied solely on the basis that the applicant or any manager has been convicted of a felony, if the person convicted has obtained a certificate of rehabilitation (expungement of felony record) under California law or under a similar Federal statute or State law where the expungement was granted. In addition, notwithstanding the above, a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possession of, possession for sale, sale, manufacture, transportation, or cultivation of cannabis or cannabinoid preparations, is not considered related to the qualifications, functions, or duties of a permittee, and shall not be the sole ground for denial of an application.

The City of Willits code text is the same as the City of Fort Bragg’s Code with the exception that they name “the Compassionate Use Act” and the Fort Bragg Code names “Prop 215.”

It is at the discretion of the Council to determine if they would like to update this code section.

RECOMMENDED ACTION:

Accept recommended changes to Chapter 9.30 and provide direction on the treatment of criminal history.

ALTERNATIVE ACTION(S):

Keep Chapter 9.30 as is or provide different recommendations.

FISCAL IMPACT:

The updated changes to process will not have significant fiscal impact.

GREENHOUSE GAS EMISSIONS IMPACT:

This item will have no impact on GHGs.

CONSISTENCY:

The recommended changes to Chapter 9.30 do not conflict with any section of the City of Fort Bragg Inland General Plan and are specifically consistent with:

Land Use Goal LU-4: Promote the economic vitality of the City's existing commercial areas.

Circulation Policy CD-2: Adaptive Reuse: Facilitate the adaptive reuse of existing older buildings in the Central Business District.

Circulation Policy CD-2.3 Economic Vitality: Continue to support the economic diversity and vitality of downtown businesses.

IMPLEMENTATION/TIMEFRAMES:

After a final draft is approved by Council, the ordinance will take effect 30 days after adoption.

ATTACHMENTS:

1. Recommended updates to Chapter 9.30

NOTIFICATION:

1. Cannabis Notify Me subscriber list

Chapter 9.30 Cannabis Businesses with EDITS

Section

- 9.30.010 Purpose and intent
- 9.30.020 Definitions
- 9.30.030 Limitations on use
- 9.30.040 Cannabis businesses permit
- 9.30.050 Applications
- 9.30.060 Time limit for filing application for permit
- 9.30.070 Term of permits and renewals
- 9.30.080 Fees
- 9.30.090 Investigation and action on application
- 9.30.100 Grounds for rejection of application
- 9.30.110 Appeal from Chief of Police decision to reject application
- 9.30.120 Processing of cannabis business permit
- 9.30.130 Operating requirements
- 9.30.140 Minors
- 9.30.150 Display of permit
- 9.30.160 Registration of new employees
- 9.30.170 Transfer of permits
- 9.30.180 Suspension and revocation – notice
- 9.30.190 Suspension and revocation – grounds
- 9.30.200 Suspension and revocation – appeals
- 9.30.210 Suspension or revocation without hearing
- 9.30.220 Separate offense for each day
- 9.30.230 Public nuisance
- 9.30.240 Criminal penalties
- 9.30.250 Civil injunction
- 9.30.260 Administrative remedies
- 9.30.270 Severability

9.30.010 PURPOSE AND INTENT

It is the purpose and intent of this chapter to regulate cannabis businesses in order to promote the health, safety, morals, and general welfare of the residents and businesses within the City. **It sets forth the regulations for a cannabis business permit, herein after referred to as “the Permit”**

9.30.020 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. **In the event that there is no definition in the municipal code, the City may use the definition from the State of California Code of Regulations Title 3. Food and Agriculture Division 8. Cannabis Cultivation Chapter 1.**

**Cannabis Cultivation Program or BUSINESS AND PROFESSIONS CODE – BPC
DIVISION 10. Cannabis [26000 - 26250]:**

APPLICANT. A person who is required to file an application for a permit under this chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of a cannabis business.

CANNABIS. All parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. “Cannabis” also means cannabis as defined by § 11018 of the Health and Safety Code and by other state law. “Cannabis” does not mean “industrial hemp” as defined by § 11018.5 of the Health and Safety Code.

CANNABIS BUSINESS. An entity engaged in the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products for commercial purposes.

CANNABIS MANUFACTURING: The production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

CANNABIS OPERATOR or OPERATOR. The person or entity that is engaged in the conduct of any commercial cannabis business.

CANNABIS PRODUCT. Cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

CANNABIS RETAIL. A cannabis business where cannabis or cannabis products are offered, either individually or in any combination, for retail sale directly to customers. The primary use of a cannabis retail business is to sell products directly to on-site customers. Sales may also be conducted by delivery. Also known as a cannabis “dispensary.”

CANNABIS RETAIL – DELIVERY ONLY. A cannabis business that is closed to the public and conducts sales exclusively by delivery.

CHIEF OF POLICE. The Chief of Police of the City of Fort Bragg or the authorized representatives thereof.

COMMERCIAL CANNABIS ACTIVITY. The cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of cannabis and cannabis products as provided for in this chapter.

COMMERCIAL CANNABIS CULTIVATION. The planting, growing, harvesting, **drying, curing, grading, or trimming** of cannabis plants that are intended to be transported, processed, distributed, dispensed, delivered or sold.—~~Commercial cannabis cultivation is permitted as an accessory use to a permitted cannabis business.~~

RETAIL CANNABIS – DELIVERY ONLY. The commercial transfer of cannabis or cannabis products to a consumer. “Delivery” also includes the use of any technology platform owned and controlled by a cannabis business operator that enables customers to arrange for or facilitate the commercial transfer by a permitted cannabis retail facility.

EDIBLE CANNABIS PRODUCT. A cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with § 32501) of the Food and Agricultural Code.

FULLY ENCLOSED AND SECURE STRUCTURE. A space within a building that complies with the California Building Code, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, and is accessible only through one or more lockable doors. Walls and roofs must be constructed of solid materials that cannot be easily broken through, Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement. If indoor grow lights or air filtration systems are used, they must comply with all applicable Building, Electrical, and Fire Codes.

PERMITTEE. A person who holds an effective and current permit under this chapter.

9.30.030 LIMITATIONS ON USE.

A. Compliance with City Code. Cannabis businesses shall only be allowed in compliance with this chapter and all applicable regulations set forth in the City Code, including but not limited to all regulations governing building, grading, plumbing, septic, electrical, fire, hazardous materials, nuisance, and public health and safety.

B. Compliance with State Laws and Regulations. Cannabis businesses shall comply with all applicable state laws and regulations, as may be amended, including all permit, approval, inspection, reporting and operational requirements, imposed by the state and its regulatory agencies having jurisdiction over cannabis and/or cannabis businesses. All cannabis businesses shall comply with the rules and regulations for cannabis as may be adopted and as amended by any state agency or department including, but not limited to, the Bureau of Cannabis Control, the Department of Food and Agriculture, the Department of Public Health, the Department of Pesticide Regulation, and the Board of Equalization.

C. Cannabis businesses shall provide copies of state, regional and local agency permits, approvals or certificates upon request by the City to serve as verification for such compliance.

D. Cannabis business permits are only valid for one year from date of issue and must be renewed.

E. Cannabis business permits are valid only for the cannabis business activities specified on the approved permit.

9.30.040 CANNABIS BUSINESSES PERMIT.

A. It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City the commercial cultivation, processing, manufacture, distribution or retail sale of cannabis unless the person first obtains and continues to maintain in full force and effect a cannabis business permit from the City and a license from the State of California as herein required.

B. Cannabis businesses shall be located in compliance with the requirements of the Inland Land Use and Development Code (ILUDC) and/or the Coastal Land Use and Development Code (CLUDC), as applicable.

C. Cannabis businesses that are subject to the standards in this chapter shall not be established or maintained except as authorized by the land use permit required by Article 2 of the Inland Land Use and Development Code and/or the Coastal Land Use and Development Code, as applicable. “Cannabis retail” and “cannabis retail – delivery only,” “Commercial Cannabis Cultivation,” are defined land uses specifically referenced in Article 2 and Article 4 of the Inland Land Use and Development Code (ILUDC). The Director shall classify other cannabis businesses, including, but not limited to, those that involve manufacturing, distribution, processing, storing, laboratory testing, packaging, labeling, and/or transportation for commercial purposes as existing land uses already established by Articles 2 and 10 of the ILUDC, based on the characteristics of the proposed use. For example, a cannabis business proposing to engage in activities requiring a cannabis distribution license from the state may be classified as “wholesaling and distribution,” and allowable based on the permit and district requirements for the “wholesaling and distribution” use in Article 2 of the ILUDC.

