



**California Environmental Quality Act**

**INITIAL ENVIRONMENTAL STUDY  
AND  
PROPOSED NEGATIVE DECLARATION**

**PROPOSED  
MEDICAL MARIJUANA DISPENSARY ORDINANCE**

***Prepared by:***

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## **CHAPTER 1.0 – INTRODUCTION AND PURPOSE**

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### **1.0 INTRODUCTION**

#### **1.1 CEQA Compliance**

The City of Ukiah Department of Planning and Community Development is the lead agency under the California Environmental Quality Act (CEQA) for the proposed Medical Marijuana Dispensary Ordinance (Project) that would be located citywide. In accordance with Section 15070 through Section 15075, Negative Declaration Process, of the CEQA Guidelines, this Initial Study/Proposed Mitigated Negative Declaration has been prepared by the City of Ukiah. Section 15070 of the CEQA Guidelines states the following with the respect to the preparation of a Mitigated Negative Declaration:

"A public agency shall prepare or have prepared a proposed negative declaration or mitigated negative declaration for a project subject to CEQA when:

(a) The initial study shows that there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment, or

(b) The initial study identifies potentially significant effects, but:

(1) Revisions in the project plans or proposals made by, or agreed to by the applicant before a proposed mitigated negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect would occur, and

(2) There is no substantial evidence, in light of the whole record before the agency that the project as revised may have a significant effect on the environment.

As prescribed in Section 15070, an Initial Study has been prepared that analyzes the potential project-related impacts anticipated to occur as a result of implementing the Final Closure and Post Closure Maintenance Plan for the Ukiah Landfill as proposed by the City of Ukiah. Pursuant to Section 15071 of the CEQA Guidelines, the Initial Study/Proposed Mitigated Negative Declaration includes:

- A description of the proposed project (refer to Section 2.0);
- The location of the project (refer to Section 2.1);
- A list of the environmental factors potentially affected by project implementation (Refer to Section 3.0);
- A comprehensive analysis of each environmental topic included in the County's environmental checklist (refer to Chapter 4.0);
- A proposed finding that the project will not have a significant effect on the environment (refer to Section 5.1); and
- Mitigation measures (refer to Section 5.2).

#### **1.2 Incorporation by Reference**

As allowed under Section 15150 of the State CEQA Guidelines, this Initial Study incorporates the Final Marijuana Dispensary Ordinance by reference. The Ordinance was utilized during the preparation of the Initial Study. The relevant information and/or analysis that has been incorporated by reference into this Initial Study has been summarized. The Final marijuana Dispensary Ordinance is available for review at the City of Ukiah Department of Planning and Community Development located at 300 Seminary Avenue, Ukiah, California, 95482.

### **1.3 Purpose**

The Marijuana Dispensary Ordinance for the City of Ukiah prepared by the City of Ukiah Department of Planning and Community Development for submittal to the Ukiah City Council.

The environmental document that follows is an Initial Study and Mitigated Negative Declaration (IS/MND) for the Ukiah Marijuana Dispensary Ordinance project as proposed by the City of Ukiah. An initial study is a preliminary analysis that is completed as part of the project design and assessment to determine whether an environmental impact report or negative declaration must be prepared to assess potential environmental impacts in accordance with the California Environmental Quality Act (CEQA) and State CEQA Guidelines (Section 15000 *et seq.*). The initial study is intended to determine if the project may have a significant effect on the environment. A negative declaration is a written statement that briefly describes the reasons why a proposed project will not have a significant effect on the environment and, therefore, does not require the preparation of an EIR.

As indicated above, the City of Ukiah is proposing to establish and implement regulations for marijuana dispensaries, which will be implemented upon the adoption of this document by the City of Ukiah City Council. This study has been prepared in accordance with the CEQA, Public Resources Code 21000 *et seq.*, and the State CEQA Guidelines, California Code of Regulations, Section 15000 *et seq.* This document provides a description of the project setting and characteristics and includes an environmental evaluation and checklist that identifies the potential environmental impacts associated with implementation of the proposed Marijuana Dispensary Ordinance, and includes a discussion of the checklist responses and findings.

### **1.4 Determination of No Significant Impacts**

This Initial Study/Mitigated Negative Declaration has been prepared pursuant to Section 15070 through Section 15075 of the CEQA Guidelines as prescribed in Section 1.1, above. As indicated in Chapter 5.0 of the document, no significant impacts will occur as a result of project implementation with the incorporation of appropriate mitigation measures into the final Ordinance to establish "self-mitigation." The City of Ukiah City Council will consider the information contained in this document prior to making a final decision on the proposed Marijuana Dispensary Ordinance.

## **CHAPTER 2.0 – PROJECT DESCRIPTION**

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### **2.0 PROJECT DESCRIPTION**

#### **2.1 Project Location**

The proposed Marijuana Dispensary Ordinance would apply to the following zoning districts: C1, C2, M, PD (Commercial), GU, UC, and DC. Medical Marijuana Dispensaries would not be allowed within residential zoning districts or within 250 feet of a “Youth-Oriented facility” (school, public park, church and licensed daycare facility). The City is approximately 4.84 square miles and is comprised of 4,997 parcels.

#### **2.2 Environmental Setting**

The City of Ukiah is the county seat for Mendocino County and serves as the employment, shopping and medical hub for the region. The population is approximately 16,000 and swells to approximately 25,000-30,000 during a typical week day due to the in-migration of workers, shoppers, visitors and those in need of medical and other services. The City is densely urban with three major creeks flowing west to east towards the Russian River. The City is well forested for an urban environment and has an ample number of parks and associated open spaces.

#### **2.3 Background and History**

In 2007, the City of Ukiah enacted Ordinance 1095, §1 (“Medical Marijuana Dispensaries Ordinance”), which prohibited and declared a public nuisance medical marijuana dispensaries in the City of Ukiah.

The 2007 Medical Marijuana Dispensaries Ordinance also stated the City Council’s intention was to prohibit the operation and location of dispensaries in the City “until such time as their legality is clearly established and a proposal can be developed that would sat satisfy the city council that the facility could operate without causing serious adverse impacts”.

On October 9, 2015, the Governor signed into law AB 266, AB 243, and SB 643, which together comprise the Medical Marijuana Regulation & Safety Act (“MMRSA”). The MMRSA, which went into effect on January 1, 2016 created a statewide regulatory structure for the medical marijuana industry that also allows local governments to regulate the operation of marijuana businesses within their jurisdiction, pursuant to local ordinances. Specifically, the MMRSA allows the City of Ukiah to issue permits or licenses to operate marijuana businesses or prohibit their operation, to regulate or expressly prohibit the delivery of medical marijuana within its boundaries, and to regulate or expressly prohibit the cultivation of marijuana within its boundaries. Pursuant to the MMRSA, if the City opts not to expressly prohibit or regulate the cultivation, processing, delivery, and/or dispensary of medical marijuana, the State will be the sole licensing authority for these activities in the City.

To protect the public health, safety, and welfare, it is the desire of the City Council to modify the City Code consistent with the MMP and the MMRSA, regarding the location and operation of medical marijuana dispensaries, delivery of medical marijuana within the boundaries of the City, and cultivation of medical marijuana within the boundaries of the City.

#### **2.4 Project Characteristics/Description**

The project is an ordinance regulating medical marijuana dispensaries, distribution, and cultivation in order to promote the health, safety, morals, and general welfare of resident and businesses within the city. The ordinance requires a use permit to operate a dispensary and there

are limitations on the location of dispensaries – required distances from youth-oriented facilities, parks, schools, or another dispensary. There are also dispensary operating requirements, application preparation and filing requirements, criteria for the review of dispensary use permits, use permit processing requirements, and other requirements.

## **2.5 Project Timing**

The proposed Marijuana Dispensary Ordinance would go into full force and effect 30-days after adoption by the City Council.

## **2.6 Project Objectives**

- To provide reasonable regulations for marijuana dispensaries, marijuana distribution, and cultivation that would protect the public's health, safety, morals, and general welfare of residents and businesses in the city.
- To provide regulations that are easy to understand, explain to the public, and implement.
- To provide regulations that are enforceable.

## **2.7 Assumptions**

- Future dispensaries would likely locate within existing commercial buildings similar to other new retail uses. Construction of new buildings to house medical marijuana dispensaries would require discretionary review and separate CEQA review.
- Similar to other communities of comparable size such as Sebastopol and Arcata, it is expected that if the proposed ordinance is adopted there would not be a proliferation of dispensaries. Due to market conditions and competition, it is assumed that not more than a maximum of 3 dispensaries would locate within the city limits (Sebastopol and Arcata have 1 dispensary each).
- Since growing marijuana in dispensaries is limited to 1,500 square feet, it is assumed that water use would be similar to that of a typical 3-bedroom, 2-bathroom single family residence with two parents and two children/teenagers, lawns, two showers, a washing machine, dishwasher, sinks, and outdoor gardening space. The average water use for a typical single family residence is 200 gallons per day.

## CHAPTER 3.0 – ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED AND DETERMINATION

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### 3.0 ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED AND DETERMINATION

#### 3.1 Environmental Factors Potentially Affected

The environmental analysis in Section 4.0 is patterned after the Initial Study Checklist recommended by the *CEQA Guidelines*, as amended, and used by the City of Ukiah in its environmental review process. For the preliminary environmental assessment undertaken as part of this Initial Study's preparation, a determination that there is a potential for significant effects indicates the need to more fully analyze the development's impacts and to identify mitigation.

Chapter 4.0 (Environmental Analysis) analyzes the potential environmental impacts associated with the proposed Marijuana Dispensary Ordinance project. The issue areas evaluated in this Initial Study include:

Aesthetics	X
Utilities and Service Systems	X
Biological Resources	X
Public Services	X
Land Use and Planning	X
Hydrology and Water Quality	X
Hazards and Hazardous Materials	X

For the evaluation of potential impacts, the questions in the Initial Study Checklist are stated and an answer is provided according to the analysis undertaken as part of the Initial Study. The analysis considers the long term, direct, indirect, and cumulative impacts of the development. To each question, there are four possible responses:

- **No Impact.** The development will not have any measurable environmental impact on the environment.
- **Less Than Significant Impact.** The development will have the potential for impacting the environment, although this impact will be below established thresholds that are considered to be significant
- **Less Than Significant Impact With Mitigation Incorporated.** The development will have the potential to generate impacts, which may be considered as a significant effect on the environment, although mitigation measures or changes to the development's physical or operational characteristics can reduce these impacts to levels that are less than significant.
- **Potentially Significant Impact.** The development could have impacts, which may be considered significant, and therefore additional analysis is required to identify mitigation measures that could reduce potentially significant impacts to less than significant levels. Where potential impacts are anticipated to be significant, mitigation measures will be required, such that impacts may be avoided or reduced to insignificant levels.

#### 3.2 Environmental Factors Clearly Not Affected

The Initial Study found that it can be seen with certainty that the following issue areas would not be significantly impacted and therefore no analysis is required:

Agriculture and Forestry Resources: There are no prime agricultural lands or forestry lands within the City limits, therefore none would be impacted by the implementation of the proposed Marijuana Dispensary ordinance.

