



Planning Commission

Regular Meeting **AGENDA**

Agenda updated 2/3/23

(to be held both at the physical and virtual locations below)

Civic Center Council Chambers ♦ 300 Seminary Ave. ♦ Ukiah, CA 95482

To participate virtually, go to the following link: <https://zoom.us/j/91264543193>

To view the meeting (without participating) go to: <http://www.cityofukiah.com/meetings/>

- Call (toll free) 1-833-548-0276 or 833-548-0282
- Raise hand: after being recognized, Enter *9
- Unmute Yourself, Enter *6

Or One tap mobile (for easy connection on smartphones):

US: [+16699009128](tel:+16699009128), [91264543193#](tel:+191264543193) or [13462487799](tel:+13462487799), [91264543193#](tel:+191264543193)

February 8, 2023 - 6:00 PM

1. CALL TO ORDER

2. ROLL CALL

3. PLEDGE OF ALLEGIANCE

- 3.a. Certificate Presentation for Outgoing Commissioner, and Swearing In of New and Reappointed Commissioners.
Recommended Action: Present Certificate of Appreciation and direct Clerk to administer Oaths of Office to the newly appointed/reappointed Commissioners.
Attachments: None

4. APPROVAL OF MINUTES

- 4.a. Approval of the Minutes for the December 14, 2022, Regular Meeting
Recommended Action: Approve the minutes for the December 14, 2022, regular meeting.
Attachments:
1. December 14, 2022 - Draft Minutes

5. APPEAL PROCESS

All determinations of the Planning Commission regarding major discretionary planning permits are final unless a written appeal, stating the reasons for the appeal, is filed with the City Clerk within ten (10) days of the date the decision was made. 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. For items on this agenda, the appeal must be received by February 20, 2023.

6. COMMENTS FROM AUDIENCE ON NON-AGENDA ITEMS

The Planning Commission welcomes input from the audience that is within the subject matter jurisdiction of the Planning Commission. In order for everyone to be heard, please limit your comments to three (3) minutes per person and not more than ten (10) minutes per subject. The Brown Act regulations do not allow action to be taken on audience comments.

7. **SITE VISIT VERIFICATION**

8. **VERIFICATION OF NOTICE**

9. **PLANNING COMMISSIONERS REPORT**

10. **DIRECTOR'S REPORT**

10.a. Director's Report

Recommended Action: Receive Report

Attachments:

1. Director's Report

11. **CONSENT CALENDAR**

12. **NEW BUSINESS**

- 12.a. Ordinance Amendment to Ukiah City Code to allow for 'Cannabis Consumption Areas' at 'Cannabis Retailers' upon modification or approval of a Use Permit.

Recommended Action: Adopt a resolution making the Planning Commission's report and recommendation to the City Council on a proposed amendment to Ukiah City Code, finding that the actions are categorically exempt pursuant to Section 15061 (b)(3) of the CEQA Guidelines.

Attachments:

1. Cannabis Consumption Area - Proposed Regulations (Redline)
2. Cannabis Consumption Area - Proposed Regulations (Clean)
3. Cannabis Consumption Area -Resolution
4. Cannabis Consumption Area - Supplemental Application Requirements
5. Cannabis Consumption Area - Agency Responses
6. Cannabis Consumption Area - Public Comment (September, 2022)

13. **UNFINISHED BUSINESS**

14. **ADJOURNMENT**

Please be advised that the City needs to be notified 72 hours in advance of a meeting if any specific accommodations or interpreter services are needed in order for you to attend. The City complies with ADA requirements and will attempt to reasonably accommodate individuals with disabilities upon request. Materials related to an item on this Agenda submitted to the Planning Commission after distribution of the agenda packet are available at the Civic Center 300 Seminary Ave. Ukiah, CA 95482; and online at: www.cityofukiah/meetings/ at the end of the next business day.

I hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted on the bulletin board at the main entrance of the City of Ukiah City Hall, located at 300 Seminary Avenue, Ukiah, California, not less than 72 hours prior to the meeting set forth on this agenda.

Dated: February 3, 2023
Stephanie Abba, Planning Commission Secretary

**CITY OF UKIAH
PLANNING COMMISSION MINUTES
REGULAR MEETING
Civic Center Council Chamber ♦ 300 Seminary Avenue ♦ Ukiah, CA 95482
Virtual Meeting Link: <https://zoom.us/j/91264543193>
Ukiah, CA 95482
December 14, 2022
6:00 p.m.**

1. CALL TO ORDER

The City of Ukiah Planning Commission held a Regular Meeting on December 14, 2022. The meeting was legally noticed on December 7, 2022. The meeting was held in person and at the following virtual link: <https://zoom.us/j/91264543193>. Chair Christensen called the meeting to Order at 6:00 p.m.

CHAIR CHRISTENSEN PRESIDING.

2. ROLL CALL

Roll was taken with the following **Commissioners Present:** Alex de Grassi, Michelle Johnson, Rick Johnson, Mark Hilliker, and Laura Christensen. **Staff Present:** Craig Schlatter, Community Development Director; and Kristine Lawler, City Clerk.

3. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Chair Christensen.

4. APPROVAL OF MINUTES

a. Approval of the Minutes of November 09, 2022, a Regular Meeting.

Motion/Second: R. Johnson/Hilliker to approve the minutes of the November 9, 2022, regular meeting, with administrative corrections as discussed. Motion **carried** by the following roll call votes: AYES: de Grassi, M. Johnson R. Johnson, Hilliker, and Christensen. NOES: None. ABSENT: None. ABSTAIN: None.

5. APPEAL PROCESS

No appeals were received.

6. COMMENTS FROM AUDIENCE ON NON-AGENDA ITEMS

No public comment was received

7. SITE VISIT VERIFICATION

Commissioners verified that the site was visited.

8. VERIFICATION OF NOTICE

Verified by Staff

9. PLANNING COMMISSIONERS REPORTS

Presenters: Commissioner de Grassi, Vice Chair Hilliker, Commissioner Rick Johnson, and Chair Christensen.

Commissioner Directive to agendize an item to report on the status of commercial solar mandates.

Commissioner Directive to agendize a presentation regarding changes to building and fire codes.

10. DIRECTOR'S REPORT

Presenter: Craig Schlatter, Community Development Director.

Report received

11. CONSENT CALENDAR

12. NEW BUSINESS

a. Request to Review a Mural Permit to be Located on the Lucky Supermarket Building at 504 E. Perkins St. (APN 002-200-29); File No.: 22-7834.

Presenter: Jesse Davis, Planning Manager.

PowerPoint presentation was given.

PUBLIC HEARING WAS OPENED AT 6:40 P.M.

Public Comment: Maureen Mulheren, Applicant; Kelly Price, Pear Street Owner Representative.

PUBLIC HEARING WAS CLOSED AT 6:44 P.M.

PUBLIC HEARING WAS RE-OPENED AT 6:48 P.M.

