

ORDINANCE NO. 1186

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UKIAH ADDING AND AMENDING VARIOUS SECTIONS OF THE UKIAH CITY CODE TO REGULATE CANNABIS RELATED BUSINESSES.

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

SECTION 1

Article 7 of Chapter 2 in Division 9 of the Ukiah City Code, pertaining to the Community Commercial (C-1) Zoning District, is hereby amended to read as follows (unchanged text is omitted and is shown by “* * *)”:

§9082 PERMITTED USES

The following uses require approval of a use permit pursuant to the provisions contained in section 9262 of this chapter:

* * *

Cannabis Manufacturing – Level 1
Cannabis Microbusiness
Cannabis Nursery
Cannabis Retailer
Cannabis Testing Laboratory

* * *

SECTION 2

Article 8 of Chapter 2 in Division 9 of the Ukiah City Code, pertaining to the Heavy Commercial (C-2) Zoning District, is hereby amended to read as follows (unchanged text is omitted and is shown by “* * *)”:

§9097 PERMITTED USES

The following uses require approval of a use permit pursuant to the provisions contained in section 9262 of this chapter:

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 Distribution.
Cannabis Manufacturing – Level 1.
Cannabis Microbusiness.
Cannabis Nursery.

Cannabis Retailer.
Cannabis Testing Laboratory.

* * *

SECTION 3

Article 9 of Chapter 2 in Division 9 of the Ukiah City Code, pertaining to the Manufacturing (M) Zoning Districts, is hereby amended to read as follows (unchanged text is omitted and is shown by “* * *):

§9112 USES PERMITTED SUBJECT TO FIRST SECURING A USE PERMIT

The following uses may be permitted in Manufacturing (M) Districts subject to first securing a use permit, as provided in this Chapter, in each case:

- A. Cannabis Cultivation – Large Indoor.
- B. Cannabis Cultivation – Large Mixed Light.
- C. Cannabis Cultivation – Medium Indoor.
- D. Cannabis Cultivation – Medium Mixed Light.
- E. Cannabis Cultivation – Small Indoor.
- F. Cannabis Cultivation – Small Mixed Light.
- G. Cannabis Cultivation – Specialty Cottage.
- H. Cannabis Cultivation – Specialty Indoor.
- I. Cannabis Cultivation – Specialty Mixed Light.
- J. Cannabis Distribution
- K. Cannabis Manufacturing – Level 1.
- L. Cannabis Microbusiness.
- M. Cannabis Nursery.
- N. Cannabis Retailer.
- O. Cannabis Testing Laboratory.
- P. Industrial, manufacturing, or storage uses which may be objectionable by reason of production of smoke, dust, noise, radioactivity, vibration, bright light or other causes.
- Q. Recreational uses, hotels, motels, mobile home parks, retail stores, offices, service establishments.

R. Resident manager/security personnel housing.

SECTION 4

Article 15 of Chapter 2 in Division 9 of the Ukiah City Code, pertaining to the Public Facilities (PF) Zoning District, is hereby amended to read as follows (unchanged text is omitted and is shown by “* * *):

§9170.2 PERMITTED USES

The following uses are permitted in the Public Facilities (PF) Zoning District subject to first securing a use permit:

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 Distribution
Cannabis Manufacturing – Level 1.
Cannabis Microbusiness.
Cannabis Nursery.
Cannabis Retailer.
Cannabis Testing Laboratory.

SECTION 5

Article 15.6 of Chapter 2 in Division 9 of the Ukiah City Code is hereby amended to add a new Section 9173.7 which shall read as follows:

§9173.7 CANNABIS RELATED BUSINESSES

A. All Cannabis Related Businesses, as defined in Section 9278 of this Code, operating subject to Use Permits under this Chapter will operate indoors in a fully enclosed secure structure, as defined in Section 9254 of this Code, and shall not be allowed in the following areas:

1. Within six hundred feet (600') of a school, as defined in Section 5702P of this Code, 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 Cannabis Related Business 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, as defined in Section 5702R of this Code, 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 Cannabis Related Business is to be located, and not radial distance; or

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

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 Cannabis Related Business and the residential unit or the residentially zoned property that the decision-making entity charged with hearing and making the decision on the Use Permit application or the appeal of that decision determines sufficient to provide an appropriate separation.

B. A waiver of the provisions in subsections A2 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 Zoning Administrator or the Planning Commission makes a finding of no adverse impact resulting from the proposed location of the Cannabis Related Business.

SECTION 6

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 Testing Laboratory, Cannabis Retailer, and Cannabis Microbusiness are allowable uses with a Major Use Permit (MAUP) in the General Urban (GU), Urban Center (UC), and Downtown Core (DC) zoning districts, and inserting a reference to section 9254 and 9261 in the column entitled "Additional Zoning Requirements by Code Section".