Mineral Resources: There are mineral resource extraction facilities and no known mineral resources within the City limits, therefore none would be affected by the implementation of the proposed Marijuana Dispensary ordinance.

Noise: Research reveals that the vast majority of existing medical marijuana dispensaries, including all the dispensaries in Mendocino County are operating within existing structures. It is therefore assumed that if the ordinance is enacted, new dispensaries would open in vacant retail commercial or industrial space and no noise ordinance violating construction would occur.

The operation of retail medical marijuana dispensaries would be required to comply with the existing City of Ukiah noise ordinance in the same manner as other retail businesses.

Population and Housing: The proposed ordinance would regulate medical marijuana dispensaries, distribution, and cultivation of marijuana (within the dispensaries) and would not, in and of itself cause the City's population to increase. Nor would the ordinance affect housing in any way because it would regulate retail businesses not residential properties.

Air Quality and Greenhouse Gas Emissions: The proposed ordinance would not result in adverse impacts to air quality because it would merely regulate certain retail businesses, and based on the small size of the city and its market area, as well as opportunities to establish outside the city limits, it is anticipated that only a small number of dispensaries would establish within the city limits. This has been the affect in other communities such as Arcata, California. Therefore, delivery vehicles associated with the dispensaries would be limited and would not substantially contribute to air pollutants.

Cultural Resources: The City of Ukiah is a dense urban environment where the ground has been significantly disturbed to allow urban development for over 100 years. If medical marijuana dispensaries are established within the city as permitted by the proposed ordinance, it is assumed that they would located within existing retail commercial space and therefore there no prehistoric or historic cultural resources would be adversely impacted by the project.

Recreation: The City's formal recreation services and activities are primarily conducted in the local parks and on school grounds. The ordinance specifically prohibits the establishment of medical marijuana dispensaries within 250 feet of these areas to preclude impacts.

Geology and Soils: Research reveals that the vast majority of existing medical marijuana dispensaries, including all the dispensaries in Mendocino County are operating within existing structures. It is therefore assumed that if the ordinance is enacted, new dispensaries would open in vacant retail commercial space and no impacts to geology and soils would result. If a new building was constructed to provide space for a medical marijuana dispensary, a geotechnical soils investigation would be required with the submittal of a building permit application as required by the California Building Code to ensure the geology and soils are adequate for the development of a foundation and building.

### 3.3 Environmental Determination

On the basis of this initial evaluation:

X  I find that the proposed use **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.

\_\_\_\_\_ I find that although the proposal could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION** will be prepared.

\_\_\_\_\_ I find that the proposal **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.

\_\_\_\_\_ I find that the proposal **MAY** have a significant effect(s) on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets, if the effect is a "potentially significant impact" or "potentially significant unless mitigated." An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.

\_\_\_\_\_ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effect (a) have been analyzed adequately in an earlier EIR or **NEGATIVE DECLARATION**, pursuant to all applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or **NEGATIVE DECLARATION**, including revisions or mitigation measures are imposed upon the proposed project, nothing further is required.

  
\_\_\_\_\_  
Signature

08/25/16  
\_\_\_\_\_  
Date

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## **CHAPTER 4.0 – ENVIRONMENTAL ANALYSIS**

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### **4.0 ENVIRONMENTAL ANALYSIS**

The purpose of this Initial Study/Proposed Mitigated Negative Declaration for the proposed Ukiah Medical Marijuana Dispensary Ordinance is to provide an analysis of the potential environmental consequences that are anticipated to occur as a result of implementation of the ordinance in accordance with the environmental review process as implemented by the City of Ukiah. The

analysis contained in this chapter includes a discussion of the anticipated impacts associated with the implementation of the Ukiah Medical Marijuana Dispensary Ordinance as described in Chapter 2.0 (Project Description).

**4.1 Aesthetics - *Would the project:***

<b>Would the Project:</b>	<b>Potentially Significant Impact</b>	<b>Less Than Significant Impact with Mitigation</b>	<b>Less Than Significant Impact</b>	<b>No Impact</b>
a. Have a substantial adverse effect on a scenic vista?				X
b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				X
c. Substantially degrade the existing visual character or quality of the site and its surroundings?				X
d. Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?				X

**Significance Criteria:**

A project may be deemed to have a significance adverse aesthetic impact if it results in any of the following:

- Changes at the site substantially degrade the character of the site, degrade an existing public viewshed, or alter the character of a public view shed by the introduction of anomalous structures or elements.
- Changes at the site would result in changes in the expectations of viewers (measured against the relative importance of those views) and would result in a negative impression of the view shed. (The emphasis of this criterion is on views from public areas, not views from individual lots unless view easements are involved.)
- Changes at the site substantially conflict with and/or do not uphold the scenic and visual quality objectives for development, as articulated in the County’s General Plan goals, objectives

**Analysis:**

***a. Have a substantial adverse effect on a scenic vista?***

No Impact. There are no officially designated scenic vistas located within or in close proximity to the city limits, therefore none would be adversely impacted by a medical marijuana dispensary retail store opening in an existing retail business or industrial space. Similarly, if a building was constructed within the dense urban city environment to accommodate a medical marijuana

dispensary, it would not adversely impact any official scenic vista because none exist in the city or immediate vicinity.

***b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?***

No Impact. There are no officially designated scenic resources or state scenic highways within or in close proximity to the city limits, therefore none would be impacted by the establishment of a medical marijuana dispensary.

Even though the western hillside overlooking the City of Ukiah is not designated as an official scenic vista, an argument could be made that the views of these hills are important. The hillside area is zoned for rural residential development and therefore according to the proposed ordinance no medical marijuana dispensary could locate in this area of the community.

***c. Substantially degrade the existing visual character or quality of the site and its surroundings?***

No Impact. As noted above, it is expected that any proposed medical marijuana dispensary that establishes in the City pursuant to the provisions of the proposed ordinance would locate within the existing building in the densely urban environment of the city and therefore not create new impacts to the visual character or quality in the area. Also, as noted above, if a building was constructed within the dense urban city environment to accommodate a medical marijuana dispensary, it would be subject to design review board and planning commission review, as well as separate CEQA review, which would ensure that no new visual impacts would result from the project.

If a medical marijuana dispensary erects signs for its business, they would be required to comply with existing sign regulations designed to protect the visual quality of commercial areas and therefore would not degrade visual character and quality of its surroundings.

***d. Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?***

No Impact. As noted above, it is expected that any proposed medical marijuana dispensary that establishes in the City pursuant to the provisions of the proposed ordinance would locate within the existing building in the densely urban environment of the city and therefore not create light or glare impacts. Nighttime and daytime views of the densely urban environment where medical marijuana dispensary would locate are of buildings, signs, motor vehicles, trees, etc., and the Ukiah City Code prohibits substantial light and glare from businesses from shining into streets. If a building was constructed within the dense urban city environment to accommodate a medical marijuana dispensary, it would be subject to design review board and planning commission review, as well as separate CEQA review, which would ensure that no impacts to daytime and nighttime visual resources would result from the project.

**Cumulative Impacts**

Since no visual quality impacts would result from implementation of the ordinance, none would contribute cumulatively to the degradation of visual quality in the City of Ukiah.

**Mitigation Measures**

Project implementation will not result in any potentially significant visual impacts. Therefore, no mitigation measures are required.

#### 4.2 Utilities and Service Systems – Would the Project:

Would the Project:	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No Impact
a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				X
b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
c. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				X
e. Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing				X
f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				X
f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				X

g. Comply with federal, state, and local statutes and regulations related to solid waste?				X
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**Significance Criteria:**

The proposed project would result in significant adverse environmental impacts if any of the following occur:

- The project-related demand caused an increase in wastewater treatment that reached or exceeded the current capacity of existing or planned treatment facilities or caused a reduction in the level of service, thereby requiring substantial expansion of existing facilities or the construction of new facilities.
- The proposed project's use of water resources will substantially and adversely deplete existing sources of domestic water.
- The proposed project will require the construction of new water facilities beyond those already planned and the cost of which would not be borne by the applicant.
- The project will generate solid waste that exceeds the capacity of the landfill to accept and disposal of the waste.

**Analysis:**

***a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?***

No Impact. While the ordinance would permit some growing (and watering) of marijuana on-site at a dispensary location, it could not exceed 1,500 square feet of area and must be contained inside of the building. The ordinance also requires cultivation practices to utilize the most water efficient methods available, and the City has the right to require annual reports on cultivation facility practices including water conservation methods. Moreover, the ordinance requires the cultivation methods to fully comply with all applicable stormwater, wastewater and building code requirements.

***b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?***

No Impact. As noted above, dispensary cultivation operations are limited in size and water use and would be reviewed by water and wastewater officials. A proposed dispensary would not be allowed to be developed if water and wastewater facilities could not serve the proposal. Moreover, based on the experiences of other similar sized cities such as Arcata and Sebastopol, it is reasonable to assume that the small market area of Ukiah would not result in a proliferation of medical marijuana dispensaries. Accordingly, it is anticipated that water and wastewater services would be available to the few dispensaries that may be proposed in the City.

***c. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?***

No Impact. Similar to above, if the expected maximum amount of water to be used in the cultivation practices associated with a future dispensary was discharged from the sites into the storm drain system, it would be comparable to the runoff from a single family residences. Moreover, it is anticipated that new dispensaries would most likely be proposed in existing

buildings and therefore not increase urban stormwater runoff. In all likelihood, the water used, but not absorbed into the soil and plants would not be discharged into the storm drain system, but rather into the wastewater system or drained to landscaping on the site. No impact to the storm drain system is expected.

***d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?***

No Impact. Discussions with the City Public Works Department reveal that the City has the water supply to serve the minor demand that would be created by marijuana dispensary cultivation practices resulting from the proposed ordinance. This is based on the reasonable assumption that the small population and existing market area would not support more than a few dispensaries. However, even if more than a few dispensaries were proposed, the Public Works Department would determine if the City had the capacity to serve the proposed dispensary before granting approval just as it does with every proposed development project.

***e. Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?***

No Impact. Discussions with the City Public Works Department reveal that the City has the wastewater treatment capacity to serve the minor demand that would be created by marijuana dispensary cultivation practices resulting from the proposed ordinance. This is based on the reasonable assumption that the small population and existing market area would not support more than a few dispensaries. However, even if more than a few dispensaries were proposed, the Public Works Department would determine if the City had the capacity to serve the proposed dispensary before granting approval just as it does with every proposed development project.

***f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?***

No Impact. The solid waste generated from an assumed maximum of three (3) marijuana dispensary businesses is not expected to exceed what a typical retail business generates and therefore would not adversely impact solid waste pick-up and disposal operations. This was confirmed by the City Department of Public Works staff. This is based on the reasonable assumption that medical marijuana dispensaries would not generate an unusual amount of solid waste.