Public Comment: Mary Ortega.

PUBLIC HEARING WAS CLOSED AT 6:50 P.M.

Motion/Second: Hilliker/de Grassi to approve the Mural Permit, based on the Findings in Attachment 1 (*included with minutes*) and Subject to the Conditions of Approval in Attachment 2 (*included with minutes*). Motion **carried** by the following roll call votes: AYES: de Grassi, M. Johnson R. Johnson, Hilliker, and Christensen. NOES: None. ABSENT: None. ABSTAIN: None.

13. UNFINISHED BUSINESS

a. Receive Community Development Department End of Year Report.

Presenters: Craig Schlatter, Community Development Director; Jesse Davis, Chief Planning Manager; Jim Robbins, Grants Manager; and Matt Keizer, Chief Building Official.

Commission Directive to bring report back annually.

Reports were received.

14. ADJOURNMENT

There being no further business, the meeting adjourned at 7:35 p.m.

Kristine Lawler, City Clerk

As of 2/1/2023

Permit #	Site Address	Date of Submittal/ Resubmittal	Summary of Project	Status	Assigned Planner
23-8069	218 Mason St.	1/20/23	Minor Use Permit for conversion of use from commercial to mixed-use within the Community Commercial (C1) zoning district.	Incomplete: 1/23/23	Michelle Irace
22-7977	101 S. Main St.	12/12/22	Major Site Development Permit for construction of a new 4,557 sf Redwood Credit Union bank facility, located within the Urban Center (UC) zoning district.	Incomplete: 12/27/22	Michelle Irace
22-7956	162 Talmage Rd.	12/9/22	Major Site Development Permit for the Splash Express Car Wash #5 (dBA LUV Car Wash) facility. Includes demolition of the existing structures and redevelopment of a new 2,433 sf car wash facility, located within the Heavy Commercial (C2) zoning district.	Incomplete: 12/15/22	Jesse Davis
22-7565	200 Ford St.	9/9/22; 10/28/22	Major Use Permit and Site Development Permit to allow for expansion of the Ford Street Project recovery center, located in the Heavy Commercial (C2) zoning district.	Incomplete: 11/30/22; 12/19/22	Michelle Irace
22-4723	720 N. State St.	7/27/22	Major Use Permit and Site Development Permit for construction of a 90-ft monopine telecommunications tower, located in the Community Commercial (C1) zoning district.	Incomplete: 9/26/22 No application activity since Sept., 2022	Michelle Irace
22-7223	414 E. Perkins St.	6/14/2022; 10/5/22	Major Use Permit and Site Development Permit to allow for construction and operation of a gas station, drive-through car wash, convenience store, and multi-family residential mixed-use project, located in the DC (Downtown Core) zoning district.	Incomplete: 6/28/22; 10/25/22	Jesse Davis
17-3069	1294 N. State St.	9/13/17; 9/14/21; 9/28/22	Resubmitted Major Use Permit and Site Development Permit to allow for construction of two retail suites (including one drive-through), located in the C-1 (Community Commercial) zoning district.	Incomplete 6/2/22; 9/29/22	Michelle Irace
22-7483	734 S. State St.	8/15/222	Xpress Gas Station Major Use Permit-request to resume operation of the gas station within the Community Commercial (C1) Zoning District.	Incomplete: 8/19/22 No application activity since Aug., 2022	Jesse Davis

City of Ukiah
Recently (Within Previous 90 Days) Approved Projects

As of 2/1/2023

Permit #	Site Address	Approved Date	Summary of Project	Comments	Assigned Planner
22-7834	504 E. Perkins St.	12/14/22	Mural Permit to allow a 3,175 sf mural to be placed on the south-facing wall of the Lucky Supermarket building, within the Community Commercial (C1) zoning district.	Approved by Planning Commission hearing	Michelle Irace
22-7678	203 S. State St.	12/15/22	Minor Use Permit for Mendo LEAP indoor recreation center, located within an existing building in the Urban Center (UC) Downtown Zoning Code district	Approved by Zoning Administrator hearing	Michelle Irace

**City of Ukiah
Miscellaneous In-Process Projects**

As of 2/1/2023

Permit #	Site Address	Approved Date	Summary of Project	Comments	Assigned Planner
n/a	Citywide	n/a	2040 General Plan Implementation Programs	2040 General Plan adopted by City Council 12/7/22. Implementation efforts began January, 2023	Michelle Irace, Jesse Davis
n/a	Unincorporated Western Hills	n/a	Western Hills Open Land Acquisition and Limited Development Agreement Project - Annexation Application.	Annexation application submitted to LAFCo: 6/8/22. Incomplete letter from LAFCo received 6/29/22. Rezoning and application modifications to CC anticipated Jan/Feb 2023	Michelle Irace, Jesse Davis
n/a	Citywide	n/a	Annexation of City-owned parcels.	Submitted Annexation Application to LAFCo 2/23/22. Incomplete letter received 3/25/22. Updated application submitted in June 2022. Rezoning and application modifications to CC anticipated Jan/Feb 2023	Jesse Davis



SUMMARY

DATE: January 30, 2022

REQUEST: Ordinance Amendment to Ukiah City Code to allow for 'Cannabis Consumption Areas' at 'Cannabis Retailers' upon modification or approval of a Use Permit.

LOCATION: Within the incorporated areas of the City of Ukiah

ENVIRONMENTAL DETERMINATION: Categorical Exemption pursuant to Section 15061 (b)(3)

RECOMMENDATION: Adopt a resolution making the Planning Commission's report and recommendation to the City Council on a proposed amendment to Ukiah City Code, finding that the actions are categorically exempt pursuant to Section 15061 (b)(3) of the CEQA Guidelines.

STAFF: Jesse Davis, Chief Planning Manager; Darcy Vaughn, Assistant City Attorney

INTRODUCTION

Community Development staff present a request to amend existing provisions of Ukiah City Code regulating cannabis related businesses within the City of Ukiah to allow for consumption of cannabis products in Cannabis Consumption Areas at permitted Cannabis Retailers and Cannabis Microbusinesses upon approval or modification of their associated Use Permit.

If approved, Cannabis Consumption Areas shall adhere to the provisions of the City's Anti-Smoking Ordinance (Division 5, Chapter 7, Article 4), undertake a review and renewal of operations after one (1) year of activity, and maintain compliance with all relevant State statutes and regulations.

BACKGROUND

Local/Regional Regulations & Context: Presently, Ukiah City Code §9174.3(C)(5)(a) states: *"Cannabis shall not be consumed on the premises of the cannabis retailer. 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 cannabis retailer's entrance."*

Additionally, the consumption of cannabis in any public place, as defined by Ukiah City Code §9174.3(C)(5)(c), is similarly prohibited. This proposed Ordinance Amendment will not modify public consumption considerations. Furthermore, the City does not restrict, nor does it intend to restrict, the ability of residential property owners to ban consumption of cannabis products on their properties or within their residential units.

