

## **ORDINANCE NO. 1188**

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UKIAH AMENDING CHAPTER 8 IN DIVISION 6, SECTION 9176 IN ARTICLE 16, CHAPTER 2 IN DIVISION 9, TABLE 3 IN SECTION 9223.1 OF ARTICLE 18, CHAPTER 2 IN DIVISION 9; AND SECTION 9261 IN ARTICLE 20, CHAPTER 2 IN DIVISION 9 OF THE UKIAH CITY CODE.**

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 (unchanged text is omitted and is shown by “\* \* \*”):**

### **CHAPTER 8**

### **CANNABIS RETAILERS**

#### **§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, or the Compassionate Use Act of 1996, codified at Health and Safety Code section 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 sections 11362.7 through 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. In order to maintain local control over the regulation of commercial cannabis activities in the City, in 2017, the City Council enacted Ordinance 1176, ("Medical Marijuana Dispensaries Ordinance II"), which regulates the operation of and sets forth a local permitting process for medical marijuana dispensaries in the City of Ukiah.

J. On November 9, 2016, the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA" or "Proposition 64") to legalize the recreational use of marijuana in California for individuals 21 years of age and older was approved by the voters of the State of California.

K. In June of 2017, the California Legislature passed Senate Bill 94, which was signed by the Governor and went into effect immediately, and which repealed MMRSA entirely and merged certain portions of that law with AUMA to create a more comprehensive regulatory structure for both medical and recreational marijuana.

L. The new comprehensive regulatory system created by Senate Bill 94, intended to regulate all commercial cannabis uses in the State, is called the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA").

M. The Act, MMP, AUMA, and MAUCRSA do not prevent a city from using its constitutional authority to enact nuisance, health and safety, and land use regulations regarding dispensaries or other commercial cannabis uses.

N. The City Council believes that a regulated environment for commercial cannabis is preferable to an unregulated black market and, as such, desires to regulate all commercial cannabis businesses operating in the City of Ukiah, including cannabis retailers that sell cannabis for non-medical use, in a manner that mitigates potential negative impacts, prevents cannabis from reaching minors or the illicit market, preserves public health and safety, protects the environment, provides diverse economic opportunities, and implements the City's General Plan.

O. 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, the AUMA, and the MAUCRSA, regarding the location and operation of cannabis dispensaries, delivery of cannabis within the boundaries of the City, regulation of cannabis-related special events, and cultivation of cannabis within the boundaries of the City.

P. There have been a number of marijuana dispensing-related incidents in California, some including acts of violence.

Q. The City Council finds that cannabis 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.

R. 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 illegal use of cannabis, particularly the use of cannabis by minors who are not qualified patients; or (3) allow any activity relating to the distribution or consumption of cannabis that is otherwise illegal.

S. This Chapter provides the development, operating, and permit standards for all commercial, retail cannabis uses to ensure neighborhood compatibility, minimize potential environmental impacts, mitigate potential nuisances, provide safe access to cannabis and provide opportunities for economic development.

T. This Chapter is compatible with the general objectives of the General Plan, in that a cannabis 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 in the case of medical cannabis dispensaries and bars or cocktail lounges in the case of dispensaries serving adult use patrons, and in that the use will be subject to strict permit conditions and rigorous review.

U. 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.

V. It is the purpose and intent of this Chapter to regulate cannabis 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 chapter is not intended to create a positive conflict with the CSA, but rather to implement the AUMA, the MAUCRSA, and related State laws.

B. Nothing in this chapter 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, fire, or land use standards or permitting requirements.

C. Nothing in this chapter 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 retail sales and delivery of cannabis within City limits shall be subject to the provisions of this chapter, even if the retail sales and delivery existed or occurred prior to adoption of this chapter.

E. Nothing in this chapter is intended, nor shall it be construed, to allow or permit any "commercial cannabis activity," as defined in Business and Professions Code section 26001(k) or as may be amended, or any commercial or noncommercial activity involving marijuana use for any purpose that is not otherwise authorized in the Ukiah City Code.