D. Dual Licensing. State law requires dual licensing at the state and local level for cannabis businesses. All cannabis operators shall therefore be required to obtain a cannabis license from the State of California, and shall comply at all times with all applicable state licensing requirements and conditions. Cannabis businesses shall not be allowed to commence operations until the cannabis business can demonstrate that all necessary state licenses and agency permits have been obtained.

E. Failure to demonstrate dual licensing in accordance with this chapter shall be grounds for revocation of City approval. Revocation of a local permit and/or a state

license shall terminate the ability of the cannabis business to operate until a new permit and/or state license is obtained.

9.30.050 APPLICATIONS.

Any application for a cannabis business permit shall be filed with the **Community Development Department and may be filed concurrently with a conditional use permit or a Business License Application**. The application shall be made under penalty of perjury. Any application for a cannabis business permit shall include the following information:

- A. The full name, present address, and telephone number of the applicant;
- B. The address to which notice of action on the application and all other notices are to be mailed;
- C. Previous addresses for the past 5 years immediately prior to the present address of the applicant;
- D. Written proof that the applicant is over 21 years of age;
- E. Photographs for identification purposes (photographs shall be taken by the Police Department);
- F. A copy of all the Applicant's valid state cannabis license(s) or copy of the complete pending cannabis application(s) related to the permit.
- F. The cannabis business history of the applicant, including whether the applicant, in previously operating in any city, county, or state under permit, has had a permit revoked or suspended and, if so, the reason therefor;
- G. The name or names of the person or persons having the management or supervision of applicant's business;
- H. Whether the person or persons having the management or supervision of applicant's business have been convicted of a crime(s), the nature of the offense(s), and the sentence(s) received therefor;
- I. A security plan ensuring the safety of employees and visitors from criminal activity, including theft and unauthorized entry;
- J. A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the cannabis business and the purpose and security of each room or area of operation;
- K. A diagram illustrating the use and coverage of security cameras, security lighting, and necessary access restrictions;

L. A notarized statement by the property owner certifying under penalty of perjury that he or she has given consent to the applicant to operate a cannabis business at the location, or providing proof that the applicant owns the property;

M. Detailed operating procedures, which shall include the following:

1. Proposed hours of operation;
2. How the business will comply with applicable state regulations;
3. Product safety and quality assurances;
4. Record keeping procedures;
5. Product recall procedures;
6. A solid waste disposal plan, with certification that waste transport entities and disposal facilities have agreed to haul and receive solid waste produced by the cannabis business;
7. Product supply chain information (cultivation, testing, transportation, manufacturing, packaging and labeling, etc.);
8. An odor prevention plan, illustrating how the cannabis business will be consistent with § 17.30.080(J) and/or § 18.30.080(J). The odor prevention plan may include an odor absorbing ventilation and exhaust system or other measures to ensure the use does not produce odors which are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public; and
9. Other information as required by the Chief of Police as necessary to ensure the project's compliance with local, state and federal regulations;

N. Authorization for the City, its agents and employees to seek verification of the information contained within the application; and

O. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.

9.30.060 TIME LIMIT FOR FILING APPLICATION FOR PERMIT.

If the applicant has completed the application improperly, or if the application is incomplete, the **Community Development Director** ~~Chief of Police~~ shall, within ~~10~~**30** days of receipt for the original application, notify the applicant of the fact and, on request of the applicant, grant the applicant an extension of time of ~~10~~**30** days or more to submit a complete application.

9.30.070 TERM OF PERMITS AND RENEWALS.

Cannabis business permits issued under this chapter shall expire 1 year following their issuance. Cannabis business permits may be renewed by the ~~Chief of Police~~ **Community Development Director** for additional 1-year periods upon application by the permittee, unless the permit is suspended or revoked subject to § 9.30.190.

Applications for renewal shall be made at least 45 days before the expiration date of the permit and shall be accompanied by the nonrefundable fee referenced in § 9.30.080.

When made less than 45 days before the expiration date, the expiration of the permit will not be stayed. Applications for renewal shall be acted on as provided herein for action upon applications for permits. The Chief of Police may **recommend to** deny an application for renewal based on any of the grounds referenced in §§ 9.30.100 and 9.30.190. An applicant aggrieved by the ~~Chief of Police's~~ **Community Development Director's** ~~Chief of Police's~~ decision to deny a renewal of a cannabis business permit may appeal pursuant to § 9.30.110.

9.30.080 FEES.

Every application for a cannabis business permit or renewal shall be accompanied by a nonrefundable fee, as established by resolution adopted by the City Council from time to time. This application or renewal fee is in addition to fingerprinting, photographing, and background check costs and shall be in addition to any other permit fee imposed by this code or other governmental agencies. Fingerprinting, photographing, and background check fees will be as established by resolution adopted by the City Council from time to time.

A. The fee schedule is intended to allow recovery of all costs incurred by the City in processing permit applications to the maximum extent allowed by the law.

B. Timing of payment. No application shall be deemed complete, and processing shall not commence on any application until all required fees or deposits have been paid. Failure to timely pay supplemental requests for payment of required fees and/or deposits shall be a basis for denial or revocation of any permit.

C. Refunds and withdrawals. Application fees cover City costs for public hearings, mailings, staff time, and the other activities involved in processing applications. Therefore, no refund due to a disapproval shall be allowed. In the case of a withdrawal, the Director shall have the discretion to authorize a partial refund based upon the prorated costs to date and the status of the application at the time of withdrawal.

9.30.090 ~~INVESTIGATION~~ **PUBLIC SAFETY REVIEW** AND ACTION ON APPLICATION.

After the application is deemed complete and the fees or deposits have been collected, the Community Development Director will send the completed application to the Chief of Police for Public Safety review. The Chief of Police or his designee shall conduct a background check of the applicant and conduct a public safety review of the

application. After the background checks and public safety review are complete, the Chief of Police or his designee shall formally recommend either approval or denial of the application.

If an application is recommended for denial by the Chief of Police or his designee, the Community Development Director cannot approve the application. The applicant will be notified by a letter sent by certified mail and will have 30 days to modify the existing application. If the application is not modified within 6 months, the applicant may request more time or it will be denied by the Community Development Director.

The Chief of Police or his designee may recommend conditional approval of an application with specific requirements that the applicant shall meet. The Community Development Director will require the fulfillment of the conditions prior to final issuance of the permit.

9.30.100 GROUNDS FOR REJECTION DENIAL OF APPLICATION.

The grounds for a ~~rejection~~ denial of a cannabis business permit application shall be one or more of the following:

- A. The business or conduct of the business at a particular location is prohibited by any local or state law, statute, rule, or regulation;
- B. The applicant has violated any local or state law, statute, rule, or regulation respecting a cannabis business;
- C. The applicant has knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application for a permit;
- D. The applicant, his or her agent, or any person who is exercising managerial authority on behalf of the applicant has been convicted of a felony, or of a misdemeanor involving moral turpitude, or the illegal use, possession, transportation, distribution, or similar activities related to controlled substances, with the exception of cannabis related offenses for which the conviction occurred prior to passage of Proposition 215. A conviction within the meaning of this section means a guilty plea or verdict or a conviction following a plea of nolo contendere;
- E. The applicant has engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices;
- F. The applicant is under 21 years of age;
- G. The cannabis business does not comply with Title 17 (Coastal Land Use Development Code) or Title 18 Inland Land Use and Development Code;
- H. The required application or renewal fees have not been paid.
- I. The applicants plan fails to comply with the 9.30.130.

9.30.110 APPEAL FROM CHIEF OF POLICE COMMUNITY DEVELOPMENT DEPARTMENT DECISION TO REJECT-DENY APPLICATION.

The Chief of Police Community Development Director shall cause a written notice of decision to ~~deny~~ reject a cannabis business permit application to be mailed to the applicant by certified U.S. mail, postage prepaid, return receipt requested, to the address provided by the applicant for sending of notices. An applicant aggrieved by the decision to ~~reject~~ deny an application may appeal the decision in accordance with the procedures described in Chapter 1.08. If an appeal is not taken within such time, the Community Development Director's Chief of Police's decision shall be final.

An appeal may be filed within 15 days of the decision and is subject to the procedures outlined in Chapter 1.08 Appeal of Administrative Decision.

9.30.120 PROCESSING OF CANNABIS BUSINESS PERMIT.

If an application is recommended for approval by the Chief of Police, it shall be reviewed by the Community Development Department. The review process will include identification of other required permits or licenses necessary prior to operation.