In 2018, the County of Mendocino allowed for on-site consumption of cannabis at retailers/dispensaries in locations that adhered to the provisions of Mendocino County Code Chapter 9.32 (Smoking Pollution Control and Health Protection Ordinance). In 2021, the County of Mendocino updated these regulations to incorporate language to facilitate the permitting of

cannabis farmers' markets, cannabis farm tours, cannabis lodging opportunities, and on-site consumption of cannabis at permitted cultivation sites. At that time, the County also added policies to streamline cannabis events, as well as align the previous on-site consumption policy with the California Business and Professions code for licensed retailers or microbusiness.

Presently, within the City of Ukiah's Sphere of Influence (SOI), five (5) cannabis retailers or microbusiness facilitate on-site consumption in conjunction with their business. County regulations do not require the discretionary review of cannabis retail or on-site consumption on commercial properties, but rather a Cannabis Facility Business License (CFBL) via a Zoning Clearance from the Departments of Planning and Building Services (PBS) and Environmental Health (EH).

State Regulations and Context: In general, the State allows for on-site consumption where locally authorized. Most of the State's regulatory considerations regarding consumption focus on temporary cannabis events, which require both a Cannabis Event Organizer license, as well as a Temporary Cannabis Event license from the Department of Cannabis Control (DCC). To facilitate on-site consumption of cannabis products on a non-event basis, a Type 10: Storefront Retail license is required from the DCC, even if the primary undertaking is not commercial retail, but an associated activity, such as a hotel that wants to facilitate an on-site consumption area.

While consumption is permissible by the State at cannabis events, with local authorization and appropriate licensure, this Ordinance Amendment does not alter the standards or requirements to facilitate events or gatherings on private property. Particularly, Ukiah City Code §9174.3(C)(5)(c) would continue to prohibit the consumption of cannabis on parcels including, but not limited to, City owned parks and at City sponsored events.

Cannabis use is legal in California, but cities and counties can prohibit cannabis businesses at their discretion. As a result, the state is a patchwork of areas where it is legal to establish a cannabis business, as well as where it is legal to publicly consume cannabis. As of November 2022, the DCC indicates that 61% of cities and counties do not allow any retail cannabis business.¹ That being said, all incorporated jurisdictions within Mendocino County, as well as the County itself, allow for at least one cannabis business type, albeit at various levels of permit review and restrictiveness.

Across California, an increasing number of municipalities are now facilitating on-site consumption in various formats, including the cities of West Hollywood, San Francisco, Palm Springs, Ojai, Port Hueneme, Santa Rosa, and Lompoc. As of 2019, 35 jurisdictions, allowed on-site cannabis consumption in some form at cannabis business locations.²

Pursuant to California Business and Professions Code Section 26200, a local jurisdiction may allow for the smoking, vaporizing, and ingesting of cannabis or cannabis products on the premises of a retailer or microbusiness per the following requirements:

- (1) *Access to the area where cannabis consumption is allowed is restricted to persons 21 years of age or older.*

¹California Department of Cannabis Control (DCC). (2022, December 28). *California Department of Cannabis Control (DCC)*. Retrieved from Where cannabis businesses are allowed: <https://cannabis.ca.gov/cannabis-laws/where-cannabis-businesses-are-allowed/>

² Alisa A. Padon, K. C.-W. (2022). Local Laws Regulating Cannabis in California Two Years Post Legalization: Assessing Incorporation of Lessons from Tobacco Control. *Cannabis, A Publication of the Research Society on Marijuana* (pp. 47-60). Prevention Policy Group, Public Health Institute: Division of Research, Kaiser Permanente Northern California.

- (2) *Cannabis consumption is not visible from any public place or non-age-restricted area.*
- (3) *Sale or consumption of alcohol or tobacco is not allowed on the premises.*

Until recently, the DCC did not allow the concurrent sale of non-cannabis infused food or drink at cannabis retailers. In 2022, however, the DCC updated its regulations to allow a retailer or microbusiness that operates a consumption area on the licensed premises in accordance with Business and Professions Code section 26200(g) to sell non-cannabis-infused and non-alcoholic food and beverages, if the applicable local jurisdiction allows such sales. The updated regulations also clarified that outside food and beverages may delivered to a consumption lounge.

PROPOSED ORDINANCE AMENDMENT & HISTORY

Public Expression and Ad Hoc Committee Review: On September 7, 2022, written and oral comment was provided to the Ukiah City Council during *Audience Comments on Non-Agenda Items* requesting that the City Council evaluate an ordinance amendment to allow for on-site consumption. Thereafter the City Council requested that the Cannabis Ad-Hoc Committee review considerations provided during public expression in conjunction with staff.

Subsequently, Community Development Staff facilitated a meeting of the Cannabis Ad-Hoc on October 19, 2022, and then addressed questions via email with members of the Ad-Hoc to develop a recommendation for modification of Ukiah City Code that addressed the public expression provided.

Changes to Ukiah City Code: The proposed amendments to Ukiah City Code incorporate recommendations from the City Council Cannabis Ad-Hoc, as well as considerations that align with previous direction to ensure a streamlined and concise regulatory approach to cannabis related businesses and issues. The proposed changes are described below:

- **§9174.2(F)(1):** Language amended to remove the conflict that restricts cannabis consumption except as set forth in Section 9174.3(c)(5);
- **§9174.3(C)(5)(a):** Language amended to allow for on-site consumption at cannabis-retailers as regulated by subdivisions §9174.3(C)(5)(b-d);
- **§9174.3(C)(5)(b):** Adds language that creates standards to operate a Cannabis Consumption Area, including that the Cannabis Retailer or Microbusiness adhere to the provisions of the City's Anti-Smoking Ordinance (Division 5, Chapter 7, Article 4), obtain a Use Permit renewal after one (1) year of operation, and prevent access to non-eligible patrons;
- **§9174.3(C)(5)(c):** Adds language that an indoor Cannabis Consumption Area be limited to allowing consumption of Edible Cannabis Product or Orally Consumed Concentrate only;
- **§9174.3(C)(5)(d):** Adds language that a Cannabis Consumption Area shall be located in well-ventilated, private area partitioned from access to all other areas of the premises, and be designed to prevent the flow of smoke to any other area of the premises or adjacent properties;
- **§9278:** The amended definitions have been expanded to include the addition of the following terms and align with State terminology, as applicable: *Cannabis Consumption Area, Edible Cannabis Product, Orally Consumed Concentrate, and Cannabis Concentrate.*

Attachment 1 provides a redlined version of the proposed ordinance amendment, while **Attachment 2** provides a clean version of the proposed changes. **Attachment 3** includes a list of the supplemental application components needed to facilitate a request to incorporate a Cannabis Consumption Area for modification or approval of an associated Use Permit.