***g. Comply with federal, state, and local statutes and regulations related to solid waste?***

No Impact. The solid waste generated from future marijuana dispensary businesses is not expected to be significant and is required to comply with all federal, state and local laws related to solid waste.

## **Cumulative Impacts**

It has been concluded that the implementation of the proposed marijuana dispensary ordinance would result in minor water usage, little or no discharge of water into the stormdrain system, and little or no discharge into the wastewater systems, and therefore no impacts to the City's utility and services systems. These minor amounts of water use and discharge would be comparable to approximately a typical single family residences, which according to the Department of Public Works would not result in cumulative impacts, when combined with known or foreseeable future projects.

## Mitigation Measures

Project implementation will not result in any potentially significant impacts to utilities and service systems. Therefore, no mitigation measures are required.

### 4.3 Biological Resources - *Would the project:*

Would the Project:	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No Impact
a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				X
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				X
c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				X
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?				X
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				X
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation				X

Plan, or other approved local, regional, or state habitat conservation plan?				
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**Significance Criteria:**

The proposed project would result in significant adverse environmental impacts if one or more of the following conditions occur as a result of implementation of the proposed project:

- Direct or indirect loss of individuals of a state- or federal-listed threatened or endangered species.
- Substantial adverse effect on a rare plant or animal species.
- Substantial adverse effect on a species or native plant or animal community.
- Substantial adverse effect on a habitat of concern.
- Substantial adverse effect on a critical, yet limited, resource utilized by state or federal listed threatened or endangered species.
- Substantial adverse effect on the movement of any resident or migratory fish or wildlife species.

**Analysis:**

- a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?**

No Impact. It is expected that most, if not all future marijuana dispensary businesses would locate in existing retail commercial buildings in the dense urban environment and not involve new construction, and therefore would not adversely impact plant and animal habitats and special species. However, if a new building were proposed in the future, it would be subject to discretionary review and potential impacts to plants and animals and their habitats would be evaluated through separate CEQA review.

- b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?**

No Impact. It is expected that most, if not all future marijuana dispensary businesses would locate in existing retail commercial buildings in the dense urban environment and not involve new construction, and therefore would not adversely impact riparian habitats or other sensitive natural communities identified in planning policy documents. However, if a new building were proposed in the future, it would be subject to discretionary review and potential impacts to riparian areas. would be evaluated through separate CEQA review.

- c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?**

No Impact. It is expected that most, if not all future marijuana dispensary businesses would locate in existing retail commercial buildings in the dense urban environment and not involve new construction, and therefore would not adversely impact wetland areas. However, if a new building were proposed in the future, it would be subject to discretionary review and potential impacts to wetlands would be evaluated through separate CEQA review.

**d. *Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?***

No Impact. It is expected that most, if not all future marijuana dispensary businesses would locate in existing retail commercial buildings in the dense urban environment and not involve new construction, and therefore would not adversely impact movements of any native animals or fish species, wildlife corridors, or impede the use of native wildlife nursery sites. However, if a new building were proposed in the future, it would be subject to discretionary review and potential impacts to movements of any native animals or fish species, wildlife corridors, or impede the use of native wildlife nursery sites would be evaluated through separate CEQA review.

**e. *Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?***

No Impact. The City does not have any ordinances protecting biological resources, but does have tree protection policies. It is expected that most, if not all future marijuana dispensary businesses would locate in existing retail commercial buildings in the dense urban environment and not involve new construction, and therefore would not violate the City's tree protection policies. However, if a new building were proposed in the future, it would be subject to discretionary review and consistency with the City's tree protection policies would be required.

**f. *Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?***

No Impact. Any future marijuana dispensary permitted under the proposed ordinance would be located within the city limits. There is no adopted Habitat Conservation Plan applicable to the City of Ukiah and therefore none would be violated by the establishment of a marijuana dispensary locating within an existing retail commercial building or if it involved new construction.

**Cumulative Impacts**

Since no potential biological impacts were identified, none would contribute to possible cumulative impacts to biological resources.

**Mitigation Measures**

Project implementation will not result in any potentially significant biological resource impacts. Therefore, no mitigation measures are required.

**4.4 Public Services – Would the Project:**

<b>Would the Project:</b>	<b>Potentially Significant</b>	<b>Less Than Significant</b>	<b>Less Than Significant</b>	<b>No Impact</b>
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	Impact	Impact with Mitigation	Impact	
a. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				X
1. Fire protection?				X
2. Police protection				X
3. Schools?				X
4. Parks?				X
5. Other Facilities?				X

**Significance Criteria:**

The proposed project would result in significant adverse environmental impacts if any of the following occur:

- An increase in the demand for fire protection services to such a degree that accepted service standards (e.g., manpower, equipment, response times, etc.) are not maintained.
- The interference with emergency response or evacuation plan(s) in the community or not provide internally consistent analysis or policies to guide future development.
- Expose people or structures to significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands.
- Result in response times that exceed the County's adopted maximum emergency response criteria.
- An increase in the demand for law enforcement services to such a degree that accepted service standards are not maintained without an increase in manpower and/or equipment.

**Analysis:**

- a. ***1 and 2. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios,***

**response times or other performance objectives for fire protection or police protection?**

No Impact. Any future marijuana dispensary that includes indoor growing would require an electrical building permit for grow lighting and would be reviewed by the City Building Official and Fire Marshal for compliance with the State Electrical and Fire Codes. No construction would be permitted that did not comply with the State Electrical and Fire Codes.

The City Police Department has assisted in the preparation of the proposed ordinance and as a result, police protection concerns related to the location, intensity, operations, land use compatibility, etc. have been fully addressed by the standards and requirements contained in the ordinance.

**b. 3 and 4. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for schools and parks?**

No Impact. The ordinance specifically mandates that future marijuana dispensary facilities be located a minimum of 250 feet from any school or park to eliminate any potential impacts to these facilities.

**c. 5. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for other public facilities?**

No Impact. The City Police and Fire Departments have reviewed the proposed ordinance and have concluded that permitting marijuana dispensaries in commercial and industrial zones within the city, would not adversely impact their abilities to provide adequate service or require new or altered police or fire facilities to maintain acceptable response times or other performance objectives.

**Cumulative Impacts**

Since no impacts to public services were identified, none would contribute to possible cumulative impacts.

**Mitigation Measures**

Project implementation will not result in any potentially significant public service impacts. Therefore, no mitigation measures are required.

**4.5 Land Use and Planning – Would the Project:**

Would the Project:	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No Impact
a. Physically divide an established community?				X
b. Conflict with any applicable land use plan, policy,				

or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				X
c. Conflict with any applicable habitat conservation plan or natural community conservation plan?				X

**Significance Criteria:**

The proposed project would result in significant adverse environmental impacts if any of the following occur:

- Physically divide an established community.
- Conflict with the County of Mendocino County General Plan or zoning ordinance.
- Conflict with the Habitat Conservation Plan for Mendocino County.
- Be incompatible with adjacent land uses.

**Analysis:**

**a. Physically divide an established community?**

No Impact. It can be seen with certainty that if marijuana dispensary business establish within an existing retail commercial building or if a new building is constructed to accommodate such businesses, the established community would not become divided.

**b. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?**

No Impact. The project would result in permitting a new type of retail business in the City where it is currently not listed as a permitted business in the city code. Review of the general plan and other applicable planning documents reveals no conflict or inconsistency with adopted goals and polices, or with other land use regulations.

**c. Conflict with any applicable habitat conservation plan or natural community conservation plan?**

No Impact. As noted in the Biological resources section above, the City of Ukiah does not have a Habitat Conservation Plan or natural Communities Conservation Plan, so that none would be adversely impacted by the proposed marijuana dispensary ordinance.

**Cumulative Impacts**

Since no impacts to land use planning were identified, none would contribute to possible cumulative impacts.

## Mitigation Measures

Project implementation will not result in any potentially significant land use planning impacts. Therefore, no mitigation measures are required.

### 4.6 Hydrology and Water Quality – Would the Project:

Would the Project:	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No Impact
a. Violate any water quality standards or waste discharge requirements?				X
b. Violate any water quality standards or waste discharge requirements?				X
c. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre - existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				X
d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of stream or river, in a manner, which would result in substantial erosion or siltation on - or off - site?				X
e. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner, which would result in flooding on - or off - site?				X
f. Create or contribute runoff which would exceed the capacity of existing or planned storm				X
g. water drainage systems or provide substantial additional sources of polluted runoff?				X
h. Otherwise substantially degrade water quality?				X

i.Place housing within a 100 - year flood hazard as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				X
j.Place structures within a 100 - year flood hazard area which would impede or redirect flood flows?				X
k.Inundation by seiche, tsunami, or mudflow?				X
l.Result in a potential for discharge of stormwater pollutants from areas of material storage, vehicle or equipment fueling, vehicle or equipment maintenance (including washing), waste handling, hazardous materials handling or storage, delivery areas, loading docks or other outdoor work areas?				X
m.Result in the potential for discharge or stormwater to affect the beneficial uses of the receiving waters?				X
n.Create the potential for significant change in the flow velocity or volume of stormwater runoff to cause environmental harm?				X
o.Creates insignificant increases in erosion of the project site or surrounding areas?				X

**Significance Criteria:**

- The proposed project would result in significant adverse environmental impacts if one or more of the following conditions occur as a result of implementation of the proposed project:
- Substantial and adverse increased inundation, sedimentation and/or damage from water forces to the subject project and/or other properties are caused by improvements such as grading, construction of barriers or structures.
- Development within the 100-year flood plain as delineated by FEMA that would expose people and/or property to potential serious injury and/or damage.
- Impervious surfaces increase and/or divert storm water runoff that results in the inability of the existing collection and conveyance facilities to accommodate the increased flows.
- Project implementation will cause a violation of water quality objectives for surface and groundwater as established by the Water Quality Control Plan and impede the existing beneficial uses of on-site surface waters or off-site coastal waters as defined in the Water Quality Control Plan.

- A usable groundwater aquifer for municipal, private, or agricultural purposes is substantially and adversely affected by depletion or recharge.
- Storm water and/or induced runoff mixes with a tidal habitat or pond causing instability to the existing water quality (e.g., reduction of salinity below 16 ppm) which, in turn, substantially and adversely affects the sensitive brackish/saltwater marsh habitat by allowing for the introduction and establishment of invasive fresh water species.
- Sediments are increased and/or diverted by proposed improvements and cause sediment deposition in defined sensitive habitat areas (e.g., wetlands, jurisdictional waters) that adversely affect or significantly affect significant habitat and/or sensitive species as recognized by the applicable resource agencies.

#### **Analysis:**

##### ***A through o. Impacts to local hydrology and water quality***

No Impact. The proposed marijuana dispensary ordinance would allow dispensaries to locate within existing buildings and/or construct new buildings with the securing of a use permit. Given the small market area, it is expected that only a few dispensaries would choose to locate within the city limits. Dispensaries that located within existing buildings would not impact factors a through o listed in the Table above because they would not involve site grading or construction, or alterations to drainage patterns, wetlands, or floodplains.