SECTION 7

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 – Specialty Cottage.

Cannabis Cultivation – Specialty Indoor.

Cannabis Cultivation – Specialty Mixed Light.

Cannabis Microbusiness.
Cannabis Nursery.
Cannabis Retailer.

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.

* * *

§9262 USE PERMIT PROCEDURES

* * *

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

K. Annual Review of Use Permits for Cannabis Related Businesses:

1. Use Permits for Cannabis Related Businesses will be subject to annual review by the Zoning Administrator, including inspection of the Business by the Zoning Administrator or his designee, to determine whether the Business is being operated in accordance with any conditions of approval imposed on the Use Permit as issued by the Planning Commission or Zoning Administrator. The City Council may, from time to time by resolution in accordance with the procedures required by law, establish fees to be charged and collected for annual review pursuant to this subsection.
2. In the course of annual review and after annual inspection, the Zoning Administrator shall make findings of fact regarding the Cannabis Related Business operator's adherence to the conditions of approval for the Use Permit. In addition, the Zoning Administrator will consider the following nonexclusive criteria in making findings of fact which may be grounds for revocation of a Use Permit for a Cannabis Related Business:

- a. Whether the Cannabis Related Business operated pursuant to the Use Permit has generated an excessive number of calls for police service compared to similarly situated businesses of the same size as the Cannabis Related Business.
 - b. 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, odors, or lewd conduct.
 - c. Whether the Cannabis Related Business operating pursuant to a Use Permit has a history of inadequate safeguards or procedures that show it is likely that it will not comply with the any operating requirements and standards required in the conditions of approval.
 - d. Whether the Cannabis Related Business has failed to pay fees, penalties, or taxes required by the conditions of approval of the Use Permit or by this Code or State law, or has failed to comply with any requirements for the production of records or other reporting requirements of this Code.
 - e. Whether the operator of the Cannabis Related Business 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 an operator of a Cannabis Related Business. 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.
 - f. Whether the operator or Managers of the Cannabis Related Business have previously or are currently engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.
 - g. Whether the Cannabis Related Business has been operated in compliance with applicable State law and provisions of this Code generally.
3. If the Zoning Administrator determines that the Cannabis Related Business is being operated in violation of any conditions of approval imposed on the Use Permit as issued by the Planning Commission or the Zoning Administrator, the Use Permit may be subject to revocation.

L. Revocation of Use Permits for Cannabis Related Businesses:

1. In addition to the reasons for revocation of an approved use permit set forth in subdivisions (H)(1) and (K)(2) of this Section, an approved use permit for a Cannabis Related Business may be revoked through the City's revocation process,

as set forth in subdivision (H)(2) of this Section, except that all references therein to the Planning Commission shall be deemed to refer to the Zoning Administrator, if the Cannabis Related Business is operated in a manner that violates the conditions of approval imposed by the Use Permit or the provisions of this Code, or conflicts with State law. At the public hearing to be conducted by the Zoning Administrator as set forth in subdivision (H)(2) of this Section, the Zoning Administrator shall make findings regarding the alleged specific violations of this Code or State law.

2. An appeal of the Zoning Administrator's decision on revocation of a Use Permit for a Cannabis Related Business may be made to the Planning Commission for a final decision. Any such appeal must comply with the requirements of Section 9266 of this Article, except that all references therein to the City Council shall be deemed to refer to the Planning Commission.
3. When a final decision revoking a Use Permit for a Cannabis Related Business is made as provided in this Section, the permittee shall become ineligible for a period of three years thereafter to apply for a use permit for a Cannabis Related Business. The ineligibility shall include any corporation or other business entity, including, but not limited to, a partnership or limited liability company, in which the permittee has any direct or indirect beneficial, financial or ownership interest.

SECTION 8

Article 21 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 “* * *”):

§9278 DEFINITIONS

B. ***

* * *

CANNABIS: All parts of the plant *Cannabis sativa* linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means: (1) “marijuana” as defined by Section 11018 of the Health and Safety Code, and (2) the separated resin, whether crude or purified, obtained from marijuana. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this article, “cannabis” does not mean “industrial hemp” as defined by Food and Agricultural Code Section 81000 or Health and Safety Code Section 11018.5.

CANNABIS CULTIVATION: Any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

CANNABIS CULTIVATION – INDOOR: The cultivation of cannabis within a fully enclosed secure structure, as defined in Section 9254 of this Code.

CANNABIS CULTIVATION – LARGE INDOOR: Indoor cultivation using exclusively artificial lighting greater than 22,000 square feet, inclusive, of total canopy size on one premises.