STAFF ANALYSIS

Facilitating an on-site consumption ordinance could address reasonable concerns that without designated areas, increased consumption will occur in public places or multi-unit housing where it is prohibited. This increase in consumption, especially in multi-unit housing, presents risks to vulnerable groups such as children and the elderly from second-hand smoke. It also increases risks related to unnecessary policing and displacement of low-income and minority residents for cannabis use in their rental units or other public situations, which engenders potential criminal justice disparities. As noted, the City of Ukiah presently restricts the consumption of cannabis in public places, defined by Ukiah City Code §9174.3(C)(5)(c), and the City does not intend to alter those regulations at this time. There is strong evidence that cannabis smoke contains similar toxins to tobacco smoke and that cannabis smoke and cannabis vapor produce emission rates of secondhand smoke/vapor greater than that of cigarettes.³ That being said, under this proposed ordinance amendment indoor consumption of cannabis will be limited to edible products by ingestion only, and all on-site consumption will be regulated through the approval or modification of associated Use Permits. Additionally, on-site consumption will be required to adhere to the City's Anti-Smoking Ordinance (Division 5, Chapter 7, Article 4). Furthermore, the addition of §9174.3(C)(5)(d) adds language to clarify the location limitations for on-site consumption. These limitations ensure that Cannabis Consumption Areas are well-ventilated private areas partitioned from access to all other parts of the associated establishment, as well as adjacent properties, and that they are designed to prevent the flow of smoke to any other area of the establishment or adjacent property.

It is evident that many aspects related to Cannabis Consumption Areas will be site specific, which informs why requests will require modification or approval of a Use Permit. By facilitating discretionary review, considerations specific to the business can be addressed and appropriate conditions of approval provided, if necessary.

General Plan Consistency

The Economic Development Element of the City's 2040 General Plan contains the following goals and policies that would support consideration of an ordinance amendment to facilitate on-site consumption at cannabis-retailers upon modification or approval of their associated Use Permit:

- **Goal ED-4:** To attract visitors and provide them with the amenities and services to make their stay in Ukiah enjoyable.
- **Goal ED-6:** To maintain a supportive business climate and a healthy economy that leads to the expansion of existing businesses and the attraction of new ones.
 - o **Policy ED-6.1: Regulatory Environment:** The City shall promote business-friendliness in the regulatory and permitting process through collaboration,

³ Ott, W. R., Zhao, T., Cheng, K.-C., Wallace, L. A., & Hildemann, L. M. (2021). Measuring indoor fine particle concentrations, emission rates, and decay rates from cannabis use in a residence. *Atmospheric Environment*: X, 10, 100106.

innovation, exchange of ideas and best practices.

- **Goal ED-10:** To foster a robust and diversified local economy that provides quality employment and attracts stable businesses.
- **Policy ED-10.4: Local-Serving Retail:** The City shall encourage the establishment and expansion of commercial businesses that increase local spending within Ukiah and provide needed goods and services to residents and businesses.

Staff finds that the proposed ordinance amendment is consistent with a number of goals and policies identified in the Economic Development Element of the City of 2040 Ukiah's General Plan. The proposed ordinance amendment aligns with the City's intention to encourage and facilitate the development of local-serving retail that is more resilient, in this case from the market fluctuations associated with the cannabis industry, while offering visitors with the amenities and services that makes their stay in Ukiah more enjoyable. Accordingly, Visit Mendocino has identified the cannabis tourism sector as an important area for future tourism and growth. Allowing for on-site consumption, could allow for more innovative businesses, such as restaurants, spas and other businesses that may not facilitate retail of cannabis product, but use it as part of their business. Finally, it is recognized that on-site consumption considerations are increasingly common across California, and that the County of Mendocino has allowed for on-site consumption with associated retail entities since 2018, and expanded the allowance to cannabis cultivation sites in 2021.

AGENCY COMMENTS

The application was referred to departments and agencies with jurisdiction or interest in the Project, including the City of Ukiah Community Development Department, Building Inspection Division, City of Ukiah Police Department, City of Ukiah Public Works Department, Ukiah Valley Fire Authority, Mendocino County Sheriff's Office, and the Mendocino County Air Quality Management District (MCAQMD). Comments received during agency review are included in **Attachment 5**. No specific responses or suggested amendments were provided by referral entities.

ENVIRONMENTAL DOCUMENTATION

The proposed Ordinance Amendment has been reviewed by City staff in accordance with CEQA Guidelines to determine if implementation would create significant environmental impacts. The City has determined that the establishment of regulations to allow on-site consumption at commercial cannabis businesses does not meet any of the thresholds that would trigger a significant environmental impact, and thus according to the "general rule exemption" (Section 15061 (b)(3) of the CEQA Guidelines, no further environmental analysis is required. As described, the proposed ordinance amendment does not create any new land use considerations beyond partial utilization of a Cannabis Retailer or Microbusiness premises to engage in the consumption of cannabis. As proposed the cannabis retailer must comply with existing regulations related to the City's Anti-Smoking Ordinance (Division 5, Chapter 7, Article 4), similar to businesses that allow for the consumption of tobacco products.

NOTICE

Notice was facilitated to conduct a public hearing and was provided in the following manner, in accordance with Ukiah City Code (UCC) and California Environmental Quality Act (CEQA) Guidelines §15073:

- Provided to agencies and departments with jurisdiction or interest over the project on January, 30, 2023;
- Posted on the City's webpage on January, 30, 2023;
- Published in the Ukiah Daily Journal on January, 29, 2023 and;
- Posted at the Civic Center (glass case) 72 hours prior to the public hearing.

RECOMMENDATION

Adopt resolution making the Planning Commission's report and recommendation to the City Council on a proposed amendment to the City's Municipal Code, finding that the actions are categorically exempt pursuant to Section 15061 (b)(3) of the CEQA Guidelines.

ATTACHMENTS

1. Ordinance Amendment - Redline
2. Ordinance Amendment – Clean
3. Planning Commission Resolution - Draft
4. Application Submittal Requirements (Use Permit) – Cannabis Consumption Area
5. Agency Comments and Responses
6. September 7, 2022 – Public Expression (City Council)

ORDINANCE NO.

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UKIAH AMENDING VARIOUS SECTIONS OF THE UKIAH CITY CODE TO PERMIT AND REGULATE CANNABIS CONSUMPTION AREAS AT COMMERCIAL CANNABIS RETAIL BUSINESSES AND CANNABIS MICROBUSINESSES.

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

SECTION 1

Section 9174.2 of the Ukiah City Code is hereby amended to read as follows (unchanged text is omitted and is shown by “* * *”):

§9174.2 CANNABIS-RELATED BUSINESSES

* * *

F. Limitations on Locations of Cannabis Related Businesses

1. 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, except as set forth in Section 9174.3(c)(5) of this Code regulating Cannabis Consumption Areas, and shall not be allowed in the following areas:

- a. 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
- b. 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
- c. 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
- d. 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
- e. 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.