9.30.130 OPERATING REQUIREMENTS.

A cannabis business shall meet the following operating requirements for the duration of the use:

A. The design, location, size and operating characteristics of the cannabis business shall comply with the findings and conditions of any applicable discretionary permit obtained for its operation.

B. A cannabis business use shall maintain a current register of the names of all current owners and all current employees who will be on the premise.

C. Individuals not listed as employees, owners, or managers of the business, are not be permitted in non-public areas of the business.

D. The building entrance to a cannabis business shall be clearly and legibly posted with a notice indicating that persons under the age of 21 are precluded from entering the premises unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or legal guardian.

E. No cannabis business shall hold or maintain a license from the State Department of Alcoholic Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. In addition, alcohol shall not be provided, stored, kept, located, sold, dispensed, or used on the premises of the cannabis business use.

F. A cannabis business shall provide adequate security on the premises, including lighting and alarms, to ensure the safety of employees and visitors from criminal activity, including theft and unauthorized entry.

G. A cannabis business shall provide the Chief of Police and Fire Chief with the name, phone number, and facsimile number of an on-site community relations staff person to whom one can provide notice if there is an emergency or there are operating problems associated with the cannabis business. The cannabis business management shall make every good faith effort to encourage residents to call this person to try to solve operating problems, if any, before any calls or complaints are made to the Police or Community Development Department.

9.30.140 MINORS.

A. It shall be unlawful for any permittee, operator, or other person in charge of any cannabis business to employ any person who is not at least 21 years of age.

B. Persons under the age of 21 shall not be allowed on the premises of a cannabis business unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or legal guardian.

9.30.150 DISPLAY OF PERMIT.

Every cannabis business shall display at all times during business hours the permit issued pursuant to the provisions of this chapter for cannabis businesses in a conspicuous place so that the same may be readily seen by all persons entering the cannabis business.

9.30.160 REGISTRATION OF NEW EMPLOYEES.

A. As a further condition of approval of every cannabis business permit issued pursuant to this chapter, every owner or operator shall register every employee with the Police Department within five business days of the commencement of the employee's period of employment at the cannabis business, in order to provide necessary information to conduct background checks.

B. Each employee shall be required to provide two recent color passport quality photographs and, at the discretion of the Chief of Police, shall allow themselves to be fingerprinted by the Police Department for purposes of identification.

C. Failure to register each new employee within 5 days of the commencement of employment or to maintain a current register of the names of all employees shall be deemed a violation of the conditions of the permit and may be considered grounds for suspension or revocation of the permit.

9.30.170 TRANSFER OF PERMITS.

- A. A permittee shall not operate a cannabis business under the authority of a Cannabis Business Permit at any place other than the address of the cannabis business stated in the application for the permit.
- B. A permittee shall not transfer ownership or control of a cannabis business or transfer a Cannabis Business Permit to another person unless and until the transferee obtains an amendment to the permit from the **Community Development Director** ~~Chief of Police~~ stating that the transferee is now the permittee. The amendment may be obtained only if the transferee files an application with the **Community Development Director** ~~Chief of Police~~ in accordance with § 9.30.050, accompanies the application with a transfer fee in an amount set by resolution of the City Council, and the Chief of Police determines in accordance with § 9.30.090 that the transferee would be entitled to the issuance of an original permit.
- C. No permit may be transferred when the **Community Development Director** ~~Chief of Police~~ has notified the permittee that the Permit has been or may be suspended or revoked.
- D. Any attempt to transfer a Permit either directly or indirectly in violation of this section is hereby declared void, and the permit shall be deemed revoked.

9.30.180 SUSPENSION AND REVOCATION – NOTICE.

- A. Any permit issued under the terms of this chapter may be suspended or revoked by the Chief of Police **or the Community Development Director** when it appears to them that the permittee has committed any one or more of the acts or omissions constituting the grounds for suspension or revocation under this chapter.
- B. No permit shall be revoked or suspended by virtue of this section until a hearing has been held by the City. Written notice of the time and place of the hearing shall be served upon the person to whom the permit was granted at least 5 days prior to the date set for the hearing. The notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending the permit. Notice may be given either by personal delivery to the permittee or by depositing it in the U.S. mail in a sealed envelope, postage prepaid, addressed to the permittee at the address provided by the permittee for sending of notices.

9.30.190 SUSPENSION AND REVOCATION – GROUNDS.

It shall be a ground for suspension or revocation of a permit if any permittee or person, his or her agent, or employee:

- A. Does any act which violates any of the grounds set forth in § 9.30.100, which sets forth the grounds for ~~rejection~~ **denial** of an application for a permit for the cannabis business;

B. Violates any other provision of this chapter or any local or state law, statute, rule, or regulation relating to his or her permitted activity;

C. Conducts the permitted business in a manner contrary to the peace, health, or safety of the public;

D. Fails to take reasonable measures to control the establishment's patrons' conduct resulting in disturbances, vandalism, or crowd control problems occurring inside of or outside the premises, traffic control problems, or creation of a public or private nuisance, or obstruction of the business operation of another business;

E. Violates any provision of Title 15; or

F. Violates or fails to comply with the terms and conditions of any required discretionary permit.

9.30.200 SUSPENSION AND REVOCATION – APPEALS.

Any permittee aggrieved by the decision of the City in suspending or revoking a permit may, within 10 calendar days, appeal the decision in accordance with the procedures described in Chapter 1.08. If a decision of the City to suspend or revoke a permit is not appealed within 10 calendar days, the decision of the City shall be final.

9.30.210 SUSPENSION OR REVOCATION WITHOUT HEARING.

If any person holding a permit or acting under the authority of the permit under this chapter is convicted of a misdemeanor in any court for the violation of any law which relates to his or her permit, the Chief of Police shall revoke the permit forthwith without any further action thereof, other than giving notice of revocation to the permittee. If a permit is summarily revoked pursuant to the provisions of this section, a permittee may, within 10 calendar days, appeal the revocation in accordance with the procedures described in Chapter 1.08. During the pendency of the appeal, the permit shall be deemed suspended. If the appeal is not taken within 10 days, the decision of the Chief of Police shall be final.

9.30.220 SEPARATE OFFENSE FOR EACH DAY.

Any person that violates any provision of this chapter shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly.

9.30.230 PUBLIC NUISANCE.

Any use or condition caused or permitted to exist in violation of any of the provisions of this chapter shall be and is hereby declared a public nuisance and may be abated by the City pursuant to Chapter 6.12.

9.30.240 CRIMINAL PENALTIES.

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

9.30.250 CIVIL INJUNCTION.

The violation of any provision of this chapter shall be and is hereby declared to be a public nuisance and contrary to the public interest and shall, at the discretion of the City, create a cause of action for injunctive relief.

9.30.260 ADMINISTRATIVE REMEDIES.

In addition to the civil remedies and criminal penalties set forth above, any person that violates the provisions of this chapter may be subject to administrative remedies, as set forth by City ordinance.

9.30.270 SEVERABILITY.

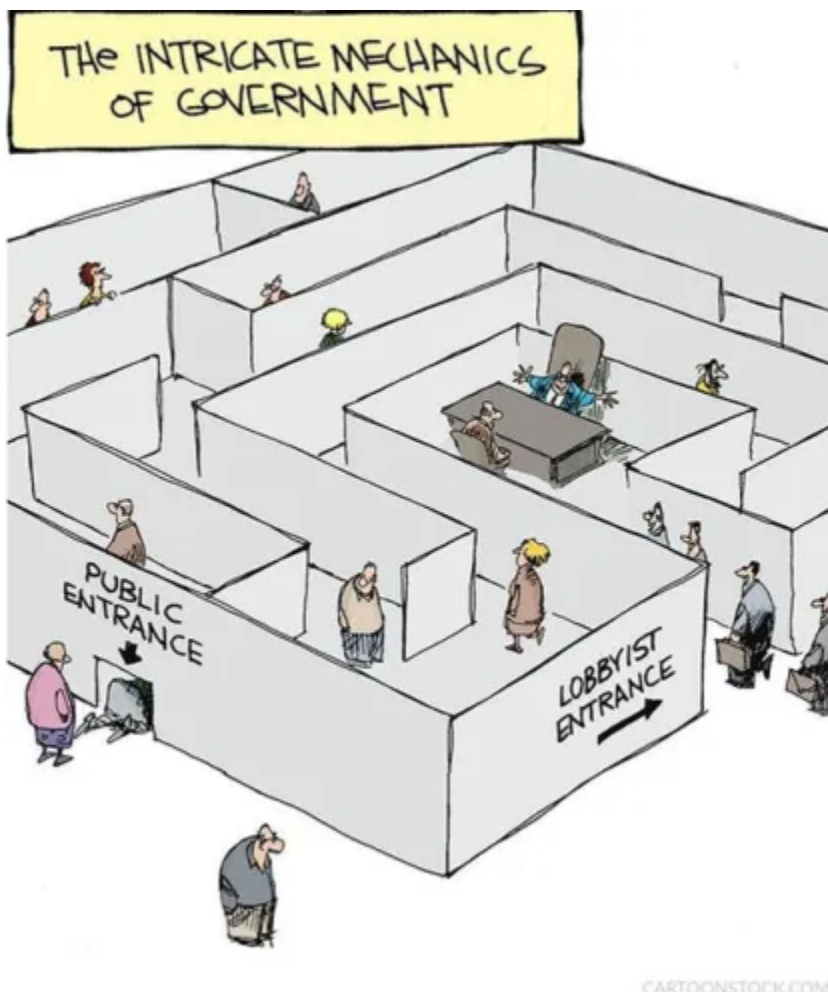
If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions of this chapter. The City Council of the City hereby declares that it would have passed the ordinance codified in this chapter and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that 1 or more sections, subsections, sentences, clauses, or phrases may be held invalid or unconstitutional.