CANNABIS CULTIVATION – LARGE MIXED LIGHT: Indoor cultivation using any combination of natural and supplemental artificial lighting, greater than 22,000 square feet, inclusive, of total canopy size on one premises.

CANNABIS CULTIVATION – MEDIUM INDOOR: Indoor cultivation using exclusively artificial lighting between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises.

CANNABIS CULTIVATION – MEDIUM MIXED LIGHT: Indoor cultivation using any combination of natural and supplemental artificial lighting, between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises.

CANNABIS CULTIVATION – SMALL INDOOR: Indoor cultivation using exclusively artificial lighting between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

CANNABIS CULTIVATION – SMALL MIXED LIGHT: Indoor cultivation using any combination of natural and supplemental artificial lighting, inclusive, of total canopy size on one premises.

CANNABIS CULTIVATION – SPECIALTY COTTAGE: Indoor cultivation using any combination of natural and supplemental artificial lighting, of 2,500 square feet or less of total canopy size for mixed-light cultivation, or 500 square feet or less of total canopy size for indoor cultivation, on one premises.

CANNABIS CULTIVATION – SPECIALTY INDOOR: Indoor cultivation using exclusively artificial lighting of between 2,501 and 5,000 square feet of total canopy size on one premises.

CANNABIS CULTIVATION – SPECIALTY MIXED LIGHT: Indoor cultivation using any combination of natural and supplemental artificial lighting, of between 2,501 and 5,000 square feet of total canopy size on one premises.

CANNABIS DISTRIBUTION: The procurement, sale, and transport of cannabis and cannabis products between permitted and licensed cannabis businesses for the distribution of cannabis and cannabis products.

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

CANNABIS MANUFACTURING - LEVEL 1: Cannabis Manufacturing involving the manufacture of cannabis products using nonvolatile solvents, or no solvents.

CANNABIS MANUFACTURING – LEVEL 2: Cannabis Manufacturing involving the manufacture of cannabis products using volatile solvents.

CANNABIS MICROBUSINESS: A Cannabis Related Business operating under a State Type 12 license for microbusinesses, or a state cannabis license type subsequently established, and meeting the definition of “microbusiness” set forth in Business and Professions Code § 26070(a)(3)(A), as may be amended from time to time, which cultivates less than 10,000 square feet of cannabis and acts as a licensed distributor, Level 1 manufacturer, and retailer on the same Premises. A Cannabis Microbusiness that also acts as a Cannabis Retailer must also comply with the provisions of Division 6, Chapter 8 of the Ukiah City Code, except that a Microbusiness with a retail component is not required to obtain a Dispensary Use Permit pursuant to Section 5703 of this Code.

CANNABIS NURSERY: Cultivation of Cannabis that produces only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of Cannabis.

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

CANNABIS RELATED BUSINESS: A commercial enterprise engaged in the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, distribution, or distribution, of cannabis or a cannabis product, including a Microbusiness, except as set forth in Business and Professions Code Section 26033 related to qualifying patients and primary caregivers, Division 6, Chapter 8 of the Ukiah City Code pertaining to regulation of marijuana dispensaries and issuance and renewal of Dispensary Use Permits, and Section 9254 of this Chapter pertaining to cultivation of marijuana for personal use. For purposes of this Article, this definition of a Cannabis Related Business excludes businesses engaged in the retail sale and delivery of Cannabis, Cannabis products, or Cannabis Products to patients or customers, which are regulated under Division 6, Chapter 8 of this Code. All Cannabis Related Businesses operating within the City must possess a valid State license appropriate for the type of business operated.

CANNABIS RETAILER: A commercial enterprise engaged in the retail sale and delivery of cannabis or cannabis products to customers. A retailer shall have a licensed premises which is a physical location from which commercial cannabis activities are conducted. A retailer's premises may be closed to the public. A retailer may conduct sales exclusively by delivery. All Cannabis Retail operations in the City of Ukiah are regulated pursuant to Division 6, Chapter 8 of the Ukiah City Code and must comply with all provisions of this Division.

CANNABIS TESTING LABORATORY: A laboratory, facility, or entity that offers or performs tests of cannabis or cannabis products.

* * *

MARIJUANA: The term “Marijuana,” as used in this Chapter and throughout the Code, shall have the same meaning as the term “Cannabis” as defined in this Chapter.

PREMISES: The designated structure or structures and land specified in the application for a Use Permit for a Cannabis Related Business that is owned, leased, or otherwise held under the control of the applicant or permittee where the Cannabis Related Business will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one permittee.

* * *

VOLATILE SOLVENTS: Solvents that are or produce a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures.

SECTION 9

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 December 20, 2017, by the following roll call vote:

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

Adopted on January 17, 2018 by the following roll call vote:

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

ATTEST:



Kristine Lawler, City Clerk



Kevin Doble, Mayor