2. A Cannabis Retailer, as defined in Section 9278 of this code, shall not be allowed within two hundred fifty feet (250') of another Cannabis Retailer, with that distance measured by street frontage from the property line of the other Cannabis Retailer to the closest property line of the lot on which the Cannabis Retailer is to be located, and not radial distance.

3. A waiver of the provisions in subsections F1a through e and F2 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 2

Section 9174.3 of the Ukiah City Code is hereby amended to read as follows (unchanged text is omitted and is shown by “* * *”):

§9174.3 CANNABIS RETAILERS

A. Applicability: The standards and requirements in this Section apply specifically to Cannabis Retailers, as defined in Section 9278 of this Code, and other Cannabis Businesses with a retail component, and shall apply in addition to the requirements and standards for all Cannabis Businesses set forth in Section 9174.2 and elsewhere in this Code. In the event of any conflict between the requirements of this Section and those included elsewhere in the City Code, the requirements of this Section shall control.

B. Definitions.

For the purposes of this chapter, the following words and phrases shall have the following meaning:

1. “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.

2. “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.

3. “Identification card” shall have the same definition as in California Health and

Safety Code section 11362.7, and as it may be amended.

4. "Medical cannabis" or "medicinal cannabis" means cannabis that is intended to be used for medical cannabis purposes in accordance with State law.

5. "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.

6. "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.

7. "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.

C. Operating Requirements

1. Minors: Persons under the age of eighteen (18) shall not be allowed on the premises of a Cannabis Retailer unless they are a qualified patient or a primary caregiver, they are in the presence of their parent or guardian, and the Cannabis Retailer in question dispenses cannabis for medical use. Adult Use Cannabis Retailers shall only allow on the premises a person who is 21 years of age or older and who possesses a valid government-issued photo identification card.

2. Cannabis Retailer Access:

a. The entrance into the Cannabis Retailer 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.

b. Cannabis Retailer personnel shall monitor site activity, control loitering and site access.

c. Only Cannabis Retailer staff, persons the age of twenty-one (21) and over, qualified patients over the age of eighteen (18) who are purchasing Medical cannabis, and persons with bona fide purposes for visiting the site shall be allowed on the premises.

d. 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 personnel. All other authorized visitors shall remain in the designated waiting area in the front entrance/lobby.

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

3. Operations:

a. The Cannabis Retailer may sell cannabis or cannabis products to an individual only in an amount consistent with personal possession and use limits allowed by the State

b. A Cannabis Retailer shall not have a physician on site to evaluate patients and provide a recommendation for medical cannabis.

4. 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.

5. Consumption Restrictions:

a. ~~Cannabis~~ Except as set forth in subdivisions b and c below, cannabis shall not be consumed on the premises of the Cannabis Retailer. 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 Cannabis Retailer's entrance.

b. Cannabis may be consumed in a designated Cannabis Consumption Area on the premises of a Cannabis Retailer upon approval of a Use Permit or modification of an existing Use Permit. A Cannabis Retailer's operation and use of a Cannabis Consumption Area shall comply with the provisions of Division 5, Chapter 7 of this Code, entitled No Smoking. Cannabis Consumption Areas shall be secured and designed to prevent access by individuals who are not eligible adult use patrons. If an existing Use Permit is modified to reflect the creation of a Cannabis Consumption Area, that Use Permit shall be subject to renewal one year after the Cannabis Consumption Area has become operational.

c. A Retailer with a Cannabis Consumption Area that is not enclosed, such as on a patio or a deck, may allow smoking, vaping, and ingesting edible products, subject to all local and state laws. A Retailer with a Cannabis Consumption Area that is indoors in a fully enclosed secure structure shall be limited to allowing consumption of Edible Cannabis Product or Orally Consumed Concentrate only.

d. Cannabis Consumption Areas shall be located in well-ventilated, private areas partitioned from access to all other areas of the premises, as well as from adjacent properties. Any Cannabis Consumption Areas which allow smoking and vaping of cannabis products shall be designed to prevent the flow of smoke to any other area of the premises or adjacent property.

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

ee. 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.

6. Retail Sales and Cultivation:

a. No cannabis shall be cultivated on the premises of the Cannabis Retailer, except in compliance with this Section and with Sections 6093 and 9254 of this code and applicable State laws and regulations.

b. Cannabis Retailers may keep on the Premises immature nursery stock cannabis plants, or clones, that are not intended to be raised to maturity by the Cannabis Retailer but instead sold to Adult Use patrons or qualified patients.

c. Up to one hundred fifty (150) square feet of the total square footage of the Cannabis Retailer 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.

d. Retail sales of cannabis that violate California law or this Code are expressly prohibited.

7. Floor Plan: Cannabis Retailers or other Cannabis Businesses with a retail component 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.

~~—8. 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.~~

* * *

SECTION 3

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 CONCENTRATE: Cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. For purposes of this Chapter, “cannabis concentrate” includes, but is not limited to, the kief, tinctures, capsules, suppositories, extracts, butter, vape cartridges, inhaled products (e.g., dab, shatter, and wax), and tablets as defined in the Cal. Code of Regulations, Title 4, Section 15000, and as may be amended.

CANNABIS CONSUMPTION AREA: A licensed premises where cannabis may be consumed by persons 21 years of age and over. A cannabis consumption area must be limited to one of the following uses:

1. Outdoor: Consumption of cannabis by smoking, vaping, and ingesting edible products.
2. Indoor: Consumption of cannabis edible products by ingestion only.

* * *

EDIBLE CANNABIS PRODUCT: A product intended to be used orally, in whole or in part, for human consumption. For purposes of this Chapter, “edible cannabis product” includes cannabis products that dissolve or disintegrate in the mouth, but does not include any product otherwise defined as “cannabis concentrate.”

* * *

ORALLY CONSUMED CONCENTRATE: A cannabis concentrate that is intended to be consumed by mouth and is not otherwise an edible cannabis product. “Orally consumed concentrate” includes tinctures, capsules, and tablets as defined in the Cal. Code of Regulations, Title 4, Section 15000, and as may be amended.

SECTION 4

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 _____, 2023, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Adopted on _____, 2023 by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mari Rodin, Mayor

ATTEST:

Kristine Lawler, City Clerk

ORDINANCE NO.**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UKIAH AMENDING VARIOUS SECTIONS OF THE UKIAH CITY CODE TO PERMIT AND REGULATE CANNABIS CONSUMPTION AREAS AT COMMERCIAL CANNABIS RETAIL BUSINESSES AND CANNABIS MICROBUSINESSES.**

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

SECTION 1

Section 9174.2 of the Ukiah City Code is hereby amended to read as follows (unchanged text is omitted and is shown by “* * *”):

§9174.2 CANNABIS-RELATED BUSINESSES

* * *

F. Limitations on Locations of Cannabis Related Businesses

1. 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, except as set forth in Section 9174.3(c)(5) of this Code regulating Cannabis Consumption Areas, and shall not be allowed in the following areas:

- a. 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
- b. 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
- c. 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
- d. 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
- e. 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.