Lemos, June

From: Jacob Patterson <jacob.patterson.esq@gmail.com>
Sent: Friday, April 30, 2021 3:39 PM
To: Lemos, June
Subject: Public Comment -- 5/3/21 CC Mtg., Item No. 1A

City Council,

Interesting cartoon from the AVA on Friday. Please make sure these draft ordinances reflect the prior direction of the City Council, Planning Commission, and Community Development Committee, as well as public input from people who aren't in the cannabis industry with a specific agenda of advancing their economic interests above those of the prospective neighbors to their future projects...



Best,

--Jacob

From: [Michael Katz](#)
To: [Norvell, Bernie](#); [Morsell-Have, Jessica](#); [Albin-Smith, Tess](#); [Peters, Lindy](#)
Cc: [Lemos, June](#); gonzalez@fortbragg.com
Subject: Recommendations for Cannabis Agenda Items
Date: Monday, May 3, 2021 9:04:24 AM
Attachments: [5.3.2021 MCA COFB Ordinance Amendments.pdf](#)

Good morning,

Attached you will find our comments and recommendations for the upcoming cannabis ordinance meeting, submitted with the intention of providing support and insight for your deliberations.

We are available to discuss further at your convenience.

Best,
Michael

--

Michael Katz
Executive Director
Mendocino Cannabis Alliance
MendoCannabis.com

e: michael@mendocannabis.com

o: 707-234-5568



Fort Bragg City Council
416 N Franklin St.
Fort Bragg, CA 95437

May 3, 2021

Honorable Council,

The Mendocino Cannabis Alliance (MCA) is this county's premier trade association, representing over 125 members in all sectors of the legalized cannabis industry. MCA appreciates the efforts of the City of Fort Bragg's council members and staff to engage in fruitful discussions surrounding the city's purpose to "promote the health, safety, morals and general welfare of the residents and businesses within the city."

Please consider the following stakeholder input, recommendations and questions regarding the agenda items referenced.

1A

- We support the recommended action to provide direction on the treatment of individuals with a criminal record and to clarify the language to be more inclusive of those negatively impacted by the War on Drugs. (see our previous memo on this topic [HERE](#))
- We strongly support moving the management of applications from the Police Department to the Community Development Department. Commercial cannabis activity is not a criminal matter. It is a legal, regulated, civil business activity.
- We recommend removing the inclusion of "manager, employee, or agent" from the definition of "applicant" and align the definition with state agencies.
- We recommend removing the word "possession" from the definition of commercial cannabis activity. Possession of cannabis is not in itself, a commercial activity and should not be interpreted or treated as such.
- We recommend removing the requirement to submit a state license with the local application. The state agencies will not approve a cannabis permit until approval of the local jurisdiction has been received.
- We recommend removing the requirement to provide employee names with the initial application. The application process can take months and the process of hiring employees does not likely occur until businesses receive permission to operate.
- We request further clarity regarding the City's role in the renewal process. Will a notice of renewal for expiring permits be distributed and how will the applicant submit a

renewal? Will the city provide an online portal for applicants or will it rely on paper applications?

- We recommend strict policies and procedures to prevent all forms of discrimination and that additional language be included to mandate strict adherence to providing the grounds for any application denial.
- We recommend deleting the phrase “Moral Turpitude” from all ordinances for citizen protection from unlawful discrimination. This Term is subject to broad interpretation and, therefore, could be used to unjustly implicate individuals for criminal offenses. Consider aligning this provision with the Bureau of Cannabis Control, that only restricts law enforcement or cannabis agency individuals from obtaining licensure. (§ 5005)
- We recommend deleting section 9.30.100 D to remove the inaccurate implication that management may be precluded from employment due to criminal conviction. Criminal convictions are not intended to preclude either employment or management.
- We recommend extending the time to register an employee with the police department to obtain a background check from 5 business days, to 14 calendar days due to the limited, and sometimes non-existent, services available to businesses located on the coast. Applicants and employees need time to arrange for a travelling livescan specialist to visit or to travel to the closest jurisdiction offering such services. (page 19)
- We recommend requiring a copy of the employee’s Driver’s License or other state or federal issued identification in lieu of passport quality photos.

1B

- We recommend limiting the indoor cultivation size to align with one of the state license types. Currently the largest indoor license allowed is 22,000 square feet.
- We recommend the City of Fort Bragg’s Staff option to use a flexible provision that allows for projects to be evaluated on a case by case basis.
- We recommend that the City of Fort Bragg consider allowing indoor, mixed light and outdoor cultivation on appropriate parcels.
- We recommend that the maximum allowable canopy size be determined by parcel type, size and environmental factors. MCA encourages alignment with the state license types whenever possible.
- We recommend that indoor and mixed light cultivators be required to enroll in Sonoma Clean Power as a mitigation for energy use.
- We recommend clarifying the definition of outdoor, indoor and include a “mixed light” definition.

- We recommend restricting the canopy size to align with the state licensure. The chart included in this presentation references building sizes that could house up to 65,000 square feet of canopy, however it is important to note that the state is only allowing a maximum of 22,000 square feet of indoor at this time
- We recommend avoiding specificity when imposing equipment requirements or mitigations and instead work with applicants to determine which requirements or mitigations are best suited and viable on the proposed project.
 - We support the use of Mixed light as an alternative to indoor cultivation on suitable parcels.
 - We recommend delaying the decision to regulate lighting. The state energy commission has declined to regulate lighting by energy usage or efficiency after extensive stakeholder engagement.
 - Avoid dictating use of solar panels which may be cost prohibitive and not be possible for many buildings. Even if solar panels are suitable on a building in question, requiring their use would be burdensome for a relatively small return in Fort Bragg's coastal climate.

1C

- We request clarification on multi level cultivation. Multiple stories or tiered canopy racks?
- We recommend removing the recommendation to use a plant count metric. Using a plant count would be ambiguous and subjective. It provides no relative reference as the size of plants can range from a seedling to 20 ft tall.
 - Using FESS could be appropriate, however is disconnected from state licensing guidance, ie canopy. 2,500 square feet canopy does not equal 2,500 square feet FESS as aisles, storage, workspace, equipment, etc. all utilize space.
 - To use FESS you would need to provide an equal amount of space to canopy to adequately provision for aisles, storage, workspace and equipment.
- We recommend aligning with state canopy definition and assignments. To establish a different metric than the established state canopy assignments is unnecessary and confusing.
- We recommend the following amendments to the proposed chart provided by staff
 - Recommend under 500 square feet or 25 mature plants CBP only
 - Recommend Nursery with CBP up to certain size.
 - Align with the state on canopy sizes.
 - Minor Use Permit (administrative) for all apps 500 - 10,000 square feet
 - Use permit (Planning Commission reviewed) for all above 10,000 square feet
- We recommend establishing nursery tiers to assign zoning requirements, eq, 500 square feet, 1,000 square feet, 5,000 square feet 10,000 square feet, etc. There is no size assignment for a nursery at the state level.