## **§5702 DEFINITIONS**

For the purposes 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 section 9278 of this code.
- B. "Adult-use" means a person the age of 21 or over with a valid state ID, who is qualified to purchase cannabis from an established cannabis business.
- C. "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.
- D. "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. "Cannabis" also means marijuana as set forth Section 11032 of the Health and Safety Code, and as defined by other applicable state law. "Cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code. Cannabis is classified as an agricultural product separately from other agricultural crops.
- E. "Cannabis Operator" or "Operator" means the person or entity that is engaged in the conduct of any commercial Medical or Adult Use Cannabis business.
- F. "Cannabis Product" means a cannabis product, means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients, and intended to be sold for either Medical or Adult Use.
- G. "Cannabis Retailer" or "Cannabis Retail" means a facility where Medical or Adult Use Cannabis or Medical or Adult Use Cannabis Products are offered, either individually or in any combination, for retail sale, including an establishment that delivers Cannabis or Cannabis Products as part of a retail sale. Also known as a Cannabis Dispensary or Dispensary.
- H. "City" means the City of Ukiah.
- I. "Delivery" means the commercial transfer of cannabis or cannabis products to a customer. "Delivery" also includes the use by a retailer of any technology platform.
- J. "Dispensary" means a facility, whether fixed or mobile, operated in accordance with State and local laws and regulations, where cannabis and/or cannabis products are offered for retail sale, including an establishment that delivers cannabis and/or cannabis, products as part of a retail sale.

K. "Dispensary Use Permit" means a permit required to operate a Cannabis Retail business within the City and that is issued pursuant to this chapter.

L. "Drug paraphernalia" or "paraphernalia" shall have the same definition as set forth in section 6071 of this code.

M. "Edible Cannabis Product" means a cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.

N. "Identification card" shall have the same definition as in California Health and Safety Code section 11362.7, and as it may be amended.

O. "Medical cannabis" or "medicinal cannabis" means cannabis that is intended to be used for medical cannabis purposes in accordance with the Compassionate Use Act, MMP, and the MAUCRSA.

P. "On site" means an activity or accessory use that is related to the primary use – i.e., lawful, retail distribution of cannabis – and is located on the same legal parcel as the primary use.

Q. "Owner" shall have the same definition as in California Business and Professions Code section 26001, and as it may be amended.

R. "Permittee" means the person to whom a Dispensary Use Permit is issued.

S. "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.

T. "Person with an identification card" shall have the same definition as set forth in California Health and Safety Code section 11362.7, and as it may be amended.

U. "Physician" means a licensed medical doctor (M.D.) or a doctor of osteopathic medicine (D.O.).

V. "Premises" means the designated structure or structures and land specified in the Dispensary Use Permit application that is owned, leased, or otherwise held under the control of the applicant where the commercial cannabis retail activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one permittee.

W. "Primary caregiver" shall have the same definition as set forth in California Health and Safety Code section 11362.7, and as it may be amended.

X. "Qualified patient" shall have the same definition as set forth in California Health and Safety Code section 11362.7, and as it may be amended.

Y. "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.

Z. "Use permit" shall have the same definition as set forth in section 9261 of this code and as it may be amended.

AA. "Youth-oriented facility" means a public park, church, museum, library, or licensed daycare facility.

BB. "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 Cannabis Retail business 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. Any operation of a dispensary, cultivation of cannabis in conjunction with operation of a dispensary, or delivery of cannabis 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 State law.

The City recognizes that State law requires dual licensing at the state and local level for all Cannabis Businesses (Medical and Adult Use). All Cannabis Retailers shall therefore be required to diligently pursue and obtain a State cannabis license and shall comply at all times with all applicable State licensing requirements and conditions, including, but not limited to, operational standards such as, by way of illustration but not limitation, background checks, prior felony convictions, restrictions on multiple licenses and license types, and locational criteria.

Failure to demonstrate dual licensing in accordance with this Chapter and within any deadlines established by State law shall be grounds for revocation of City approval. Revocation of a local Dispensary Use Permit and/or a State license shall terminate the ability of the Cannabis Retailer to operate until a new Permit and/or State license is obtained.

C. The grant of a Dispensary Use Permit by the City shall not create an entitlement or vested right in the permittee to any permit or license to operate any other commercial cannabis businesses.