2. A Cannabis Retailer, as defined in Section 9278 of this code, shall not be allowed within two hundred fifty feet (250') of another Cannabis Retailer, with that distance measured by street frontage from the property line of the other Cannabis Retailer to the closest property line of the lot on which the Cannabis Retailer is to be located, and not radial distance.

3. A waiver of the provisions in subsections F1a through e and F2 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 2

Section 9174.3 of the Ukiah City Code is hereby amended to read as follows (unchanged text is omitted and is shown by “* * *”):

§9174.3 CANNABIS RETAILERS

A. Applicability: The standards and requirements in this Section apply specifically to Cannabis Retailers, as defined in Section 9278 of this Code, and other Cannabis Businesses with a retail component, and shall apply in addition to the requirements and standards for all Cannabis Businesses set forth in Section 9174.2 and elsewhere in this Code. In the event of any conflict between the requirements of this Section and those included elsewhere in the City Code, the requirements of this Section shall control.

B. Definitions.

For the purposes of this chapter, the following words and phrases shall have the following meaning:

1. “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.

2. “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.

3. “Identification card” shall have the same definition as in California Health and

Safety Code section 11362.7, and as it may be amended.

4. "Medical cannabis" or "medicinal cannabis" means cannabis that is intended to be used for medical cannabis purposes in accordance with State law.

5. "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.

6. "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.

7. "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.

C. Operating Requirements

1. Minors: Persons under the age of eighteen (18) shall not be allowed on the premises of a Cannabis Retailer unless they are a qualified patient or a primary caregiver, they are in the presence of their parent or guardian, and the Cannabis Retailer in question dispenses cannabis for medical use. Adult Use Cannabis Retailers shall only allow on the premises a person who is 21 years of age or older and who possesses a valid government-issued photo identification card.

2. Cannabis Retailer Access:

a. The entrance into the Cannabis Retailer 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.

b. Cannabis Retailer personnel shall monitor site activity, control loitering and site access.

c. Only Cannabis Retailer staff, persons the age of twenty-one (21) and over, qualified patients over the age of eighteen (18) who are purchasing Medical cannabis, and persons with bona fide purposes for visiting the site shall be allowed on the premises.

d. 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 personnel. All other authorized visitors shall remain in the designated waiting area in the front entrance/lobby.

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

3. Operations:

a. The Cannabis Retailer may sell cannabis or cannabis products to an individual only in an amount consistent with personal possession and use limits allowed by the State

b. A Cannabis Retailer shall not have a physician on site to evaluate patients and provide a recommendation for medical cannabis.

4. 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.

5. Consumption Restrictions:

a. Except as set forth in subdivisions b and c below, cannabis shall not be consumed on the premises of the Cannabis Retailer. 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 Cannabis Retailer's entrance.

b. Cannabis may be consumed in a designated Cannabis Consumption Area on the premises of a Cannabis Retailer upon approval of a Use Permit or modification of an existing Use Permit. A Cannabis Retailer's operation and use of a Cannabis Consumption Area shall comply with the provisions of Division 5, Chapter 7 of this Code, entitled No Smoking. Cannabis Consumption Areas shall be secured and designed to prevent access by individuals who are not eligible adult use patrons. If an existing Use Permit is modified to reflect the creation of a Cannabis Consumption Area, that Use Permit shall be subject to renewal one year after the Cannabis Consumption Area has become operational.

c. A Retailer with a Cannabis Consumption Area that is not enclosed, such as on a patio or a deck, may allow smoking, vaping, and ingesting edible products, subject to all local and state laws. A Retailer with a Cannabis Consumption Area that is indoors in a fully enclosed secure structure shall be limited to allowing consumption of Edible Cannabis Product or Orally Consumed Concentrate only.

d. Cannabis Consumption Areas shall be located in well-ventilated, private areas partitioned from access to all other areas of the premises, as well as from adjacent properties. Any Cannabis Consumption Areas which allow smoking and vaping of cannabis products shall be designed to prevent the flow of smoke to any other area of the premises or adjacent property.

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

e. 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.

6. Retail Sales and Cultivation:

a. No cannabis shall be cultivated on the premises of the Cannabis Retailer, except in compliance with this Section and with Sections 6093 and 9254 of this code and applicable State laws and regulations.

b. Cannabis Retailers may keep on the Premises immature nursery stock cannabis plants, or clones, that are not intended to be raised to maturity by the Cannabis Retailer but instead sold to Adult Use patrons or qualified patients.

c. Up to one hundred fifty (150) square feet of the total square footage of the Cannabis Retailer 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.

d. Retail sales of cannabis that violate California law or this Code are expressly prohibited.

7. Floor Plan: Cannabis Retailers or other Cannabis Businesses with a retail component 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.

* * *

SECTION 3

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 CONCENTRATE: Cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. For purposes of this Chapter, "cannabis concentrate" includes, but is not limited to, the kief, tinctures, capsules, suppositories, extracts, butter, vape cartridges, inhaled products (e.g., dab, shatter, and wax), and tablets as defined in the Cal. Code of Regulations, Title 4, Section 15000, and as may be amended.

CANNABIS CONSUMPTION AREA: A licensed premises where cannabis may be consumed by persons 21 years of age and over. A cannabis consumption area must be limited to one of the following uses:

1. Outdoor: Consumption of cannabis by smoking, vaping, and ingesting edible products.
2. Indoor: Consumption of cannabis edible products by ingestion only.

* * *

EDIBLE CANNABIS PRODUCT: A product intended to be used orally, in whole or in part, for human consumption. For purposes of this Chapter, "edible cannabis product" includes cannabis products that dissolve or disintegrate in the mouth, but does not include any product otherwise defined as "cannabis concentrate."

* * *

ORALLY CONSUMED CONCENTRATE: A cannabis concentrate that is intended to be consumed by mouth and is not otherwise an edible cannabis product. "Orally consumed concentrate" includes tinctures, capsules, and tablets as defined in the Cal. Code of Regulations, Title 4, Section 15000, and as may be amended.