Size of Cultivation	CBP Only	CBP + Minor Use Permit (administrative)	CBP + Use Permit (Planning Commission)	Not Allowable
Under 500 sf or 25 plants	All zones			
501 - 2,500 sf	IL, IH	CG, CH, CBD	CH	
2,500 - 10,000 sf	IL, IH		CG, CH	CBD
10,000+ sf	IL, IH		CG, CH,	CBD
Nursery, up to 1,000 sf	IL, IH, CBD, CH, CG			
Nursery, 1,001 - 5,000 sf	IL, IH,	CBD, CH, CG		
Nursery, 5,000-10,000 sf	IL, IH	CG	CH,	CBD
Nursery, 10,000+ sf	IH, IL		CH, CG	CBD

1D

- We recommend the development of both the microbusiness permit AND further clarification of the accessory use definition so that small business owners may utilize the most appropriate path to licensure and success. (page 52)
- We recommend the following definitions
 - a. *“Microbusiness” means at least three of the following commercial cannabis activities: (1) cultivation of cannabis on an area 10,000 square feet or less, (2) distribution, (3) Manufacturing Level 1 (Non-Volatile), and (4) acting as a licensed retailer/dispensary (to include delivery only) “*
- We recommend defining each accessory use individually by square footage, not collectively.
- We recommend allowing the microbusiness license (as defined in this memo) in all areas where the proposed uses are allowed.

Thank you for your consideration of MCA’s recommendations for a city ordinance that is safe and supportive of this nascent industry and its potential to help drive economic development in Fort Bragg.

We are available to discuss any of these items further at your convenience.

Sincerely,
Mendocino Cannabis Alliance



City of Fort Bragg

416 N Franklin Street
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Text File

File Number: 21-201

Agenda Date: 5/3/2021

Version: 1

Status: Business

In Control: Special City Council

File Type: Staff Report

Agenda Number: 1B.

Receive Report and Provide Direction on a Cannabis Cultivation Policy



AGENCY: City of Fort Bragg
MEETING DATE: May 3, 2021
DEPARTMENT: Community Development
PRESENTED BY: H. Gurewitz
EMAIL ADDRESS: hgurewitz@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

Receive Report and Provide Direction on a Cannabis Cultivation Policy

ISSUE:

The Fort Bragg City Council has indicated to staff that they would like to allow cannabis cultivation in the City of Fort Bragg. The Cannabis Cultivation Ordinance will provide the regulations and requirements for cultivation.

ANALYSIS:

A commercial cannabis cultivation would be subject to the regulations for Cannabis Businesses in Municipal Code Chapter 9.30 and CEQA. The purpose of establishing Municipal Code Chapter 9.32 would be to provide regulation and guidance for the cultivation of cannabis inside City Limits.

A cultivation ordinance will likely include the following provisions:

- Definitions for cannabis cultivation (e.g. fully enclosed and secure structure)
- Prohibitions (e.g. commercial cultivation on residential properties)
- Requirements (e.g. state licenses, a Cannabis Business Permit, and any conditional use permits, etc.)

An ordinance should also include any provisions that will address the following:

- Allowable types of cultivations (e.g. outdoor, mixed light, and/or indoor)
- Water conservation measures or restrictions
- Energy efficiency requirements
- Other required or recommended practices

Types of Cultivation

Previous direction from Council indicated that only indoor cultivations should be allowed. Staff is seeking confirmation from Council that it does not want to allow outdoor cultivation of cannabis within City limits and direction on whether a greenhouse meeting the definition of a fully enclosed and secure structure would be allowable. Below are examples of text that the Council may wish to include in Chapter 9.32 to clarify allowable types of cultivation.

SAMPLE: Outdoor cultivation. It is hereby declared to be unlawful for the outdoor cultivation of cannabis plants within the City limits.

SAMPLE: Commercial Cannabis shall be cultivated in a fully enclosed and secured structure (FESS) and may include a greenhouse if it meets the criteria for a FESS and is not visible from any public right of way.

Water

During the majority of the year the City has ample potable water available. However, during the dry summer months, the supply is less predictable. In some years, the City has had to impose water restrictions on businesses and residents in order to maintain an adequate supply.

Even though the City’s potable water may be limited at certain times of year, there are other options. The City could include requirements for cultivators to provide their own source of water via a well or require a developer to pay for a water reclamation system. The Wastewater Treatment Facility currently releases upwards of 400,000 gallons of treated water per day and more than twice as much in the winter months. Additional infrastructure would be required to utilize this water, but would be well suited to cultivation.

While each application for cultivation will have to be reviewed for impacts on the City’s water as part of the CEQA review, the City Council may wish to include specific provisions in Chapter 9.32. These may include some version of one or more of the following:

SAMPLE: Cannabis cultivations [should/shall] not create a burden on the City’s water, wastewater systems, or electrical grid.

SAMPLE: Commercial cannabis cultivations planning to utilize City water [should/shall] use industry best practices to minimize water usage to the greatest extent possible.

SAMPLE: Commercial Cannabis Cultivations over X,000 square feet [may be required to/should/shall] provide their own source of agricultural water either through the development of a well or by covering the cost of developing water reclamation infrastructure from the City’s Wastewater Treatment Facility.

Electricity

Indoor cultivation requires lighting and climate control that can be very intensive on the electrical grid, and water recycling units can be even more so. Estimates of the energy consumption for an indoor cannabis cultivation range from 100 kilowatt hours (kwh) to 150 kwh per square foot (sf) per year. The table below shows a comparison of building uses and estimated energy consumption by use type.

Use type	Average kwh/sf/yr.
Warehouse and storage	6.8
Office	11.7
Health care	14.0
Lodging	14.2
Buildings w/ manufacturing	14.2
Mercantile	16.0
Food service	48.7
Food sales	55.3
Indoor Cannabis Cultivation	125.0

Sources:

Kolwey, Neil. “A building Opportunity: Energy Efficiency Best Practices for Cannabis Grow Operations.” Southwest Energy Efficiency Project, 1997.

Durkay, Jocelyn and Duranya Freeman. "Electricity Use in Marijuana Production."

National Conference of State Legislatures, Vol 24. No 31. August 2016.

US Energy Information Administration. "Table C21. Electricity Consumption and Conditional Energy Intensity by Building Size, 2012." Released May 2016. <https://www.eia.gov/consumption/commercial/data/2012/c&e/cfm/c21.php>

Because indoor cultivation can be intensive on the electrical grid, the Council may decide to include some version of one of the following sample provisions:

SAMPLE: Commercial cannabis cultivations should minimize their impact on the energy grid as much as possible.

SAMPLE: Commercial cannabis cultivations [should/shall] utilize natural lighting as much as possible.

SAMPLE: Commercial cannabis cultivations [should/shall] utilize energy-efficient LED lighting.

SAMPLE: Commercial cannabis cultivations over X,000 square feet [should/shall] install solar panels as part of the project development.

SAMPLE: Commercial cannabis cultivations over X,000 square feet [may be required to/should/shall] use a combination of natural lighting, LED lighting, energy efficient equipment, and solar panels to reduce the planned energy usage to [no more than XX kwh hours/square foot / comparable levels of other allowable uses in the zone where it is located]. Note: more specific energy requirements by zone can be included in zoning requirements by zone in the specific land use standards.

Other options:

The Council may also opt to provide a more flexible provision that can be interpreted as projects are brought forward. An example of this might be:

SAMPLE: Commercial Cannabis cultivations [should/shall] use the most environmentally friendly practices possible including Integrative Pest Management, waste reduction, water conservation, and energy conservation.

RECOMMENDED ACTION:

Provide direction to staff on the elements to include in a cannabis cultivation ordinance.

ALTERNATIVE ACTION(S):

Provide other direction to staff.

FISCAL IMPACT:

If Council decides to tax cannabis cultivation, there may be a positive fiscal impact in the future, but the current recommended action has no fiscal impact.

GREENHOUSE GAS EMISSIONS IMPACT:

The direction provided by Council will ultimately have a potential future impact on Greenhouse Gas Emissions (GHGs) however, the impact depends on the provisions the Council decides to put in place, and the actual projects that are developed and approved once the regulation is passed.

CONSISTENCY:

Staff is seeking direction from Council on an ordinance that is consistent with the relevant City of Fort Bragg 2014 Inland General Plan Goals, Policies, and Programs:

Land Use Goal LU-4: Promote the economic vitality of the City’s existing commercial areas.

Land Use Goal LU-5: Support industrial development which is consistent with the protection, enhancement, and restoration of natural and scenic resources.

Land 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.

Public Facilities Policy PF-1.1 Ensure Adequate Services and Infrastructure for New Development: Review new development proposals to ensure that the development can be served with adequate potable water; wastewater collection, treatment, and disposal; storm drainage; fire and emergency medical response; police protection; transportation; schools; and solid waste collection and disposal.