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

A. Dispensary 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. Dispensary Use Permits may be renewed by the Zoning Administrator 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 forty-five (45) days before the expiration date of the permit and shall be accompanied by the nonrefundable application fee referenced in section

5706 of this Code and all information necessary for the Zoning Administrator to evaluate the renewal request in light of the criteria listed in subsection F of this section. In acting on an application for renewal, the Zoning Administrator shall follow the procedures set forth in Section 5711B and C, except that all references therein to the Planning Commission shall be deemed to refer to the Zoning Administrator. 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 forty-five (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. Renewal applications shall be subject to duly noticed public hearings in accordance to the procedures set forth for minor use permit applications in Section 9262 of this Code.

F. In determining whether to renew a Dispensary Use Permit, the Zoning Administrator will consider the following nonexclusive criteria, in addition to those criteria set forth in this Chapter at Section 5710 of this Code:

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 chapter 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.

G. The Zoning Administrator shall make findings of fact and either grant, grant conditionally, or deny the application for renewal of a Dispensary Use Permit. An applicant aggrieved by the Zoning Administrator'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 Zoning Administrator 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.

The Planning Commission shall conduct a duly noticed public hearing on the appeal in accordance to the applicable procedures as set forth in section 9266 of this Code, except that all references therein to the City Council shall be deemed to refer to the Planning Commission. 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 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 cCode 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 DISPENSARIES**

A. A Medical Cannabis Dispensary may be located within CN zoning district. A Dispensary, including both Medical Cannabis and Adult Use Dispensaries, may be located in zoning districts as set forth in Division 9, Chapter 2 of this Code.

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 six hundred feet (600') of a school, with that distance measured as the horizontal distance in a straight line from the property line of the school to the closest property line of the lot on which the dispensary is to be located without regard to intervening structures, pursuant to California Health and Safety Code section 11362.768; or

2. Within two hundred fifty feet (250') of a youth-oriented facility other than a school, or another dispensary, with that distance measured by street frontage from the property line of the youth-oriented facility to the closest property line of the lot on which the dispensary is to be located, and not radial distance; or

3. Abutting, on any side of the parcel upon which the dispensary is located, a parcel occupied by a youth-oriented facility, a school, or another dispensary; or

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

5. On a parcel having a residential unit, or on a parcel directly abutting a residentially zoned property, unless there are intervening nonresidential uses between the dispensary and the residential unit or the residentially zoned property that the Planning Commission or, on appeal, the City Council determines sufficient to provide an appropriate separation.

D. A waiver of the provisions in subsections C2 through 5 of this section may be granted if the applicant demonstrates on plans and materials presented for review and the Planning Commission determines that a physical barrier or other condition exists which achieves the same purpose and intent as the distance separation requirements established herein, and that, as a result, the Planning Commission makes a finding of no adverse impact resulting from the proposed location of the dispensary.

## **§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 Business and Professions Code Section 26057(b)(4), or of a felony or misdemeanor involving moral turpitude, or on probation for a drug offense, or engaged in misconduct related to the qualifications, functions or duties of a permittee. Notwithstanding the above, an application shall not be denied solely on the basis that the applicant or any manager has been convicted of a felony, if the person convicted has obtained a certificate of rehabilitation (expungement of felony record) under California law or under a similar Federal statute or State law where the expungement was granted. In addition, notwithstanding the above, a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possession of, possession for sale, sale, manufacture, transportation, or cultivation of cannabis or cannabinoid preparations, is not considered related to the qualifications, functions, or duties of a permittee, and shall not be the sole ground for denial of an application.

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 twenty-one (21) years of age.

2. Persons under the age of eighteen (18) shall not be allowed on the premises of a Dispensary unless they are a qualified patient or a primary caregiver, they are in the presence

of their parent or guardian, and the Dispensary in question dispenses cannabis for medical use.

3. The entrance to a Dispensary shall be clearly and legibly posted with a notice indicating that persons under the age of eighteen (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 a Dispensary that serves only Adult Use patrons, the entrance shall be clearly and legibly posted with a notice indicating that persons under the age of twenty-one (21) are precluded from entering the premises.

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

C. Dispensary Access:

1. 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.

2. Dispensary personnel shall monitor site activity, control loitering and site access.

3. Only dispensary staff, primary caregivers, qualified patients and persons with bona fide purposes for visiting the site shall be allowed on the premises at a dispensary that provides medical cannabis only. For dispensaries serving Adult Use patrons, only dispensary staff, persons the age of twenty-one (21) and over, and persons with bona fide purposes for visiting the site shall be allowed on the premises.