Construction of new buildings to house marijuana dispensaries would require discretionary review and would be required to comply with all city code requirements related to hydrology and stormwater management, locating outside floodplains, environmental quality, as well as the state building code.

##### **Cumulative Impacts**

Since no impacts to hydrology and water quality were identified, none would contribute to possible cumulative impacts.

##### **Mitigation Measures**

Project implementation will not result in any potentially significant hydrology or water quality impacts. Therefore, no mitigation measures are required.

#### 4.7 Hazards and Hazardous Materials – Would the Project:

Would the Project:	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No Impact
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				X
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				X
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X
d. Be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5, and, as a result, would it create a significant hazard to the public or the environment?				X
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				X
f. For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X
h. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				X

### **Significance Criteria:**

The proposed project would result in significant adverse environmental impacts if one or more of the following conditions occur as a result of implementation of the proposed project:

- Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.
- Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.
- Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.
- Be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would create a significant hazard to the public or the environment.
- Result in a safety hazard for people residing or working in the project area if located within two miles of a public airport or public use airport.

### **Analysis:**

- a. *Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?***

No Impact. Small indoor marijuana cultivation areas associated with dispensaries could involve the use of fertilizers and insecticides. However, the amount and schedule of use would be comparable to a typical outdoor garden on a single family residential property and therefore not significant.

- b. *Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?***

No Impact. As indicated above, the minor use of fertilizers and insecticides may occur in the future dispensaries, but because of limitations on the size of growing areas and the number of dispensaries would not result in significant hazardous conditions.

- c. *Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?***

No Impact. As indicated above, the minor use of fertilizers and insecticides may occur in the cultivation areas of future dispensaries, but because of limitations on the size of growing areas and the number of dispensaries would not result in hazardous emissions. These materials are not considered acutely hazardous.

- d. *Be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5, and, as a result, would it create a significant hazard to the public or the environment?***

No Impact. It is expected that future marijuana dispensaries would be located in existing retail commercial buildings and therefore not on any hazardous material site. Any newly proposed building intended to house a dispensary would be subject to discretionary review and CEQA compliance and would be evaluated at that time. Moreover, no hazardous sites included on a list pursuant to Government Code Section 65962.5 exist within the city limits.

***e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?***

No Impact. The city has an Airport Master Plan with density, height and open space requirements intended to protect people, as well as the airport. It is expected that future marijuana dispensaries would typically locate in existing buildings or construct small buildings and would not involve large concentrations of people. They would function similar to pharmacies and small retail stores and therefore would not violate the land use compatibility standards contain in the Airport Master Plan.

***f. For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?***

No Impact. (See Item e above)

***g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?***

No Impact. New marijuana dispensaries would operate similar to pharmacies and small retail stores and therefore would not conflict or interfere with any adopted emergency response plan.

***h. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?***

No Impact. Pursuant to the locations requirements contained in the proposed ordinance, no marijuana dispensary could be located in the western hillside area of the city, which is the only Wildland Fire hazard designated area in the City.

### **Cumulative Impacts**

Since no impacts to hazards and hazardous materials were identified, none would contribute to possible cumulative impacts.

### **Mitigation Measures**

Project implementation will not result in any potentially significant hazards and hazardous material impacts. Therefore, no mitigation measures are required.

**CHAPTER 5.0 – CONCLUSIONS**

**5.0 CONCLUSIONS**

The analysis contained in this Initial Environmental Study reveals that the proposed medical marijuana dispensary ordinance would not result in potentially significant adverse impacts on the physical environment.

**5.1 Mandatory Findings of Significance**

Would the Project:	Potentially Significant Impact	Less Than Significant Impact with Mitigation	Less Than Significant Impact	No Impact
<p>a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?</p>				X
<p>b. Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?</p>				X
<p>c. Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?</p>				X

## Impact Analysis

- a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?**

No. Based on the findings and conclusions contained in the Initial Environmental Study, the proposed medical marijuana dispensary ordinance would not have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

- b. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?**

No. Based on the findings and conclusions contained in the Initial Environmental Study, the proposed medical marijuana dispensary ordinance would not have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

- c. Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?**

No. Based on the findings and conclusions contained in the Initial Environmental Study, the proposed medical marijuana dispensary ordinance would not have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?

## 5.2 Mitigation Monitoring and Reporting Program

In accordance with the California Environmental Quality Act (CEQA), the City of Ukiah Department of Planning and Community Development prepared a Negative Declaration (ND) and Initial Study for the proposed project located citywide. The Initial Environmental Study and ND indicated that no potential adverse environmental impacts would result from the implementation of the proposed medical marijuana dispensary ordinance. Therefore no mitigation measures were required or identified and a Mitigation Monitoring and Reporting program is not required.

## CHAPTER 6.0 – REFERENCES

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### 7.0 REFERENCES

1. California Department of Conservation, Division of Land Resource Protection Farmland Mapping and Monitoring Program – *Mendocino County – Important Farmland 2012, Sheet 2 of 2.*- [ftp://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2012/men12\\_so.pdf](ftp://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2012/men12_so.pdf)
2. California Department of Conservation, Division of Mines and Geology – *Special Studies Zone, Ukiah Quadrangle*. Dated January 1, 1982.
3. California Department of Forestry and Fire Protection – *Fire Hazard Severity Zones, Mendocino County*. November 2007.  
[http://frap.fire.ca.gov/webdata/maps/mendocino/fhszs\\_map.23.pdf](http://frap.fire.ca.gov/webdata/maps/mendocino/fhszs_map.23.pdf)
4. Department of Transportation - California Scenic Highway Mapping System.  
[http://www.dot.ca.gov/hq/LandArch/scenic\\_highways/index.htm](http://www.dot.ca.gov/hq/LandArch/scenic_highways/index.htm)
5. County of Mendocino – *The County of Mendocino General Plan*. Adopted August 2009.
6. County of Mendocino – Ukiah Valley Area Plan (UVAP). Adopted 2012
7. Federal Highway Administration – *Construction Noise Handbook*.  
[https://www.fhwa.dot.gov/environment/noise/construction\\_noise/handbook/handbook00.cfm](https://www.fhwa.dot.gov/environment/noise/construction_noise/handbook/handbook00.cfm)
8. Ukiah General Plan and Growth Management Plan, 1995 (2004/2009 – Housing Element)  
[www.cityofukiah.com](http://www.cityofukiah.com)
9. Ukiah Municipal Airport Master Plan. Adopted 1996.
10. Ukiah WalMart Expansion EIR. Certified 2010
11. Ukiah Costco EIR. Certified 2012
12. Ukiah City Code – Medical Marijuana Dispensaries 5700-5703. Ordinance 1095 adopted 2007.
13. Ukiah Municipal Service Review, LAFCo, 2012
14. Ukiah Urban Water Management Plan, 2010
15. Ukiah City Code Zoning Regulations, Division 9, Chapter 2.



**ORDINANCE NO.**

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UKIAH  
AMENDING CHAPTER 8 IN DIVISION 6 OF THE UKIAH CITY CODE,  
ENTITLED “MEDICAL MARIJUANA DISPENSARIES”**

The City Council of the City of Ukiah hereby ordains as follows.

**SECTION 1**

**Chapter 8 in Division 6 of the Ukiah City Code is hereby amended to read as follows:**

**§ 5700 FINDINGS AND PURPOSE**

The City Council adopts the ordinance codified in this Chapter based upon the following findings:

(A) In 1970, congress enacted the Controlled Substances Act (“CSA”) which, among other things, makes it illegal to import, manufacture, distribute, possess or use marijuana in the United States.

(B) In 1996, the voters of the state of California approved Proposition 215, codified at Health and Safety Code §11362.5 *et seq.* (the “Act”).

(C) The Act creates a limited exception from criminal liability for seriously ill persons who are in need of medical marijuana for specified medical purposes and who obtain and use medical marijuana under limited, specified circumstances.

(D) On January 1, 2004, SB 420 went into effect. SB 420, codified as Health and Safety Code §§ 11362.7 – 11362.83 and known as the “Medical Marijuana Program” (“MMP”) was enacted by the state legislature to clarify the scope of the act and to allow cities and other governing bodies to adopt and enforce rules and regulations consistent with SB 420.

(E) After the enactment of the MMP and in response to the MMP’s explicit reservation of local authority to regulate medical marijuana cultivation and distribution, the City Council took legislative notice of the fact that California cities and counties that had permitted the establishment of medical marijuana dispensaries had experienced serious adverse impacts associated with and resulting from such dispensaries, including an increase in crime, including burglaries, robberies, violence, illegal sales of marijuana use of marijuana by minors and other persons without medical need in the areas immediately surrounding such medical marijuana dispensaries; and malodorous smells, indoor fire hazards, mold, fungus, and pests caused by indoor cultivation at dispensaries.

(F) To address these potential adverse impacts, in 2007, the City Council enacted Ordinance 1095, §1 (“Medical Marijuana Dispensaries Ordinance”), which prohibited and declared a public nuisance medical marijuana dispensaries in the City of Ukiah.

(G) The 2007 Medical Marijuana Dispensaries Ordinance also states that the City Council’s intention is to prohibit the operation and location of dispensaries in the City “until such time as their legality is clearly established and a proposal can be developed that would satisfy the city council that the facility could operate without causing [serious adverse impacts]”.

(H) On October 9, 2015, the Governor signed into law AB 266, AB 243, and SB 643, which together comprise the Medical Marijuana Regulation & Safety Act (“MMRSA”). The MMRSA, which went into effect on January 1, 2016, created a statewide regulatory structure for the medical marijuana industry that also allows local governments to regulate the operation of marijuana businesses within their jurisdiction, pursuant to local ordinances. Specifically, the MMRSA allows the City of Ukiah to issue permits or licenses to operate marijuana businesses or prohibit their operation, to regulate or expressly prohibit the delivery of medical marijuana within its boundaries, and to regulate or expressly prohibit the cultivation of marijuana within its boundaries. Pursuant to the MMRSA, if the City opts not to expressly prohibit or regulate the cultivation, processing, delivery, and/or dispensing of medical marijuana, the State will be the sole licensing authority for these activities in the City.

(I) To protect the public health, safety, and welfare, it is the desire of the City Council to modify the City Code consistent with the MMP and the MMRSA, regarding the location and operation of medical marijuana dispensaries, delivery of medical marijuana within the boundaries of the City, and cultivation of medical marijuana within the boundaries of the City.

(J) There have been a number of marijuana dispensing-related incidents in California, some including acts of violence committed by persons without a legitimate medical need to use marijuana.

(K) The City Council finds that medical marijuana dispensing which exceeds the limitations set forth in these regulations will likely result in an unreasonable risk of crime and other adverse impacts and will likely create offensive odors to persons living nearby.

(L) It is the City Council’s intention that nothing in this Chapter shall be construed to (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) allow the use of marijuana for non-medical purposes; or (3) allow any activity relating to the distribution or consumption of marijuana that is otherwise illegal.

(M) Pursuant to California Health and Safety Code § 11362.71 *et seq.*, the State Department of Health through the state’s counties, is to be responsible for establishing and maintaining a voluntary medical marijuana identification card program for qualified patients and primary caregivers.