Public Facilities Program PF-2.2.5 Continue to encourage water conservation techniques and water conserving fixtures in all new development projects.

Public Facilities Program PF-2.2.5 Continue to encourage water conservation techniques and water conserving fixtures in all new development projects.

Public Facilities Program PF-2.2.6 Develop a program to encourage and allow the safe use of graywater and rainwater capture and reuse.

Sustainability Goal S-2 Encourage development that minimizes the demand for non-renewable energy and reduces Green House Gas (GHG) emissions.

Policy S-2.1 Passive Solar Design Strategies: All building and site design shall use passive solar design strategies for space heating and lighting to reduce energy demand to the extent feasible.

Policy S-2.2 Alternative Energy: Encourage the development and use of alternative sources of energy such as wind, solar, and biomass to meet Fort Bragg's energy needs.

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

IMPLEMENTATION/TIMEFRAMES:

Zone specific recommendations will be presented to the Planning Commission for recommendations and then a draft ordinance will be brought to City Council. If passed, the ordinance will take effect 30 days after adoption.

ATTACHMENTS:

1. Staff Power Point Presentation

NOTIFICATION:

1. Cannabis Notify Me subscriber list



Cannabis Cultivation Policy

Heather Gurewitz, MCRP
Associate Planner
Community Development Department
City of Fort Bragg

Municipal Code 9.30 & CEQA

- All cultivations will have to get a Cannabis Business Permit under Municipal Code 9.30
- CEQA analysis required based on merits of application and potential environmental impact for projects with new construction or re-use where there is a higher intensity than the previous use.

Commercial Cannabis Cultivation Ordinance

- Does the City want to allow indoor and/or outdoor (including hoop house) cultivation?
- Does the City want to have a maximum allowable size?
- What standards should be included for water usage?
- Should there be standards for energy usage?



Indoor v. Outdoor Cultivation?

- Indoor = fully enclosed and secure structure and not visible from public right of way
- Outdoor = everything else

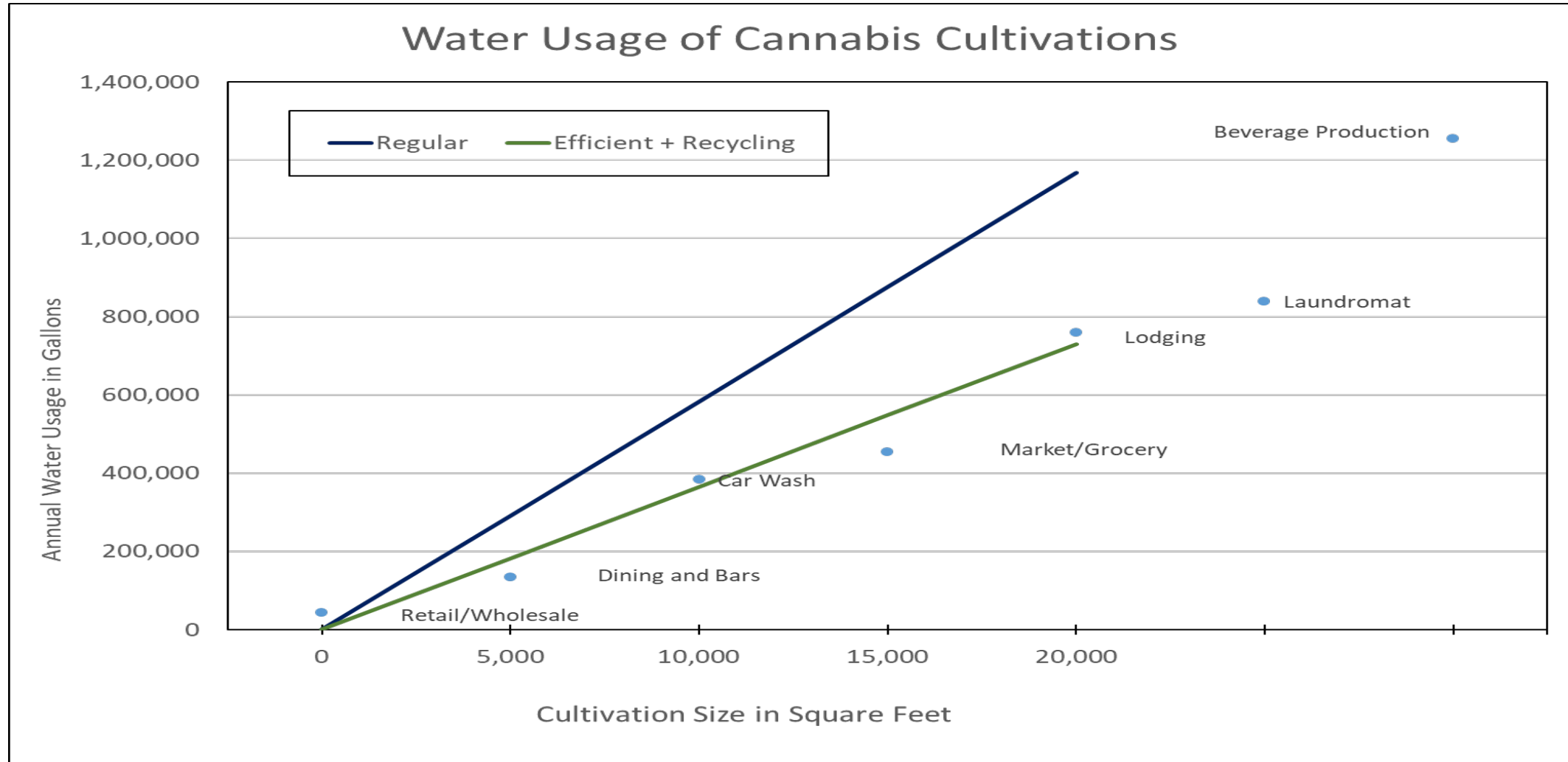


Does the City want to set a max size on cannabis facilities?

Building	Size
Safeway	~50,000 ft ²
Rite Aid	~27,000 ft ²
Brewery (production)	~15,000 ft ²
Former Sears Building	~7,000 ft ²
Shed on GP Mill Site	~65,000 ft ²

Note: Size is the total area inside the FESS proposed for cultivation.

Estimated Water Usage & Comparisons



Options for Addressing Water Usage

1. No water conservation suggestions/ requirements
2. Require water usage plan for cultivations
3. Recommend Water Conservation measures (should)
4. Require water conservation measures (shall + permit conditions)
5. Require private water source or charge for the development of reclaimed water source

Estimated Energy Usage

Use type	Average kwh/sqare foot/yr
Warehouse and Storage	6.8
Office	11.7
Health care	14.0
Lodging	14.2
Buildings w/ Manufacturing	14.2
Mercantile	16.0
Food service	48.7
Food sales	55.3
Indoor Cannabis Cultivation	125

Sources: Kolwey, Neil. "A building Opportunity: Energy Efficiency Best Practices for Cannabis Grow Operations."
Southwest Energy Efficiency Project, 1997.

Durkay, Jocelyn and Duranya Freeman. "Electricity Use in Marijuana Production."
National Conference of State Legislatures, Vol 24. No 31. August 2016.

US Energy Information Administration. "Table C21. Electricity Consumption and Conditional Energy Intensity by Building Size, 2012."
Released May 2016. <https://www.eia.gov/consumption/commercial/data/2012/c&e/cfm/c21.php>

Provisions to Reduce Energy Usage

- Recommend/require Mixed Light
- Recommend/require LED lighting
- Recommend/require Solar panels



Feedback from Council

Topic	Prohibit	No Provision	Should (Recommendation)	Shall (Requirement)
Outdoor Cultivation				
Indoor Cultivation				
Mixed Light Cultivation				
Water Usage Plan				
Water Conservation Measures				
Private Water Source				
Water Reclamation				
LED Lighting				
Solar Panels				

From: noreply@granicusideas.com
To: [Lemos, June](#)
Subject: New eComment for Special City Council Meeting - Cannabis Ordinance - Via Video Conference
Date: Monday, May 3, 2021 6:52:32 PM

[SpeakUp](#)

New eComment for Special City Council Meeting - Cannabis Ordinance - Via Video Conference

Brandy Moulton submitted a new eComment.