4. Potential patients or caregivers shall not visit a medical cannabis dispensary without first having obtained a valid written recommendation from their physician recommending use of medical cannabis.

5. Only a primary caregiver and qualified patient or persons the age of twenty-one (21) and over shall be in the designated dispensing area with dispensary personnel. All other authorized visitors shall remain in the designated waiting area in the front entrance/lobby.

6. Restrooms shall remain locked and under the control of management.

D. Dispensing Operations:

1. The dispensary may dispense no more dried medical cannabis or plants or cannabis products per qualified patient or caregiver than permitted in strict accordance with California Health and Safety Code section 11362.77 and any other applicable State law, and as amended, and may sell cannabis or cannabis products for Adult Use to an individual only in an amount consistent with personal possession and use limits allowed by the State

2. A dispensary selling medical cannabis shall only dispense medical cannabis 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 Division 10, Chapter 6, Article 2.5 and as it may be

amended, 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 cannabis, the dispensary shall obtain verbal, online, or signed verification from the recommending physician's office personnel that the individual requesting medical cannabis is a qualified patient.

4. A dispensary shall not have a physician on site to evaluate patients and provide a recommendation for medical cannabis.

5. For Cannabis Retailers dispensing medical cannabis, 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.

E. Hours of Operation: Hours of operation are limited to nine o'clock (9:00) A.M. to nine o'clock (9:00) P.M., seven (7) days a week.

F. Consumption Restrictions:

1. Cannabis shall not be consumed 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 two hundred feet (200') of the dispensary's entrance.

2. Dispensary operations shall not result in illegal redistribution of cannabis obtained from the dispensary, or use in any manner that violates local, State or City codes.

3. No person may consume cannabis, 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 section 6000 of this Code and as amended, enclosed places and places of employment as defined in sections 4503 and 4505 of this Code 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 Section 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 sections 6093 and 9254 of this Code and applicable State laws and regulations.

a. Except for immature nursery stock marijuana plants, or clones, that are not intended to be raised to maturity by the dispensary but instead sold to qualified patients and patrons, marijuana plants grown by the dispensary shall only be utilized for production of processed marijuana to dispense to patients or sell in legal quantities to eligible Adult Use patrons.

b. 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. 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 subsection H4 of this section. The cannabis 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 USC section 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 cannabis and other items permitted by these regulations on terms and conditions consistent with this Chapter and applicable law.

3. Up to one hundred fifty (150) square feet of the total square footage of the dispensary may be utilized for display and sales of devices necessary for administering cannabis, including but not limited to rolling papers and related materials and devices, pipes, water pipes, and vaporizers.

4. Retail sales of cannabis that violate California law or this chapter are expressly prohibited.

5. A dispensary shall meet all the operating criteria for the sale of cannabis as is required pursuant to applicable State laws and regulations.

#### 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 cannabis to qualified patients or designated caregivers or to eligible Adult Use patrons. 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 cannabis.

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 cannabis.

4. Odors Control: The dispensary shall have an air treatment system that prevents odors generated from the storage and cultivation of cannabis 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 a premises and panic alarm system monitored by a licensed operator, to ensure 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. The security surveillance system shall comply with current State standards for digital video surveillance systems to be installed on the premises of licensed Cannabis businesses, currently codified in the Cal. Code of Regulations, Title 16, Section 5044, and as may be amended.

7. Security Video Retention: Security video shall be maintained for ninety (90) days. In the event of a crime on site or anywhere within range of the dispensary's security cameras, the dispensary shall provide the Chief of Police with a useable digital copy of the security video upon request or at the earliest convenience.

8. Alarm System: Professionally monitored premises and panic alarm system 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 cannabis 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 section 3227 of this Code 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 chapter.

K. Patient Records: Information identifying the names of patients, their medical conditions, or the names of their primary caregivers is confidential and such disclosure is prohibited pursuant to the Federal Health Insurance Portability and Accountability Act of 1996 (42 USC section 1320d et seq.) and the Confidentiality of Medical Information Act (California Civil Code section 56 et seq.). In order to protect patient confidentiality, the dispensary shall maintain records of all qualified patients with a valid identification card and primary caregivers with a valid identification card using only the identification card number issued by the State, or its agent, pursuant to California Health and Safety Code section 11362.7 et seq. Such records may be maintained on or off site, and shall be made available for inspection by any City official authorized to enforce this chapter 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. All security personnel hired or contracted for by the Dispensary shall comply with Chapters 11.4 and 11.5 of Division 3 of the Business and Professions Code, or as may be amended.