(N) Health and Safety Code § 11362.71(b) requires every county health department, or its designee, to implement a procedure to accept and process applications from those seeking to join the identification program in the manner set forth in § 11362.71 *et seq.*

(O) This Chapter is compatible with the general objectives of the general plan, in that a Medical Marijuana Dispensary use will be conditionally permitted in commercial and industrial

districts, being similar to other permitted and conditionally permitted uses, such as pharmacies and medical clinics, and in that the use will be subject to strict review and conditions.

(P) This Chapter will not be detrimental to the public health, safety and general welfare or adversely affect the orderly development of property, because the uses permitted under this Chapter will be subject to careful review, limited in scope and location, and subject to strict operating requirements, avoiding or limiting potential negative effects.

(Q) It is the purpose and intent of this Chapter to regulate medical marijuana dispensaries in order to promote the health, safety, morals, and general welfare of residents and businesses within the City.

### **§ 5701 INTERPRETATION AND APPLICABILITY.**

(A) This ordinance is not intended to create a positive conflict with the CSA, but rather to implement the MMRSA and related state laws.

(B) Nothing in this ordinance is intended, nor shall it be construed, to exempt any marijuana related activity from any and all applicable local and state construction, electrical, plumbing, land use, or any other building or land use standards or permitting requirements.

(C) Nothing in this ordinance is intended, nor shall it be construed, to make legal any cultivation, transportation, sale, or other use of marijuana that is otherwise prohibited under California law.

(D) All processing and distribution of medical marijuana within city limits shall be subject to the provisions of this Chapter, even if the processing, distribution, or cultivation existed or occurred prior to adoption of this Chapter.

### **§ 5702 DEFINITIONS.**

For the purpose of this Chapter, the following words and phrases shall have the following meaning:

(A) “Accessory building” shall have the same meaning as set forth in City Code § 9278.

(B) “Applicant” means 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 Dispensary.

(C) “City” means the City of Ukiah.

(D) “Delivery” shall have the same definition as set forth in California Business and Professions Code § 19300.5 and as it may be amended.

(E) “Dispensary Use Permit” means a permit required to operate a Medical Marijuana Dispensary within the City and that is issued pursuant to this Chapter.

(F) “Drug paraphernalia” or “paraphernalia” shall have the same definition as set forth in City Code § 6071.

(G) “Identification card” shall have the same definition as in California Health and Safety Code § 11362.7, and as it may be amended.

(H) “Medical Marijuana Dispensary” or “Dispensary” means a “Dispensary” as defined in California Business and Professions Code § 19300.5, as it now reads or may be amended in the future and includes any association, cooperative, affiliation, or collective of persons where multiple qualified patients and/or primary care givers, are organized to provide education, referral, or network services, and facilitation or assistance in the lawful, retail distribution of medical marijuana. A Medical Marijuana Dispensary shall not include the dispensing of marijuana by primary caregivers to qualified patients in the following locations and uses, as long as the location of such uses are otherwise regulated by this Code or applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code, residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code, a residential hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as any such use complies strictly with applicable law including, but not limited to, Health and Safety Code § 11362.5 *et seq.*, or a qualified patient’s or caregiver’s place of residence.

(I) “Off-Site” means an activity or accessory use that is related to the primary use – i.e. lawful, retail distribution of medical marijuana – but is not located on the same legal parcel as the primary use.

(J) “On-Site” means an activity or accessory use that is related to the primary use – i.e. lawful, retail distribution of medical marijuana – but is located on the same legal parcel as the primary use.

(K) “Permittee” means the person (1) to whom a Dispensary Use Permit is issued and (2) who is identified in California Health and Safety Code § 11362.7, subdivision (c) or (d), or (e) or (f).

(L) “Person” means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability company or combination of the above in whatever form or character.

(M) “Person with an identification card” shall have the same definition as set forth in California Health and Safety Code § 11362.7 , and as it may be amended.

(N) “Physician” means a licensed medical doctors (M.D.) and doctors of osteopathic medicine (D.O.) as defined in the California Business and Professions Code.

(O) “Planning Director” means the Planning Director of the City of Ukiah or the authorized representative thereof.

(P) “Primary caregiver” shall have the same definition as set forth in California Health and Safety Code § 11362.7, and as it may be amended.

(Q) “Qualified patient” shall have the same definition as set forth California Health and Safety Code § 11362.7, and as it may be amended.

(R) “School” means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code. This definition includes an elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including any other college or university.

(S) “Use Permit” shall have the same definition as set forth in City Code § 9261 and as it may be amended.

(T) “Youth-oriented facility” means a school, public park, church, and licensed daycare facility.

(U) “Zoning Administrator” means the Zoning Administrator of the City of Ukiah or the authorized representative thereof.

### **§ 5703 DISPENSARY USE PERMIT REQUIRED TO OPERATE.**

(A) It is 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 operation of a Medical Marijuana Dispensary unless the person first obtains and continues to maintain in full force and effect a Dispensary Use Permit from the City as required in this Chapter.

(B) After January 1, 2018, or such time when State implementing regulations are in effect for the MMRSA, whichever is earlier, it shall be unlawful to operate any business or conduct any activity in the City for which a State license is required under the MMRSA without also having a valid State license pursuant to the MMRSA. Prior to implementation of the State license program pursuant to MMRSA, any operation of a Dispensary, cultivation of medical marijuana, or delivery of medical marijuana permitted by the City shall be conducted in accordance with this Chapter, the City’s Zoning and Land Use Ordinances, and all laws pertaining to the equivalent license classification under the MMRSA.

**§ 5704 TERM OF PERMITS AND RENEWALS REQUIRED.**

(A) Use Permits issued under this Chapter shall expire one year following the date of their issuance which date shall appear on the face of the permit.

(B) Use Permits may be renewed by the Planning Director for additional one-year periods upon application by the permittee, unless the permit is suspended or revoked in accordance with the provisions of this Chapter.

(C) Applications for renewal shall be made at least 45 days before the expiration date of the permit and shall be accompanied by the nonrefundable application fee referenced in Section 5706 and all information necessary for the Planning Director to evaluate the renewal request in light of the criteria listed in (E) below. In acting on an application for renewal the Planning Director shall follow the procedures set forth in Section 5711(B), except that all references therein to the Zoning Administrator shall be deemed to refer to the Planning Director. Upon timely application to renew a permit, the permit being renewed shall remain in effect until final action is taken to grant or deny the renewal application.

(D) Applications for renewal made less than 45 days before the expiration date shall be processed in the same manner as a timely renewal application but shall not stay the expiration date of the permit.

(E) In determining whether to renew a Use Permit, the Planning Director will consider the following non-exclusive criteria, in addition to those criteria set forth in this Chapter at §§ 5709(G) and 5710:

1. Whether the Dispensary operated by the permittee has generated an excessive number of calls for police service compared to similarly situated businesses of the same size as the Dispensary.
2. Whether there have been excessive secondary criminal or public nuisance impacts in the surrounding area or neighborhood, including, but not limited to, disturbances of the peace, illegal drug activity, marijuana use in public, harassment of passersby, littering, loitering, illegal parking, loud noises, or lewd conduct.
3. Whether the Dispensary operated by the permittee has a history of inadequate safeguards or procedures that show it is likely that it will not comply with the operating requirements and standards in this Chapter.
4. Whether the Dispensary has failed to pay fees, penalties, or taxes required by this Code or has failed to comply with the production of records or other reporting requirements of this Chapter.
5. Whether it appears that the permittee has, in its renewal application, provided a false statement of material fact or has knowingly omitted a material fact.
6. Whether the renewal applicant or one or more of its officers, employees, partners, managers or members with management responsibilities (“Managers”) has been convicted of a felony, or has engaged in misconduct that is substantially related to the qualifications, functions or duties of a Dispensary operator. A conviction

within the meaning of this section means a plea or verdict of guilty, or a conviction following a plea of nolo contendere. 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.

7. Whether the renewal applicant or Dispensary has previously or is currently engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.

(F) The Planning Director shall make findings of fact and either grant or deny the application for renewal of a Dispensary Use Permit. An applicant aggrieved by the Planning Director's decision to issue or to deny a Dispensary Use Permit renewal may appeal such decision to the Planning Commission by filing an appeal. All determinations of the Planning Director regarding Dispensary Use Permit renewals shall be final unless a written appeal, stating the reasons for the appeal, and the appeal fee, if any, as established by resolution of the City Council from time to time, are filed with the Planning Department within ten (10) days of the date the decision was made. The appeal fee will be in addition to the nonrefundable renewal application fee. Appeals may be filed by an applicant or any interested party. An interested party may appeal only if he or she appeared and stated his or her position during the hearing on the decision from which the appeal is taken.

The Planning Commission shall conduct a duly noticed public hearing on the appeal in accordance to the applicable procedures as set forth in Division 9, Chapter 2, Article 20 of the City Code. At the close of the public hearing, the Planning Commission may affirm, reverse, or modify the appealed decision of the Planning Director. All Planning Commission decisions on appeals of the Planning Director's decision with regard to an application for a Dispensary Use Permit renewal are final for the City.

#### **§ 5705 GENERAL TAX LIABILITY.**

As a prerequisite to obtaining a permit pursuant to the terms hereof, an operator of a Dispensary shall also be required to apply for and obtain a Business License or exemption from the City of Ukiah and obtain a seller's permit or exemption from the State Board of Equalization pursuant to Division 2, Part 2, Chapter 2, Article 2 of the Cal. Revenue and Taxation Code, commencing with Section 6066e. Dispensary sales shall be subject to sales tax consistent with State law.

#### **§ 5706 IMPOSITION OF FEES.**

Every application for a Dispensary Use Permit or renewal shall be accompanied by an application fee, as established by resolution of the City Council from time to time. This application or renewal fee shall not include fingerprinting, photographing, and background check costs and shall be in addition to any other business license fee or 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.

**§ 5707 LIMITATION ON LOCATION OF DISPENSARY.**

(A) A Dispensary may only be located within the C1, C2, CN, M, and PD (Commercial) zoning districts and in the GU, UC, and DC downtown zoning districts as designated in the General Plan, Zoning Map, and Downtown Zoning Code Zoning Map.

(B) A Dispensary shall be in a visible location that provides good views of the Dispensary entrance, windows and premises from a public street.

(C) A Dispensary shall not be allowed in the following areas at the time of its permitted establishment:

(1) Within 250 feet, measured by street frontage and not radial distance, of a youth-oriented facility, a school, a park, or another Dispensary; or

(2) Abutting, on any side of the parcel upon which the Dispensary is located, a parcel occupied by a youth-oriented facility, a school, a park, or another Dispensary; or

(3) Within any residential zoned parcel or primary land use, or any property with an underlying residential or mobile homes general plan land use designation.

(4) On a parcel having a residential unit, or on a parcel directly abutting a residentially-zoned property, unless there are intervening non-residential uses between the Dispensary and the residential unit or the residentially-zoned property that the Zoning Administrator or, on appeal, the Planning Commission determines sufficient to provide an appropriate separation.