SECTION 4

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 _____, 2023, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Adopted on _____, 2023 by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mari Rodin, Mayor

ATTEST:

Kristine Lawler, City Clerk

RESOLUTION NUMBER _____

CITY OF UKIAH
FEBRUARY 8, 2023
CANNABIS CONSUMPTION AREA ORDINANCE

RESOLUTION OF THE, CITY OF UKIAH PLANNING COMMISSION
MAKING ITS REPORT AND RECOMMENDATION TO THE UKIAH CITY
COUNCIL REGARDING PROPOSED AMENDMENTS TO THE UKIAH
CITY CODE DIVISION 9, CHAPTER 2, ARTICLE 15.7, SECTIONS
9174.2 AND 9174.3

WHEREAS, on August 3, 2022, the City Council adopted Ordinance Number 1226 that updated, consolidated and modified regulations pertaining to cannabis-related businesses; and

WHEREAS, the Ukiah City Council created the Cannabis Ad-Hoc Committee to review and recommend potential amendments for the City Council to consider; and

WHEREAS, on September 7, 2022 the City Council received written and oral comment requesting that the City Council consider an ordinance amendment to allow for the consumption of cannabis at cannabis retailers; and

WHEREAS, the City of Ukiah desires to amend Ukiah City Code, Sections 9174.2, entitled "Cannabis-Related Businesses" and 9174.3, entitled "Cannabis Retailers" to facilitate and regulate on-site consumption of cannabis, based on the recommendations and input provided by the Cannabis Ad-Hoc Committee; and

WHEREAS, City Staff, pursuant to the input of the Cannabis Ad Hoc Committee, prepared amendments to the Ukiah City Code, Sections 9174.2 and 9174.3, which are attached to this Resolution as Exhibit A and incorporated herein by this reference (the "Project"); and

WHEREAS, the general rule exemption set forth in Section 15061(b)(3) of the California Environmental Quality Act Guidelines (Title 14, Cal. Code Regs., section 15000 *et seq*; "CEQA Guidelines") applies to this action because, for the reasons set forth in the staff report accompanying this Resolution, the Project does not have the potential to cause a significant effect on the environment and is therefore not subject to CEQA, as the Project only seeks to allow the consumption of cannabis at permitted cannabis retailers in conformance with existing City Code regarding smoking; and

WHEREAS, in accordance with applicable provisions of law, the Planning Commission held a public hearing on February 8, 2023, at which time the Planning Commission heard and received all relevant testimony and evidence presented orally or in writing regarding the Project. All interested persons were given an opportunity to hear and be heard regarding the Project; and

WHEREAS, the Planning Commission has had an opportunity to review this Resolution and finds that it accurately sets forth the intentions of the Planning Commission regarding the Project.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission, based on the evidence in the record before it and all the findings and determinations provided in the staff report, makes the following report and recommendation to the City of Ukiah City Council regarding the *Cannabis Consumption Area Ordinance* thereto:

1. The Planning Commission recommends that the City Council review ordinance amendment *Cannabis Consumption Area Ordinance* and find the adoption of the Categorically Exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3).
2. The Planning Commission recommends that the City Council find that the adoption of *Cannabis Consumption Area Ordinance* is consistent with the General Plan.

3. The Planning Commission recommends that City Council adopt *Cannabis Consumption Area Ordinance*, making the changes to code sections as shown in the attached Exhibit A.

BE IT FURTHER RESOLVED that the Planning Commission designates the City Clerk as the custodian of the document and other materials that constitutes the record of proceedings upon which the Planning Commission decision herein is based. These documents may be found at the office of the City of Ukiah Department of Community Development, 300 Seminary Avenue, Ukiah, CA 95482.

ATTEST: Stephanie Abba
 Commission Services

By: _____

BY: Craig Schlatter
 Community Development Director

 Laura Christensen, Chair
 City of Ukiah Planning Commission

Exhibit A: Enclosed

ORDINANCE NO.

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UKIAH AMENDING VARIOUS SECTIONS OF THE UKIAH CITY CODE TO PERMIT AND REGULATE CANNABIS CONSUMPTION AREAS AT COMMERCIAL CANNABIS RETAIL BUSINESSES AND CANNABIS MICROBUSINESSES.

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

SECTION 1

Section 9174.2 of the Ukiah City Code is hereby amended to read as follows (unchanged text is omitted and is shown by “* * *”):

§9174.2 CANNABIS-RELATED BUSINESSES

* * *

F. Limitations on Locations of Cannabis Related Businesses

1. 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, except as set forth in Section 9174.3(c)(5) of this Code regulating Cannabis Consumption Areas, and shall not be allowed in the following areas:

- a. 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
- b. 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
- c. 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
- d. 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
- e. 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.

2. A Cannabis Retailer, as defined in Section 9278 of this code, shall not be allowed within two hundred fifty feet (250') of another Cannabis Retailer, with that distance measured by street frontage from the property line of the other Cannabis Retailer to the closest property line of the lot on which the Cannabis Retailer is to be located, and not radial distance.

3. A waiver of the provisions in subsections F1a through e and F2 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 2

Section 9174.3 of the Ukiah City Code is hereby amended to read as follows (unchanged text is omitted and is shown by “* * *)”:

§9174.3 CANNABIS RETAILERS

A. Applicability: The standards and requirements in this Section apply specifically to Cannabis Retailers, as defined in Section 9278 of this Code, and other Cannabis Businesses with a retail component, and shall apply in addition to the requirements and standards for all Cannabis Businesses set forth in Section 9174.2 and elsewhere in this Code. In the event of any conflict between the requirements of this Section and those included elsewhere in the City Code, the requirements of this Section shall control.

B. Definitions.

For the purposes of this chapter, the following words and phrases shall have the following meaning:

1. “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.

2. “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.

3. “Identification card” shall have the same definition as in California Health and

Safety Code section 11362.7, and as it may be amended.

4. "Medical cannabis" or "medicinal cannabis" means cannabis that is intended to be used for medical cannabis purposes in accordance with State law.

5. "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.

6. "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.

7. "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.

C. Operating Requirements

1. Minors: Persons under the age of eighteen (18) shall not be allowed on the premises of a Cannabis Retailer unless they are a qualified patient or a primary caregiver, they are in the presence of their parent or guardian, and the Cannabis Retailer in question dispenses cannabis for medical use. Adult Use Cannabis Retailers shall only allow on the premises a person who is 21 years of age or older and who possesses a valid government-issued photo identification card.

2. Cannabis Retailer Access:

a. The entrance into the Cannabis Retailer 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.

b. Cannabis Retailer personnel shall monitor site activity, control loitering and site access.

c. Only Cannabis Retailer staff, persons the age of twenty-one (21) and over, qualified patients over the age of eighteen (18) who are purchasing Medical cannabis, and persons with bona fide purposes for visiting the site shall be allowed on the premises.

d. 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 personnel. All other authorized visitors shall remain in the designated waiting area in the front entrance/lobby.

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

3. Operations:

a. The Cannabis Retailer may sell cannabis or cannabis products to an individual only in an amount consistent with personal possession and use limits allowed by the State

b. A Cannabis Retailer shall not have a physician on site to evaluate patients and provide a recommendation for medical cannabis.

4. 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.