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 dispensary patients and patrons with a list of the rules and regulations governing cannabis use and consumption within the City and recommendations on sensible cannabis etiquette.

N. 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.

O. 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.

P. 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.

Q. 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, if applicable, (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 Department deems necessary to administer this chapter, and pay all annual permit fees.

R. 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.

S. Inspections: During normal business hours, Dispensaries permitted under this chapter shall provide access for administrative inspections by City officials or officers or consultants hired by the City to verify compliance with this chapter. Any Dispensary's refusal to comply with this section shall be deemed a violation of this chapter.

T. Notification of Theft, Loss, and Criminal Activity: Cannabis Retailer businesses shall comply with the California Code of Regulations, Title 16, Section 5036, or as may be amended, by notifying the applicable State authorities and the Ukiah Police Department within 24 hours of discovery of any of the following situations:

1. A significant discrepancy in the Retailer's inventory.
2. The Operator becomes aware of or has reason to suspect diversion, theft, loss, or any other criminal activity pertaining to the operations of the Retailer.
3. The Operator becomes aware of or has reason to suspect diversion, theft, loss, or any other criminal activity by an agent or employee of the Retailer pertaining to the operations of the Retailer.
4. The Operator becomes aware of or has reason to suspect the loss or unauthorized alteration of records related to cannabis goods, patrons, or the Retailer's employees or agents.

5. The Operator becomes aware of or has reason to suspect any other breach of security.

The notification shall be in writing and include the date and time of occurrence of the theft, loss, or criminal activity and a description of the incident including, where applicable, the item(s) that were taken or lost.

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

A. Application Filing: A complete Dispensary Use Permit application submittal packet shall be submitted in accordance with section 9262 of this Code, including a detailed written statement as to how the proposed dispensary complies with sections 5707 and 5708 of this Code, and any other information or submissions required by this chapter. All applications for Dispensary Use 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 subsections A and F of this section 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 (5) years immediately prior to the present address of the applicant;

4. Verification of Age: Written proof that the applicant is at least twenty-one (21) 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 (5) 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. 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 cannabis that violate California law or this chapter.
  - b. Controls that will assure cannabis will be dispensed or sold to qualifying patients or caregivers or eligible Adult Use patrons only.
  - c. Controls that will ensure access to dispensary premises is adequately monitored and restricted to preapproved qualified patients and caregivers or to eligible Adult Use Patrons only.
13. If delivery services will be provided, the application shall describe the operational plan for delivery services and specific extent of such service, security protocols, and how the delivery services will comply with the requirements set forth in this Chapter, in particular Section 5717, and State law.
14. Written Project Description: A written description summarizing the proposed Dispensary use size, number of patients or patrons, characteristics and intent;
15. Written Response to Dispensary Standards: The applicant shall provide a comprehensive written response identifying how the Dispensary plan complies with each of the standards for review in this chapter, specifically the limitation on location and operating requirements in sections 5707 and 5708 of this Code;

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 enumerated in section 5710 of this Code has been satisfied;

17. Security Plan: A detailed security plan outlining the proposed security arrangements for ensuring the safety of persons and to protect the premises from theft. The plan shall include installation of security cameras, a premises and panic 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 (6");

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 (6");

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, and: (a) the property lines of any school within six hundred feet (600') of the property line of the dispensary for which a permit is requested, (b) the property lines of any dispensary within two hundred fifty feet (250') of the primary entrance of the dispensary for which a permit is requested, and (c) the property lines of any youth-oriented facility or residential zone or use within two hundred fifty feet (250') 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 Owner's 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 Department to demonstrate compliance with this Chapter including all City and State 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 or patrons 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 section 9262 of this Code, the Planning Commission shall consider the following criteria in determining whether to grant or deny a Dispensary Use Permit, and the Zoning Administrator shall consider the following criteria in determining whether to grant or deny renewals of a Dispensary Use Permit:

- A. That the Dispensary Use Permit is consistent with the intent of the Compassionate Use Act of 1996, the AUMA, the MAUCRSA, 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 twenty-one (21) 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 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.
- H. 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 in section 5708 of this Code. 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.