(D) The distance between a Dispensary and above listed uses shall be made in a straight line, along street frontage, from the boundary line of the property on which the Dispensary is located to the boundary of the property on which the facility, building or structure, or portion of the building or structure, in which the above listed use occurs or is located.

(E) A waiver of the provisions in subsection (C) of this Section may be granted if the applicant demonstrates on plans and materials presented for review and the Zoning Administrator or, on appeal, the Planning Commission determines that a physical barrier or similar condition exists which achieves the same purpose and intent as the distance separation requirements established herein.

**§ 5708 OPERATING REQUIREMENTS.**

Dispensary operations shall be established and managed only in compliance with the following standards:

(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 Health and Safety Code §

19323(b)(5), 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. A conviction within the meaning of this Section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

(B) Minors.

(1) It is unlawful for any permittee, operator, or other person in charge of any Dispensary to employ any person who is not at least 18 years of age.

(2) Persons under the age of 18 shall not be allowed on the premises of a Dispensary unless they are a qualified patient or a primary caregiver, and they are in the presence of their parent or guardian for the first visit. (3) The entrance to a Dispensary shall be clearly and legibly posted with a notice indicating that persons under the age of 18 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 guardian for the first visit.

(4) The burden of proof is on the Dispensary personnel to establish compliance with this subsection (B) by clear and convincing evidence.

(D) Dispensary Size and Access.

(1) Dispensary size shall be limited, as deemed appropriate and necessary, to best serve patient needs within the intent of this Chapter and reduce potential adverse impacts that might otherwise occur on surrounding neighborhoods, businesses and demands on City services.

(2) A Dispensary shall not be increased in size (i.e., floor area or number of patients) without a prior approval amending the existing Dispensary Use Permit.

(3) The entrance into the Dispensary building shall be locked at all times with entry strictly controlled; e.g., a buzz-in electronic/mechanical entry system with a vestibule is highly encouraged. A viewer shall be installed in the door that allows maximum angle of view of the exterior entrance.

(4) Dispensary personnel shall monitor site activity, control loitering and site access.

(5) Only Dispensary staff, primary caregivers, qualified patients and persons with bona fide purposes for visiting the site shall be permitted at a Dispensary.

(6) Potential patients or caregivers shall not visit a Dispensary without first having obtained a valid written recommendation from their physician recommending use of medical marijuana.

(7) Only a primary caregiver and qualified patient shall be permitted in the designated dispensing area with Dispensary personnel. All other authorized visitors shall remain in the designated waiting area in the front entrance/lobby.

(8) Restrooms shall remain locked and under the control of management.

(E) Dispensing Operations.

(1) A Dispensary shall dispense medical marijuana to meet monthly medication needs of qualified patients, similar to typical pharmacy operations. The Dispensary shall strongly discourage and avoid daily or weekly visits by patients as a routine practice. The Dispensary may possess no more dried marijuana or plants per qualified patient or

caregiver than permitted in strict accordance with California Health and Safety Code § 11362.77 and any other applicable State law, and as amended.

(2) A Dispensary shall only dispense to qualified patients or caregivers with:

(a) a currently valid physician's approval or recommendation in compliance with the criteria in California Health and Safety Code § 11362.5 *et seq.* and valid official identification, such as a Department of Motor Vehicles driver's license or State Identification Card, or

(b) a currently valid California Medical Marijuana Identification Card or a Patient ID Center Identification Card.

(3) For qualified patients or caregivers without a California Medical Marijuana Identification Card or a Patient ID Center Identification Card, prior to dispensing medical marijuana, the Dispensary shall obtain verbal, online, or signed verification from the recommending physician's office personnel that the individual requesting medical marijuana is a qualified patient.

(4) A Dispensary shall not have a physician on-site to evaluate patients and provide a recommendation for medical marijuana.

(5) Patient records shall be maintained and verified as needed, and at least annually verified with the qualifying patient's medical doctor or doctor of osteopathy unless the patient has provided a California Medical Marijuana Identification Card or a Patient ID Center Identification Card.

(6) Information on prior year's operations shall be provided annually, as required in this Chapter. The operator shall adjust the operations as necessary to address issues.

(F) Consumption Restrictions.

(1) Marijuana shall not be consumed by patients on the premises of the Dispensary. The term "premises" includes the actual building, as well as any accessory structures, parking areas, or other surroundings within 200 feet of the Dispensary's entrance. Dispensary employees and registered volunteers who are qualified patients may consume marijuana within the enclosed building area of the premises, provided such consumption occurs via oral consumption or vaporization, not smoking.

(2) Dispensary operations shall not result in illegal redistribution of medical marijuana obtained from the Dispensary, or use in any manner that violates local, State or City Codes.

(3) No person may consume marijuana, by smoking or vaporization, in any public places. Public places shall include, but are not limited to, city owned parks and/or city sponsored events where designated as nonsmoking areas by resolution of the city council, streets, sidewalks, alleys, highways, public parking lots as defined in City Code § 6000 and as amended, enclosed places and places of employment as defined in City Code §§ 4503 and 4505 and as amended, and any other property owned or leased by the City, or in which the City holds a right-of-way easement, and which is open to members of the general public, except while actively passing through on the way to another destination. Nothing in this Section is intended, nor shall it be construed to be inconsistent with the California Indoor Clean Air Act of 1976, Health and Safety Code § 118875 *et seq* and as amended.

(G) Retail Sales and Cultivation.

(1) No cannabis shall be cultivated on the premises of the Dispensary, except in compliance with this Chapter and with City Code §§ 6093 and 9254 and Health and Safety Code § 11362.5 *et seq.* The space devoted to on-site cultivation at a permitted Dispensary shall not exceed twenty-five percent of the total floor area, but in no case more than one thousand five hundred square feet. Each permitted Dispensary may operate no more than one off-site cultivation facility. Cultivation shall be limited to interior areas of buildings. Any off-site facility shall comply with all provisions of this Chapter, except that retail dispensing shall not be permitted at off-site Dispensary cultivation facilities, and any off-site cultivation facilities may only be located in the (M) Industrial District.

(a) Except for immature nursery stock marijuana plants, marijuana plants grown by the Dispensary shall only be utilized for production of processed marijuana to dispense to patients.

(b) If marijuana plants other than immature nursery stock plants are to be grown at the Dispensary, a security plan for the growing area shall be submitted to the Ukiah Police Chief for review and approval. Such plan shall include: security alarms and surveillance systems; physical measures to prevent access to the area by anyone other than Dispensary staff; and physical measures to prevent vehicle penetration of the growing area.

(c) If required by the Building Official, the cultivation area shall include a one-hour firewall assembly and shall not create excessive humidity or mold conditions. The cultivation area shall have an air treatment system that prevents odors generated from the cultivation of marijuana on the Dispensary property from being detected by any reasonable person of normal sensitivity outside the Dispensary property, as set forth in City Code § 5708(H)(4). The medical marijuana cultivation area shall be in compliance with the current, adopted edition of the California Building Code as regards Natural Ventilation or Mechanical Ventilation.

(d) Cultivation facilities are strongly encouraged to utilize the most water-efficient and environmentally-responsible cultivation practices available. The City reserves the right to require annual reports on cultivation facility practices, including but not limited to cultivation mediums and water use methods.

(e) The cultivation use shall comply with applicable stormwater, wastewater, and Building Code requirements and any applicable State or Federal law, including the Clean Water Act, 33 U.S.C. § 1251 *et seq.*

(2) With the approval of the Planning Commission, a Dispensary may conduct or engage in the commercial sale of specific products, goods or services in addition to the provision of medical marijuana and other items permitted by these regulations on terms and conditions consistent with this Chapter and applicable law.

(3) Up to 150 square feet may be utilized for display and sales of devices necessary for administering medical marijuana, including but not limited to rolling papers and related materials and devices, pipes, water pipes, and vaporizers. Such devices may only be provided to qualified patients or primary caregivers and only in accordance with Health and Safety Code § 11364.5 and as amended.

(4) Retail sales of medical marijuana that violate California law or this Chapter are expressly prohibited.

(5) A Dispensary shall not pay any supplier(s) of medical marijuana more than the costs incurred for cultivation and preparation.

(6) A Dispensary shall meet all the operating criteria for the dispensing of medical marijuana as is required pursuant to California Health and Safety Code § 11362.5 *et seq* and as amended.

(7) The provision of locally-grown and organic marijuana is encouraged.

(H) Operating Plans.

(1) Floor Plan. A Dispensary shall have a lobby waiting area at the entrance to receive clients, and a separate and secure designated area for dispensing medical marijuana to qualified patients or designated caregivers. The primary entrance shall be located and maintained clear of barriers, landscaping and similar obstructions so that it is clearly visible from public streets, sidewalks or site driveways.

(2) Storage. A Dispensary shall have suitable locked storage on premises, identified and approved as a part of the security plan, for after-hours storage of medical marijuana.

(3) Minimum Staffing Levels. The premises shall be staffed with at least one person during hours of operation who shall not be responsible for dispensing medical marijuana.

(4) Odors Control. The Dispensary shall have an air treatment system that prevents odors generated from the storage and cultivation of marijuana on the Dispensary property from being detected by any reasonable person of normal sensitivity outside the Dispensary property. To achieve this, both the storage and cultivation areas shall be, at minimum, mechanically ventilated with a carbon filter or superior method.

(5) Security Plans. A Dispensary shall provide adequate security on the premises, as approved by the Chief of Police and reviewed by the Planning Commission, including lighting and alarms, to insure the safety of persons and to protect the premises from theft.

(6) Security Cameras. Security surveillance cameras shall be installed to monitor the main entrance and exterior of the premises to discourage loitering, crime, illegal or nuisance activities.

(7) Security Video Retention. Security video shall be maintained for 90 days.

(8) Alarm System. Professionally monitored robbery alarm and burglary alarm systems shall be installed and maintained in good working condition.

(9) Emergency Contact. A Dispensary shall provide the Chief of Police with the name, e-mail address, phone number and facsimile number of an on-site community relations staff person to whom one can provide notice if there are operating problems associated with the Dispensary. The Dispensary shall make every good faith effort to encourage neighborhood residents to call this person to try to solve operating problems, if any, before any calls or complaints are made to the City.

(I) Signage and Notices.

(1) A notice shall be clearly and legibly posted in the Dispensary indicating that smoking, ingesting or consuming marijuana on the premises or in the vicinity of the Dispensary is prohibited. The notice shall be posted in both English and Spanish.

(2) Signs on the premises shall not obstruct the entrance or windows.

(3) Address identification shall comply with illuminated address signs requirements.

(4) Business identification signage shall be limited to that needed for identification only, consisting of a single window sign or wall sign that shall comply with City Code § 3227 and any other City Code provisions regulating signage.

(J) Employee Records. Each owner or operator of a Dispensary shall maintain a current register of the names of all volunteers and employees currently working at or employed by the Dispensary, and shall disclose such registration for inspection by any City officer or official for purposes of determining compliance with the requirements of this Section.