Meeting: Special City Council Meeting - Cannabis Ordinance - Via Video Conference

Item: 1B. 21-201 Receive Report and Provide Direction on a Cannabis Cultivation Policy

eComment: Please see the memo submitted by MCA on all items in this meeting that is derived from extensive stakeholder engagement and experience.

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City of Fort Bragg

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Text File

File Number: 21-199

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In Control: Special City Council

File Type: Staff Report

Agenda Number: 1C.

Receive Report and Provide Direction to Staff on Where Commercial Cannabis Cultivation, as a Primary Use, Should be Allowed



AGENCY: City of Fort Bragg
MEETING DATE: May 3, 2021
DEPARTMENT: Community Development
PRESENTED BY: H Gurewitz
EMAIL ADDRESS: hgurewitz@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

Receive Report and Provide Direction to Staff on Where Commercial Cannabis Cultivation, as Primary Use, Should be Allowed

ISSUE:

The City Council has directed staff to prepare an ordinance to allow commercial cannabis cultivation within the City Limits. There is a broad spectrum of types and sizes of commercial cannabis cultivations. Staff is requesting direction from Council on what types and sizes should be allowed in commercial and industrial zones in the City.

ANALYSIS:

Zoning

There are four zones that have been discussed for locating commercial cannabis cultivation as a primary use. Staff is asking Council to determine which zones are appropriate:

CG (General Commercial) zoning district. The CG zoning district is applied to areas of the City that are appropriate for less compact and intensive commercial uses than those accommodated within the Central Business District (CBD) zone. Allowable land uses are typically more auto-oriented than pedestrian-oriented, and may include automotive and service-related uses, a wide range of retail stores, including those selling large products (appliances, home furnishings, building materials, etc.).

CH (Highway Commercial) zoning district. The CH zoning district is applied to sites along Highway 1 and arterials at the entry points to the community. Allowable land uses include lodging, restaurants, and retail stores.

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.

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.

Permissions

Staff is requesting direction from Council on what permissions should be required for different sizes of cannabis cultivation in the City's zones. The City of Fort Bragg Inland Land Use and Development Code (ILUDC) identifies four types of permissions:

Permitted – A use that is permitted is allowable by right and does not need permission from the City to conduct the activity. For example, general retail is permitted by right in the General Commercial zone and does not require special permission.

Minor Use Permit – A Minor Use Permit is a discretionary permit that is typically issued through an administrative process by planning staff unless it is decided by the planning director that the application needs to be reviewed by the Planning Commission. The ILUDC provides the approval criteria for a Minor Use Permit in Section 18.71.060.

Use Permit – A Use Permit is a discretionary permit that must be reviewed by the Planning Commission. The ILUDC provides the approval criteria for a Use Permit in Section 18.71.060.

Not Allowable – A use may be listed in the Land Use tables in the ILUDC as not allowable.

Findings for Minor Use/Use Permits

Whether the permit is reviewed at the staff level or by the Planning Commission, the decision body must be able to make the following findings in order for a Minor Use or Use Permit to be issued:

1. The proposed use is consistent with the General Plan and any applicable specific plan;
2. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Development Code and the Municipal Code;
3. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;
4. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc.), to ensure that the type, density, and intensity of use being proposed would not endanger, jeopardize, or otherwise constitute a hazard to the public interest, health, safety, convenience, or welfare, or be materially injurious to the improvements, persons, property, or uses in the vicinity and zoning district in which the property is located.
5. The proposed use complies with any findings required by §18.22.030 (Commercial District Land Uses and Permit Requirements).

Cannabis Cultivation

Regardless of whether a cultivation is permitted by right or requires a Use Permit, the business will still require a Cannabis Business Permit (CBP) issued under Municipal Code 9.30 which will require review through the Police Department and Community Development Department. A CBP is currently an administrative permit.

All cannabis cultivations will be subject to a review under the California Environmental Quality Act.

A commercial cannabis cultivation can be less than 500 square feet to over 10,000 square feet and use a variety of different techniques which use varying amounts of electricity and water. The Council may wish to consider the following when determining what size cultivations should be allowed in which zones:

1. Consistency with the purpose of the zone as intended in the General Plan
2. Compatibility with the zone

While the State of California classifies cannabis by the mature canopy size, this metric does not provide a reasonable metric that staff can use to estimate the actual size and impacts of a cultivation. It is more reasonable to use the size of the planned fully enclosed and secure structure (FESS) with the addition of square footage from multi-level cultivation. For example, a cultivation in a 500 square foot cultivation with three levels of cultivation would be calculated as a total size of 1,500 square feet. Another reliable metric would be the total number of plants that would be cultivated.

Council may wish to determine where cannabis cultivation might be allowable, and with what level of permission: For example, Council may decide that the City will not allow cultivations over 10,000 square feet, but that a cultivation under 500 square feet is a permitted use in the industrial zone. The chart below can be used to determine sizes and permissions.

Size of Cultivation	Cannabis Business Permit (CBP) Only (administrative)	CBP + Minor Use Permit (administrative)	CBP + Use Permit (Planning Commission)	Not Allowable
under XXX ft ²				
XXX-X,XXX ft ²				
X,XXX – X,XXX ft ²				
X,XXX-XX,XXX ft ²				
Over XX,XXX ft ²				

RECOMMENDED ACTION:

Provide direction to staff on the size and permission of cultivation for presentation to Planning Commission.

ALTERNATIVE ACTION(S):

- Provide direction to staff and review again before sending to Planning Commission.
- Take no action.

FISCAL IMPACT:

There is no significant fiscal impact from this action.

GREENHOUSE GAS EMISSIONS IMPACT:

The GHG impact will depend on the actions taken on cultivation policy.

CONSISTENCY:

The recommended action is for Council to recommend an ordinance that is consistent with the relevant City of Fort Bragg 2012 Inland General Plan Goals, Policies, and Programs:

Land Use Goal LU-1: Promote development and conservation of land in Fort Bragg according to the pattern shown on the Land Use Designations Map.

Land Use Goal LU-3: Ensure that the Central Business District remains the historic, civic, cultural, and commercial core of the community.

Land Use Goal LU-4: Promote the economic vitality of the City's existing commercial areas.

Land Use Goal LU-5: Support industrial development which is consistent with the protection, enhancement, and restoration of natural and scenic resources.

Land Use Policy LU-5.1: Siting New Industrial Development: Site new industrial development so that it is contiguous with, or in close proximity to, existing developed areas able to accommodate it, or where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects on natural and scenic resources, either individually or cumulatively.

Land 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.

IMPLEMENTATION/TIMEFRAMES:

Council's recommendations will be presented to Planning Commission for review and recommendations to Council. Staff will present a draft ordinance to Council with the Planning Commission recommendations for final review. The Ordinance will take effect 30 days after adoption.

ATTACHMENTS:

1. Staff PowerPoint Presentation

NOTIFICATION:

1. Cannabis Notify Me subscriber list



Zoning for Cannabis Cultivation

Heather Gurewitz, MCRP
Associate Planner
Community Development Department
City of Fort Bragg

Industrial (IL & IH) and Commercial (CH & CG)



Cultivations Come in All Shapes and Sizes



Defining Cannabis



Example of Size and Zoning Designations

Size of Cultivation	CBP Only	Minor Use Permit	Use Permit	Not Allowable
under 500 Ft ²	IL, IH	CH, CG		CBD
501-2500 Ft ²		IL, IH	CG, CH	CBD, CH
2,500-10,000 Ft ²		IH, IL		CBD, CH, CG
Over 10,000 Ft ²		IH	IL	CBD, CH, CG
Nursery Only ?				

Central Business District - CBD

Highway Commercial - CH

General Commercial - CG

Light Industrial - IL

Heavy Industrial -IH

Zoning for Commercial Cannabis Cultivation

Size of Cultivation	Cannabis Business Permit Only (administrative)	CBP + Minor Use Permit (administrative)	CBP + Use Permit (Planning Commission)	Not Allowable
under XXX ft ²				
XXX-XXXX ft ²				
XXXX – XXXX ft ²				
XXXX-XXXXX ft ²				
Over XXXXX ft ²				
Nursery Only				

Central Business District - CBD
Highway Commercial - CH
General Commercial - CG
Light Industrial - IL
Heavy Industrial -IH



City of Fort Bragg

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Text File

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Agenda Number: 1D.