I. That no Dispensary use, owner, operator, permittee, agent, or employee has violated any provision of this chapter including grounds for suspension, modification or revocation of a permit.

J. 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.

K. 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.

L. 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.

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

N. 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.

O. 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.

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

Q. That adequate parking for medical cannabis dispensaries will be provided at a rate of one space for every two hundred (200) gross square feet of retail space, office space, and similar floor areas, pursuant to section 9198(F)(1) of this Code. Furthermore, that adequate parking for Cannabis Retailers generally will be provided at a rate of one space for every two hundred fifty (250) square feet of gross, leasable space, pursuant to section 9198(B)(1) of this Code. However, if the dispensary to be operated by the applicant does not dispense cannabis to patients or eligible Adult Use patrons on site but services qualified patients and patrons through deliveries in compliance with Section 5717 of this Code, then adequate parking will be provided at a rate of one space for every four hundred (400) square feet of gross leasable space, pursuant to Section 9198(G)(3) of this Code.

## **§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 applicant shall complete a fingerprint background check and the Police Department shall 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 Dispensary Use Permit for Planning Commission review. In making a decision to grant or deny the application the Planning Commission shall follow the notice and hearing procedures and make the findings required by sections 9262C through F of this Code and shall either grant or deny the application in accordance with the provisions of this chapter.

C. In approving a Dispensary Use Permit, the Planning Commission 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 Planning Commission decision to issue or deny a permit to be mailed to the applicant by U.S. mail.

#### **§5712 APPEAL FROM PLANNING COMMISSION DETERMINATION**

A. An applicant aggrieved by the Planning Commission decision to issue or to deny a Dispensary Use Permit may appeal such decision to the City Council by filing an appeal. All determinations of the Planning Commission 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 City Council 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 City Council 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 this Code. At the close of the public hearing, the City Council may affirm, reverse, or modify the appealed decision of the Planning Commission. All City Council decisions on appeals of the Planning Commission's decision with regard to an application for a Dispensary Use Permit are final for the City.

#### **§5713 REVOCATION**

A. Any Dispensary Use Permit issued under the terms of this chapter may be revoked by the Zoning Administrator, when it shall appear to the Administrator that the use for which the Permit was granted is not being conducted in compliance with the 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 conduct revocation proceedings in compliance with section 9262H of this Code, except that all references therein to the Planning Commission shall be deemed to refer to the Zoning Administrator. Notice of the hearing required by said section shall

be given in compliance with section 9262C of this Code. 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) days prior to the hearing. Service shall be deemed complete when received by the permit holder or forty-eight (48) 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 Chapter, the Zoning Administrator may revoke such permit forthwith without any further action thereof, other than giving notice of revocation to the permittee.

D. The final decision of the Zoning Administrator to revoke a Dispensary Use Permit may be appealed to the Planning Commission. The appeal hearing shall be conducted in compliance with Section 9266 of this Code, except that all references therein to the City Council in an appeal of a Zoning Administrator decision shall be deemed to refer to the Planning Commission.

#### **§5714 EFFECT OF REVOCATION**

When a final decision has been made revoking any Dispensary Use Permit provided for in this Chapter, no new application for a dispensary use 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 (3) years after the action revoking the Permit.

#### **§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 Dispensary Use 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 Dispensary Use 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 ninety (90) days from the date the annexation becomes effective. Continued operation of a dispensary without a Permit more than ninety (90)

days after annexation shall constitute a violation of this chapter, unless an extension of the ninety (90) day period is approved by the Planning Commission 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 and to persons eligible for adult-use at their residence in the City or to the same class of persons outside the City's jurisdiction. Such permissible delivery of marijuana to qualified patients or adults at least 21 years of age within the City limits 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 cannabis from a permitted dispensary to a qualified patient must have a City of Ukiah business license in accordance with Division 2, Chapter 1, Article 3 of this 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 section 6001 of this Code, it shall be unlawful for any qualified individual engaging in the activity of delivering cannabis 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 Section 5722 of this Code.

#### **§5719 REMEDIES**

This chapter shall be subject to enforcement pursuant to Division 9, Chapter 2, 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 cannabis 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.