(K) Patient Records. A Dispensary shall maintain records of all patients and primary caregivers using only the identification card number issued by the county, or its agent, pursuant to California Health and Safety Code § 11362.71 *et seq.*, as a protection of the confidentiality of the cardholders, or a copy of the written recommendation from a physician stating the need for medical marijuana. Such records may be maintained on or off-site, and shall be made available for inspection by any City officer or official for purposes of determining compliance with the requirements of this Chapter.

(L) Staff Training. Dispensary staff shall receive appropriate training for their intended duties to ensure understanding of rules and procedures regarding dispensing in compliance with state and local law, and the Dispensary shall employ properly trained or use professionally-hired security personnel in accordance with the conditions of its permit.

(M) Site Management.

(1) The operator of the establishment shall take all reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours if directly related to the patrons of the subject Dispensary.

(a) "Reasonable steps" shall include calling the police in a timely manner; and requesting those engaging in objectionable activities to cease those activities, unless personal safety would be threatened in making the request.

(b) "Nuisance" includes, but is not limited to, disturbances of peace, open public consumption of marijuana or alcohol, excessive pedestrian or vehicular traffic, illegal drug activity, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises, especially late at night or early in the morning hours, lewd conduct or excessive police detentions and arrests.

(2) The operator shall take all reasonable steps to reduce loitering in public areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours.

(3) The operator shall provide patients with a list of the rules and regulations governing medical marijuana use and consumption within the City and recommendations on sensible marijuana etiquette.

(N) Trash, Litter, Graffiti.

(1) The operator shall keep the sidewalks adjoining the premises plus 10 feet beyond property lines along the street as well as any parking lots under the control of the operator clear of litter, debris and trash.

(2) The operator shall remove all graffiti from the premises and parking lots under the control of the operator within 72 hours of its application.

(O) Compliance with Other Requirements. The operator shall comply with all applicable provisions of local, state or federal laws, regulations or orders, as well as any condition imposed on any permits issued pursuant to applicable laws, regulations or orders.

(P) Confidentiality. The information provided for purposes of this Section shall be maintained by the City as confidential information, and shall not be disclosed as public records unless pursuant to subpoena issued by a court of competent jurisdiction or otherwise compelled by court order.

(Q) Display of Permit. Every Dispensary shall display at all times during business hours the permit issued pursuant to the provisions of this Chapter for such Dispensary in a conspicuous place so that the same may be readily seen by all persons entering the Dispensary.

(R) Reporting and Payment of Fees. Each permittee shall file an annual statement with the Planning Department: (1) indicating the number of patients served by the Dispensary within the previous calendar year, (2) the continuing accuracy of the information in the prior year's Dispensary Use Permit application, (3) documenting any changes or additions to that information as of the date for renewal of the Permit, any citizen complaints, City Code violations, and calls for law enforcement during the prior year, the applicant's compliance with applicable City and State law governing the operation of dispensaries, and (4) including any additional information the Planning Director deems necessary to administer this Chapter, and pay all annual permit fees.

(S) Alcoholic Beverages. No Dispensary shall hold or maintain a license from the State Division of Alcoholic Beverage Control for the sale of alcoholic beverages, or operate a business on the premises that sells alcoholic beverages. No alcoholic beverages shall be allowed or consumed on the premises.

(T) Dispensaries shall comply with the parking requirements for medical office uses.

## **§ 5709 APPLICATION PREPARATION AND FILING.**

(A) Application Filing. A complete Dispensary Use Permit application submittal packet shall be submitted in accordance with City Code § 9262, including a detailed written statement as to how the proposed Dispensary complies with sections 5707, 5708 and 5710, and any other information or submissions required by this chapter. All applications for permits shall be filed with the Planning Department, using forms provided by the City, and accompanied by the applicable filing fee and any other applicable fees or charges. It is the responsibility of the applicant to provide information required for approval of the permit. The application shall be made under penalty of perjury.

(B) Eligibility for Filing. Applications may only be filed by the owner of the subject property, or person with a lease signed by the owner or duly authorized agent allowing them to occupy the property for the intended use. If the applicant is a lessee, a copy of the duly executed lease currently in effect must accompany the application.

(C) Filing Date. The filing date of any application shall be the date when the City receives the last submission of information or materials required in compliance with the submittal requirements specified herein.

(D) Effect of Incomplete Filing. Upon notification that an application submittal is incomplete, the applicant shall submit any additional documents or information required to complete the application within thirty (30) days of the date the applicant is notified in writing by the Planning Department that the application is incomplete. If the applicant fails to complete the application within said thirty (30) days, the application shall be deemed withdrawn and a new application submittal that complies with Section 5709(A) shall be required in order to proceed with the application.

(E) Effect of Other Permits or Licenses. The fact that an applicant possesses other types of state or City permits or licenses does not exempt the applicant from the requirement of obtaining a Dispensary Use Permit.

(F) Submittal Requirements. Any application for a Dispensary Use Permit shall include the following information.

(1) Applicant(s) Name. The full name (including any current or prior aliases, or other legal names the applicant is or has been known by, including maiden names), present address, and telephone number of the applicant;

(2) Applicant(s) Mailing Address. The address to which notice of action on the application is to be mailed;

(3) Previous Addresses. Previous addresses for the past five years immediately prior to the present address of the applicant;

(4) Verification of Age. Written proof that the applicant is over the age of 18 years of age;

(5) Physical Description. Applicant's height, weight, color of eyes and hair;

(6) Photographs. Passport quality photographs for identification purposes;

(7) Employment History. All business, occupation, or employment of the applicant for the five years immediately preceding the date of the application;

(8) Tax History. The Dispensary business tax history of the applicant, including whether such person, in previously operating in this or another city, county or state under license has had a business license revoked or suspended, the reason therefor, and the business or activity or occupation in which the applicant engaged subsequent to such action of suspension or revocation;

(9) Management Information. The name or names and addresses of the person or persons having the management or supervision of applicant's business;

(10) Criminal Background. A background investigation verifying whether the person or person having the management or supervision of applicant's business has been

convicted of a crime(s), the nature of such offense(s), and the sentence(s) received therefor;

(11) Employee Information. Number of employees, volunteers, and other persons who will work at the Dispensary;

(12) Statement of Dispensary Need. A statement and/or information to establish the need for the additional Dispensary to serve qualified patients in the area;

(13) Plan of Operations. A plan of operations describing how the Dispensary will operate consistent with the intent of State law and the provisions of this Chapter, including but not limited to:

(a) Ensuring that the Dispensary will not engage in retail sales of medical marijuana that violate California law or this Chapter.

(b) Controls that will assure medical marijuana will be dispensed to qualifying patients or caregivers only.

(c) Controls that will ensure limitations on numbers of patients is adhered to.

(d) Controls that will ensure access to Dispensary premises is adequately monitored and restricted to pre-approved qualified patients and caregivers.

(14) Written Project Description. A written description summarizing the proposed Dispensary use size, number of patients, characteristics and intent;

(15) Written Response to Dispensary Standards. The applicant shall provide a comprehensive written response identifying how the Dispensary plan complies with the each of the standards for review in this Chapter, specifically the limitation on number and size, limitation on location, and operating requirements sections;

(16) Written Response to Criteria for Review Section. The applicant shall provide a written response indicating the method by which each of the criteria for review has been satisfied;

(17) Security Plan. A detailed security plan outlining the proposed security arrangements for insuring the safety of persons and to protect the premises from theft. The plan shall include installation of security cameras, a robbery alarm system monitored by a licensed operator, and a security assessment of the site conducted by a qualified professional;

(18) Floor Plan. A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the Dispensary. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches;

(19) Site Plan. A sketch or diagram showing exterior configuration of the premises, including the outline of all structures, parking and landscape areas, and property boundaries. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions to an accuracy of plus or minus six inches;

(20) Accessibility Evaluation. A written evaluation of accessibility to and within the building, and identification of any planned accessibility improvements.

(21) Neighborhood Context Map. An accurate straight-line drawing depicting the building and the portion thereof to be occupied by the Dispensary, all properties and uses within 250 feet of the boundaries of the property on which the Dispensary Use Permit is

requested, and: (a) the property line of any Dispensary within 250 feet of the primary entrance of the Dispensary for which a permit is requested, and (b) the property lines of any school, park, or residential zone or use within 250 feet of the primary entrance of the Dispensary;

(22) Lighting Plan. A lighting plan showing existing and proposed exterior premises and interior lighting levels that would be the minimum necessary to provide adequate security lighting for the use and comply with all City standards regarding lighting design and installation. All lighting shall be fully hooded and downcast, and shall not shine towards the night sky, adjacent property or any street.

(23) City Authorization. Written authorization for the City, its agents and employees to seek verification of the information contained within the application;

(24) Statement of Owners Consent. A statement in writing by the applicant that he or she certifies under penalty of perjury that the applicant has the consent of the property owner and landlord to operate a Dispensary at the location;

(25) Applicant's Certification. 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;

(26) Other Information. Such other information as deemed necessary by the Planning Director to demonstrate compliance with this Chapter and City Codes, including operating requirements established in this Chapter.

(G) Renewal. Applications for one-year renewal shall be accompanied by the following minimum information:

(1) The operator shall report the number of patients served and pay applicable fees, as required by this Chapter.

(2) The operator shall provide a detailed description of any adjustments and changes proposed or that have occurred in Dispensary operations to address issues, or comply with laws.

(3) The operator shall identify any problems encountered during operations and how they have been addressed.

(4) The operator shall identify how the Dispensary has managed its operations to comply with the operating requirements of this Chapter and with State law.

## **§ 5710 CRITERIA FOR REVIEW.**

In addition to the findings required in City Code § 9262, the Zoning Administrator shall consider the following criteria in determining whether to grant or deny a Dispensary Use Permit, and renewals of a permit:

(A) That the Dispensary Use Permit is consistent with the intent of Proposition 215 and related State law, the provisions of this Chapter and the City Code, including the application submittal and operating requirements herein.

(B) That the Dispensary location is not identified as having significant crime issues (e.g., based upon crime reporting statistics as maintained by the Police Department).

(C) That there have not been significant numbers of calls for police service, crimes or arrests in the area or to an existing Dispensary location.

(D) That an applicant or employee is not under 18 years of age.

(E) That all required application materials have been provided and/or the Dispensary has operated successfully in a manner that shows it would comply with the operating requirements and standards specified in this Chapter.

(F) That all required application or annual renewal fees have been paid and reporting requirements have been satisfied in a timely manner.

(G) That an appropriate limit on size of the Dispensary has been established and the requested permit would not exceed limitations on number of patients and/or permits allowed by this Chapter.

(H) That issuance of a Dispensary Use Permit for the size requested is justified to meet needs of residents.

(I) That issuance of the Dispensary Use Permit would serve needs of residents at this location.

(J) That the location is not prohibited by the provisions of this Chapter or any local or state law, statute, rule or regulation and no significant nuisance issues or problems are anticipated or have resulted from Dispensary operations.