Receive Report and Provide Direction to Staff on Whether to Create a Cannabis Microbusiness Category or Enhance the Accessory Use Definition in Inland Land Use and Development Code Section 18.42.057



AGENCY: City of Fort Bragg
MEETING DATE: May 3, 2021
DEPARTMENT: Community Development
PRESENTED BY: H Gurewitz
EMAIL ADDRESS: hgurewitz@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

Receive Report and Provide Direction to Staff on Whether to Create a Cannabis Microbusiness Category or Enhance the Accessory Use Definition in Inland Land Use and Development Code Section 18.42.057

ISSUE:

City Council adopted an ordinance to allow accessory uses as part of a cannabis microbusiness in November of 2019. The City received an application for a cannabis microbusiness and attempted to implement the code as it was understood to be intended by Council. Through this process, it was determined that there is a need for more specific language to clarify Council's intentions.

ANALYSIS:

The Inland Land Use and Development Code (ILUDC) addresses accessory uses for a cannabis retail dispensary in section 18.42.057 (E). It states:

"As defined in Article 10, accessory uses are customarily incidental to, related and clearly subordinate to a primary use on the same parcel, which does not alter the primary use. Uses accessory to cannabis retail facilities may be allowable pursuant to the permitting requirements in Article 2. Accessory uses may include activities that require multiple State cannabis licenses, including, but not limited to, manufacturing, distribution, cultivation and/or processing. In no instance shall cannabis manufacturing using volatile solvents be allowable as uses accessory to cannabis retail uses."

Additionally, Municipal Code Chapter 9.30 Cannabis Businesses includes the following definition in Section 9.30.020:

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

The major difference between a microbusiness and a retail dispensary with accessory uses is the percentage of space dedicated to each activity, and whether the accessory use(s) "serve the parcel."

Currently a cannabis retail dispensary is allowed with a Minor Use Permit in the Central Business District, General Commercial, and Highway Commercial zones. Cannabis Retail Delivery is allowable with a Minor Use Permit in the General Commercial and Highway Commercial zones.

Adding a microbusiness as an allowable use would be appropriate if the Council wishes to allow cultivation and/or manufacturing as part of a retail operation in a commercial zone and does not want to limit the floor space dedicated to those uses. A Cannabis Microbusiness would require a new definition to be developed specific to Fort Bragg, as it has already been determined that the State's definition is not appropriate for the City. The reason to create the microbusiness as a use and add a definition, would be to allow a business that would not meet the requirements of a primary use/accessory use by square footage.

Because the current accessory use definition in Article 10 says that the accessory use, "does not alter the primary use nor serve property other than the parcel where the primary use is located," the Council will need to specify if this prohibits a business from wholesale and distribution if they are in a commercial zone. Staff researched accessory use definitions and the above text is specific to the City's code. The Council may wish to update the definition if they feel it is too restrictive.

If the Council decides to continue with accessory use, it is necessary to have a reliable empirical metric to determine if uses are accessory. The most reasonable and consistent metric is square footage. This is not only quantifiable but it can be measured and confirmed if a permit is issued.

An example of how the Council can clarify the allowable accessory uses might be to include the following in the definition in Section 18.42.057:

In the Central Business District and Highway Visitor Commercial Zones:

1. A cultivation of immature plants no larger than XXX square feet for retail sale on site
2. Processing of cannabis for retail sale on site
3. Non-volatile manufacturing of cannabis for retail sale on site
4. Retail delivery
5. Accessory office

In the General Commercial Zone:

1. A cultivation of immature plants no larger than XXXX square feet
2. Processing of cannabis for (retail and wholesale?) sale on site
3. Non-volatile manufacturing of cannabis for (retail and wholesale?) sale on site
4. Retail delivery
5. Office space

The following are NOT allowed as accessory uses to cannabis retail in the commercial zone:

1. Cultivation of mature or flowering plants
2. Cannabis manufacturing using volatile substances
3. Wholesale, warehousing, and distribution of cannabis

RECOMMENDED ACTION:

Provide direction to staff on whether to create a Cannabis Microbusiness Use or to modify the definition of accessory uses to clarify what activities are allowable in which zones.

ALTERNATIVE ACTION(S):

- Recommend a different alternative.
- Direct staff to take no further action on the matter.

FISCAL IMPACT:

There is no significant fiscal impact that will result from this activity.

GREENHOUSE GAS EMISSIONS IMPACT:

There is no significant GHG impact from this project.

CONSISTENCY:

Staff is seeking a recommendation from Council for an ordinance that is consistent with the relevant City of Fort Bragg 2012 Inland General Plan Goals, Policies, and Programs:

Land Use Goal LU-1: Promote development and conservation of land in Fort Bragg according to the pattern shown on the Land Use Designations Map.

Land Use Goal LU-3: Ensure that the Central Business District remains the historic, civic, cultural, and commercial core of the community.

Land Use Goal LU-4: Promote the economic vitality of the City's existing commercial areas.

Land Use Goal LU-5: Support industrial development which is consistent with the protection, enhancement, and restoration of natural and scenic resources.

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Land 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.

IMPLEMENTATION/TIMEFRAMES:

Council's recommendations will be presented to Planning Commission on June 9, 2021 for review and recommendations to Council. A final ordinance will be presented to Council on Monday, June 28, 2021.

ATTACHMENTS:

1. Staff PowerPoint Presentation

NOTIFICATION:

1. Cannabis Notify Me subscriber list



Cannabis Microbusiness Policies

Heather Gurewitz, MCRP
Associate Planner
Community Development Department
City of Fort Bragg

Cannabis Retail Code 18.42.057

- 18.42.057 Cannabis Retail

E. Accessory uses. As defined in Article [10](#), accessory uses are customarily incidental to, related and clearly subordinate to a primary use on the same parcel, which does not alter the primary use. Uses accessory to cannabis retail facilities may be allowable pursuant to the permitting requirements in Article [2](#). Accessory uses may include activities that require multiple State cannabis licenses, including, but not limited to, manufacturing, distribution, cultivation and/or processing. In no instance shall cannabis manufacturing using volatile solvents be allowable as uses accessory to cannabis retail uses.

History of Code Implementation

- One manufacturing business approved under prior cannabis manufacturing ordinance
- Two dispensaries approved under existing retail cannabis ordinance
- One application for a dispensary/microbusiness was denied by Planning Commission because:
 - Uses were not allowable
 - Uses were not accessory to the primary use
- Two applications for cannabis retail pending (one incomplete)

Two Options for the Microbusiness Question

1. Add more detail to existing cannabis retail definition in 18.42.57
2. Create a separate definition in 18.42 for “Cannabis Microbusiness”

Option #1: Amend Retail Accessory Definition

In the Central Business District and Highway Visitor Commercial Zones:

- A cultivation of immature plants no larger than XXX square feet for retail sale on site
- Processing of cannabis for retail sale on site
- Non-volatile manufacturing of cannabis for retail sale on site
- Retail delivery
- Accessory office

In the General Commercial Zone:

- A cultivation of immature plants no larger than X,XXX square feet
- Processing of cannabis for (retail and wholesale?) sale on site
- Non-volatile manufacturing of cannabis for (retail and wholesale?) sale on site
- Retail delivery
- Office space

The following are NOT allowed as accessory uses to cannabis retail in the commercial zone:

- Cultivation of mature or flowering plants
- Cannabis manufacturing using volatile substances
- Wholesale, warehousing, and distribution of cannabis

Option #2: Cannabis Microbusiness

- State definition says 3 or more types of activity
 - Retail, cultivation, distribution/wholesale
 - Retail, cultivation manufacturing
 - Cultivation, manufacturing, distribution
- Creates a specific definition for the purpose of allowing cannabis microbusinesses in some commercial zones.
- May not be necessary for industrial zones
 - All uses would be allowable with required permits
 - Retail Delivery only, no storefronts in industrial

Sample Policies for Microbusinesses in Commercial Zones

- Retail must take up the building frontage and have a main public entrance on the main street for retail sales.
- Non-retail activities shall not be visible from the public right of way and not accessible from main street frontage.
- Allowable activities shall not create significant noise, odor, traffic, or other public nuisance.
- All non-retail activities must take place in a fully enclosed and secure structures.
- Cultivation portion may not exceed size allowable in zoning district.

Should the City create a “Cannabis Microbusiness” use or modify accessory uses for Cannabis Retail?

If yes, where should it be allowed?

	Cannabis Business Permit Only (administrative)	CBP + Minor Use Permit (administrative)	CBP + Use Permit (Planning Commission)	Not Allowable
Microbusiness with Retail Delivery	IL, IH			
Microbusiness with Storefront Retail				

- Central Business District - CBD**
- Highway Commercial - CH**
- General Commercial - CG**
- Light Industrial - IL**
- Heavy Industrial -IH**