## **§5722 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.

## **§5723 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 section 1094.5.

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

## **SECTION 2**

**Article 15.6 of Chapter 2 in Division 9 of the Ukiah City Code is hereby amended to read as follows (unchanged text is omitted and is shown by “\* \* \*)”:**

### **§9173 PURPOSE**

Sections 9173.2 through 9173.7 in this article provide site planning, development, and/or operational standards for certain land uses that are allowed in certain zoning districts without discretionary review. The standards for each use are intended to mitigate any potentially adverse impacts associated with the specific use.

### **§9173.1 APPLICABILITY**

The land uses and activities included in sections 9173.2 through 9173.7 of this code shall comply with the provisions of the section applicable to the specific land use, in addition to all other applicable provisions of this article and the Ukiah City Code.

A. Where Allowed: The uses that are subject to the standards in sections 9173.2 through 9173.7 of this code shall only be located in the zoning districts indicted herein.

B. Development Standards: The standards for specific land uses included in sections 9173.2 through 9173.7 of this code are required and supplement those included in the Ukiah City Code. In the event of any conflict between the requirements of sections 9173.2 through 9173.7 of this code and those included elsewhere in the City Code, the requirements of sections 9173.2 through 9173.7 of this code shall control.

\* \* \*

### SECTION 3

Table 3 in Section 9223.1 of Article 18, Chapter 2 in Division 9 of the Ukiah City Code is hereby amended by specifying that a Cannabis Retailer is an allowable use with a Dispensary Use Permit (DUP) in the General Urban (GU), Urban Center (UC), and Downtown Core (DC) zoning districts.

### SECTION 4

Article 20 of Chapter 2 in Division 9 of the Ukiah City Code is hereby amended to read as follows (unchanged text is omitted and is shown by “\* \* \*”):

#### §9261 DISCRETIONARY PLANNING PERMITS

\* \* \*

D. \*\*\*

\* \* \*

5.

a. In all Zoning Districts in which they are a permitted use, the following Cannabis Related Businesses shall be considered major uses:

Cannabis Cultivation – Large Indoor.  
Cannabis Cultivation – Large Mixed-Light.  
Cannabis Cultivation – Medium Indoor.  
Cannabis Cultivation – Medium Mixed-Light.  
Cannabis Cultivation – Small Indoor.  
Cannabis Cultivation – Small Mixed-Light.  
Cannabis Cultivation – Specialty Cottage.  
Cannabis Cultivation – Specialty Indoor.  
Cannabis Cultivation – Specialty Mixed Light.  
Cannabis Microbusiness.  
Cannabis Nursery.

Major Use Permits issued for Cannabis Related Businesses shall be subject to annual review, and shall be subject to annual review and revocation according to the procedures set forth in Section 9262, subsections K and L of this Article.

b. In all Zoning Districts in which they are a permitted use, the following Cannabis Related Businesses shall be considered minor uses:

Cannabis Distribution  
Cannabis Manufacturing – Level 1

Minor Use Permits issued for Cannabis Related Businesses shall be subject to annual review, and shall be subject to annual review and revocation according to the procedures set forth in Section 9262, subsections K and L of this Article.

c. In the Heavy Commercial (C-2) and Manufacturing (M) Zoning Districts zoning districts, Cannabis Testing Laboratories shall be considered a minor use. In the Community Commercial zoning district (C-1) and General Urban (GU), Urban Center (UC), and Downtown Core (DC) zoning districts, Cannabis Testing Laboratories shall be considered a major use.

d. In all Zoning Districts in which they are a permitted use, Cannabis Retailers will be required to obtain a Dispensary Use Permit, as set forth in Chapter 8 of Division 6 of this Code.

## **SECTION 5**

### **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 April 18, 2018, by the following roll call vote:

AYES: Councilmembers Brown, Scalmanini, Crane, Mulheren, and Mayor Doble  
NOES: None  
ABSENT: None  
ABSTAIN: None

Adopted on May 2, 2018 by the following roll call vote:

AYES: Councilmembers Brown, Scalmanini, Crane, Mulheren, and Mayor Doble  
NOES: None  
ABSENT: None  
ABSTAIN: None

  
Kevin Doble, Mayor

ATTEST:  
  
Kristine Lawler, City Clerk