(K) That the site plan, floor plan, and security plan have incorporated features necessary to assist in reducing potential crime-related problems and as specified in the operating requirements section. These features may include, but are not limited to, security on-site; procedure for allowing entry; openness to surveillance and control of the premises; the perimeter, and surrounding properties; reduction of opportunities for congregating and obstructing public ways and neighboring property; illumination of exterior areas; and limiting furnishings and features that encourage loitering and nuisance behavior.

(L) That no Dispensary use, owner, permittee, agent, or employee has violated any provision of this Chapter including grounds for suspension, modification or revocation of a permit.

(M) That all reasonable measures have been incorporated into the plan and/or consistently taken to successfully control the establishment's patrons' conduct resulting in disturbances, vandalism, crowd control inside or outside the premises, traffic control problems, marijuana use in public, or creation of a public or private nuisance, or interference with the operation of another business.

(N) That the Dispensary would not adversely affect the health, peace or safety of persons living or working in the surrounding area, overly burden a specific neighborhood with special

needs or high impact uses, or contribute to a public nuisance; or that the Dispensary has resulted in repeated nuisance activities including disturbances of the peace, illegal drug activity, marijuana use in public, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises, especially late at night or early in the morning hours, lewd conduct, or police detentions or arrests.

(O) That any provision of the City Code or condition imposed by a City issued permit, or any provision of any other local, or State law, regulation, or order, or any condition imposed by permits issued in compliance with those laws has not been violated.

(P) That the applicant has not violated any local or State law, statute, rule or regulation respecting the distribution, possession, or consumption of marijuana.

(Q) That the applicant has not knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application for a permit.

(R) That the applicant, his or her agent or employees, or any person who is exercising managerial authority on behalf of the applicant has not been convicted of a felony, or of a misdemeanor involving moral turpitude, or has engaged in misconduct related to the qualifications, functions or duties of a permittee. A conviction within the meaning of this Section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

(S) That the applicant has not engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.

(T) That adequate parking will be provided at a rate of one space for every 300 gross square feet of retail space, office space, and similar floor areas.

#### **§ 5711 INVESTIGATION AND ACTION ON APPLICATION.**

After the making and filing of a complete application for the Dispensary Use Permit and the payment of the fees, the Police Department shall conduct a background check of the applicant and all employees and other persons determined by the Police Department to perform functions in the Medical Marijuana Dispensary that could influence its compliance with this Chapter and conduct an investigation of the application. In processing the application:

(A) The Planning Department shall refer the application to any other City departments as necessary to complete the review of the application.

(B) Following provision of complete application materials, inter-departmental review, and compliance with the California Environmental Quality Act, the Planning Department shall schedule the Use Permit for Zoning Administrator review. In making a decision to grant or deny the application the Zoning Administrator shall follow the notice and hearing procedures and make the findings required by City Code § 9262(C)-(F) and shall either grant or deny the application in accordance with the provisions of this Chapter.

(C) In approving a Dispensary Use Permit, the Zoning Administrator may impose conditions, restrictions or require revisions to the proposal to comply with the purpose and intent of this Chapter.

(D) The Planning Department shall cause a written notice of the Zoning Administrator decision to issue or deny a permit to be mailed to the applicant by U.S. mail.

**§ 5712 APPEAL FROM ZONING ADMINISTRATOR DETERMINATION.**

(A) An applicant aggrieved by the Zoning Administrator decision to issue or to deny a Dispensary Use Permit may appeal such decision to the Planning Commission by filing an appeal. All determinations of the Zoning Administrator regarding Dispensary Use Permits shall be final unless a written appeal, stating the reasons for the appeal, and the appeal fee, if any, as established by resolution of the City Council from time to time, are filed with the Planning Commission within ten (10) days of the date the decision was made. Appeals may be filed by an applicant or any interested party. An interested party may appeal only if he or she appeared and stated his or her position during the hearing on the decision from which the appeal is taken.

(B) The Planning Commission shall conduct a duly noticed public hearing on the appeal in accordance to the procedures applicable to an appeal of a decision to grant or deny a use permit as set forth in Division 9, Chapter 2, Article 20 of the City Code. At the close of the public hearing, the Planning Commission may affirm, reverse, or modify the appealed decision of the Zoning Administrator. All Planning Commission decisions on appeals of the Zoning Administrator's decision with regard to an application for a Dispensary Use Permit are final for the City.

**§ 5713 EFFECT OF DENIAL.**

When the Zoning Administrator shall have denied or revoked any permit provided for in this Chapter and the time for appeal to the Planning Commission shall have elapsed, or, if after appeal to the Planning Commission, the decision of the Zoning Administrator has been affirmed by the Commission, no new application for a permit shall be accepted from the applicant and no such permit shall be issued to such person or to any corporation or other business entity, including but not limited to, a partnership or limited liability company, in which he or she shall have any direct or indirect beneficial, financial or ownership interest for a period of three years after the action denying or revoking the permit.

**§ 5714 REVOCATION.**

(A) Any Dispensary Use Permit issued under the terms of this Chapter may be revoked by the Zoning Administrator or Planning Commission, when it shall appear to the Commission that the use for which the Use Permit was granted is not being conducted in compliance with the Use Permit as conditioned, the permittee has violated any of the requirements of this Chapter or the Dispensary is operated in a manner that violates the provisions of this Chapter, including the criteria for review and operating requirements sections, or conflicts with State law.

(B) The Zoning Administrator shall place the matter of Use Permit revocation on the Commission agenda at the direction of the City Attorney. Revocation proceedings shall be conducted in compliance with Section 9262(H) of this Code. Notice of the hearing required by said section shall be given in compliance with Section 9262(C). In addition, notice of the revocation hearing, including a description of the facts and violations relied upon in seeking revocation, shall be served on the permit holder by personal service, overnight courier or registered United States Mail, return receipt requested, not later than ten (10) day prior to the hearing. Service shall be deemed complete when received by the permit holder or forty-eight hours after deposit in the United States Mail, whichever occurs first. Notice shall be sent to the address as shown on the permit application or to an address which the permit holder has requested in writing that the City use for official communications. The address shall not be a Post Office box, but must be a physical address.

(C) If any person holding a permit or acting under the authority of such permit under this Chapter is convicted of a public offense in any court for any offense that would constitute a violation of their Dispensary Use Permit or this Ordinance , the Zoning Administrator may revoke such permit forthwith without any further action thereof, other than giving notice of revocation to the permittee.

#### **§ 5715 TRANSFER OF PERMITS.**

(A) A permittee shall not operate a Dispensary under the authority of a Dispensary Use Permit at any place other than the address of the Dispensary stated in the application for the permit.

(B) A permittee shall not transfer ownership or control of a Dispensary, including by transferring a controlling interest in the permittee, or transfer a Dispensary Use Permit to another person or entity unless and until the transferee obtains its own Dispensary Use Permit. Any other assignment of a Dispensary Use Permit is prohibited.

(C) No permit may be transferred when the Zoning Administrator or Planning Commission have notified the permittee that the permit has been or may be revoked.

(D) Any attempt to transfer a permit either directly or indirectly in violation of this Section is declared void, and the permit shall be deemed revoked.

#### **§ 5716 TIME LIMIT FOR FILING APPLICATIONS UPON ANNEXATION.**

Any Dispensary that was legally established in Mendocino County (“County”) and which is subsequently annexed into the City must apply for and obtain a Dispensary Use Permit in compliance with the provisions of this Chapter within 90 days from the date the annexation becomes effective. Continued operation of a Dispensary without a permit more than 90 days after annexation shall constitute a violation of this Chapter, unless an extension of the 90 day period is approved by the Planning Director upon the applicant’s demonstration of reasonable grounds to do so.

**§ 5717 MARIJUANA DELIVERY.**

(A) A permitted Dispensary located in the City may deliver marijuana to qualified patients and caregivers at their residence in the City. Such permissible delivery of marijuana to qualified patients shall be limited to delivery by lawfully-operated, permitted dispensaries located within the jurisdictional limits of the City. Any individual engaging in the activity of delivering medical marijuana from a permitted Dispensary to a qualified patient must have a business license in accordance with Division 2, Chapter 1, Article 3 of the City Code.

All other marijuana delivery is a prohibited activity in the City, except where the City is preempted by federal or state law from enacting a prohibition on such activity.

(B) In conformity with City Code § 6001 it shall be unlawful for any qualified individual engaging in the activity of delivering medical marijuana from a permitted Dispensary to a qualified patient to be in an intoxicated condition or under the influence of narcotic drugs within the corporate City limits of the City in, on, or about any automobile, motorcycle, motor vehicle, street car, railroad car or other vehicle.

**§ 5718 VIOLATIONS.**

(A) It is unlawful for any person, individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability company or combination of the above in whatever form or character to violate any provision or fail to comply with any of the requirements of this Chapter.

(B) A violation of this Chapter shall be subject to the enforcement and penalties specified in City Code §5723.

**§ 5719 REMEDIES.**

This Chapter shall be subject to enforcement pursuant to Division 8, Article 22 of this Code.

**§ 5720 SEPARATE OFFENSE FOR EACH DAY.**

Any person who 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.

**§ 5721 HOLD HARMLESS.**

As a condition of approval of any permit issued pursuant to this Chapter for medical marijuana cultivation, processing, or distribution, the permittee shall indemnify, defend and hold harmless the City of Ukiah and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by a permittee's clients or employees, adjacent or nearby

property owners or other third parties due to permitted uses or operations, and for any expense incurred by City as a result of or in defense of any such claim..

**§ 5723 PENALTIES.**

(A) It shall be unlawful and constitute a misdemeanor for any person to violate the provisions of this Chapter, punishable by a fine of not more than one thousand dollars (\$1,000.00) or imprisonment in the county jail for a period of not more than six (6) months or both. This penalty shall not apply, if prohibited by state law.

(B) The penalty provided herein is in addition to any other penalty or remedy available at law or in equity, whether civil or criminal, for any violation of this Chapter or engaging in activity requiring a City license or permit, including, without limitation, a business license or building permit, without first obtaining such permit or license.

**§ 5724 JUDICIAL REVIEW.**

Judicial review of a decision made under this Chapter may be had by filing a petition for a writ of mandate with the superior court in accordance with the provisions of the California Code of Civil Procedure § 1094.5.

Any such petition shall be filed within 90 days after the day the decision becomes final as provided in California Code of Civil Procedure § 1994.6 which shall be applicable for such actions.

**SECTION 2.**

**1. SEVERABILITY.**

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of Ukiah hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

**2. EFFECTIVE DATE.**

This Ordinance shall be published as required by law in a newspaper of general circulation in the City of Ukiah, and shall become effective thirty (30) days after its adoption.

Introduced by title only on \_\_\_\_\_, 2016, by the following roll call vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

Adopted on \_\_\_\_\_, 2016 by the following roll call vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Steven Scalmanini, Mayor

ATTEST:

\_\_\_\_\_  
Kristine Lawler, City Clerk