5. Consumption Restrictions:

a. Except as set forth in subdivisions b and c below, cannabis shall not be consumed on the premises of the Cannabis Retailer. 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 Cannabis Retailer's entrance.

b. Cannabis may be consumed in a designated Cannabis Consumption Area on the premises of a Cannabis Retailer upon approval of a Use Permit or modification of an existing Use Permit. A Cannabis Retailer's operation and use of a Cannabis Consumption Area shall comply with the provisions of Division 5, Chapter 7 of this Code, entitled No Smoking. Cannabis Consumption Areas shall be secured and designed to prevent access by individuals who are not eligible adult use patrons. If an existing Use Permit is modified to reflect the creation of a Cannabis Consumption Area, that Use Permit shall be subject to renewal one year after the Cannabis Consumption Area has become operational.

c. A Retailer with a Cannabis Consumption Area that is not enclosed, such as on a patio or a deck, may allow smoking, vaping, and ingesting edible products, subject to all local and state laws. A Retailer with a Cannabis Consumption Area that is indoors in a fully enclosed secure structure shall be limited to allowing consumption of Edible Cannabis Product or Orally Consumed Concentrate only.

d. Cannabis Consumption Areas shall be located in well-ventilated, private areas partitioned from access to all other areas of the premises, as well as from adjacent properties. Any Cannabis Consumption Areas which allow smoking and vaping of cannabis products shall be designed to prevent the flow of smoke to any other area of the premises or adjacent property.

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

e. 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.

6. Retail Sales and Cultivation:

a. No cannabis shall be cultivated on the premises of the Cannabis Retailer, except in compliance with this Section and with Sections 6093 and 9254 of this code and applicable State laws and regulations.

b. Cannabis Retailers may keep on the Premises immature nursery stock cannabis plants, or clones, that are not intended to be raised to maturity by the Cannabis Retailer but instead sold to Adult Use patrons or qualified patients.

c. Up to one hundred fifty (150) square feet of the total square footage of the Cannabis Retailer 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.

d. Retail sales of cannabis that violate California law or this Code are expressly prohibited.

7. Floor Plan: Cannabis Retailers or other Cannabis Businesses with a retail component 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.

* * *

SECTION 3

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 CONCENTRATE: Cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. For purposes of this Chapter, "cannabis concentrate" includes, but is not limited to, the kief, tinctures, capsules, suppositories, extracts, butter, vape cartridges, inhaled products (e.g., dab, shatter, and wax), and tablets as defined in the Cal. Code of Regulations, Title 4, Section 15000, and as may be amended.

CANNABIS CONSUMPTION AREA: A licensed premises where cannabis may be consumed by persons 21 years of age and over. A cannabis consumption area must be limited to one of the following uses:

1. Outdoor: Consumption of cannabis by smoking, vaping, and ingesting edible products.
2. Indoor: Consumption of cannabis edible products by ingestion only.

* * *

EDIBLE CANNABIS PRODUCT: A product intended to be used orally, in whole or in part, for human consumption. For purposes of this Chapter, "edible cannabis product" includes cannabis products that dissolve or disintegrate in the mouth, but does not include any product otherwise defined as "cannabis concentrate."

* * *

ORALLY CONSUMED CONCENTRATE: A cannabis concentrate that is intended to be consumed by mouth and is not otherwise an edible cannabis product. "Orally consumed concentrate" includes tinctures, capsules, and tablets as defined in the Cal. Code of Regulations, Title 4, Section 15000, and as may be amended.

SECTION 4

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 _____, 2023, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Adopted on _____, 2023 by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mari Rodin, Mayor

ATTEST:

Kristine Lawler, City Clerk



Supplemental Application Materials – Cannabis Consumption Area

If onsite consumption (including smoking, vaping, and ingestion of edible cannabis products) is a planned part of the business, provide an onsite consumption plan. The onsite consumption plan must include:

1. Visualization of the cannabis consumption area as part of the associated site plan, as well as a detailed floor plan demonstrating how the proposal conforms to the standards identified in UCC §9174.3(C)(5)(b). The consumption area shall be limited to the following:
 - a. Outdoor: Consumption of cannabis by smoking, vaping, and ingestion; or
 - b. Indoor: Consumption by ingestion only;
2. A detailed description on visibility considerations from any public place or non-age-restricted area (e.g. types of windows used, and/or example elevations as seen from the public right-of-way); and
3. If smoking and vaping of cannabis products is proposed, a detailed description of compliance with City's Anti-Smoking Ordinance (Division 5, Chapter 7, Article 4), and considerations for ventilation, if applicable; and
4. A security plan that addresses considerations that may arise with onsite consumption by patrons;
5. Employee Training, Notification, and Customer Education: Information on how the business shall train their employees about the various products available for consumption, including potency of the products, absorption time, and effects of the products.



ORDINANCE AMENDMENT AGENCY REFERRAL

Please provide comments by: January 31, 2023

The City of Ukiah Community Development Department is soliciting input on the ordinance amendment described below for use in the staff analysis, CEQA materials, and the circulated public hearing documents. Please provide any suggested considerations, or follow-up with designated Staff to discuss any questions you have or missing information needed to complete your review of the proposal.

TO:	
☒	City of Ukiah Community Development Director – Craig Schlatter
☒	City of Ukiah Building Official – Matthew Keizer
☒	City of Ukiah Public Works Director – Tim Eriksen
☒	Mendocino County Air Quality Management District – Barbara Moed
☒	Ukiah Valley Fire Authority – Waylon Hockemier
☒	City of Ukiah Police Department – Cedric Crook
☒	Mendocino County Sherriff's Office – Gregory Van Patten
FROM PROJECT PLANNER: Jesse Davis, Chief Planning Manager	

ORDINANCE AMENDMENT INFORMATION:	
Project Name & Permit #:	'Ordinance Amendment to Ukiah City Code to allow for 'Cannabis Consumption Areas'
Location	Within the City of Ukiah
Date Referred:	01/18/2023
Environmental Determination	Categorical Exemption pursuant to Section 15061 (b)(3)
Applicant/Agent Name:	City of Ukiah (Attn: Jesse Davis)
Phone:	707-463-6207
Email:	jdavis@cityofukiah.com
Project Summary: The Department of Community Development (Planning Division) presents a request to amend existing regulations for Cannabis Related Businesses within the City of Ukiah to allow for 'Cannabis Consumption Areas' at permitted 'Cannabis Retailers' and 'Cannabis Microbusinesses' upon approval or modification of their associated Use Permit. If approved, 'Cannabis Consumption Areas' shall be mandated to adhere to the provisions of the City's Anti-Smoking Ordinance (Chapter 7, Article 4), undertake a review and renewal of operations after one (1) year of operation, and maintain compliance with all relevant State statutes and regulations.	

Please indicate whether you have comments, sign, and date below. Return this Referral Form by the date noted above to the Project Planner listed.

Name and Affiliation/Department (Please Print): Cedric Crook Ukiah Police



No Comment



Comments / Conditions of Approval Attached

Signature C. Crook

Date 1/22/23

Comments / Conditions of Approval:

ORDINANCE AMENDMENT AGENCY REFERRAL

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X	City of Ukiah Building Official – Matthew Keizer
X	City of Ukiah Public Works Director – Tim Eriksen
X	Mendocino County Air Quality Management District – Barbara Moed
X	Ukiah Valley Fire Authority – Waylon Hockemier
X	City of Ukiah Police Department – Cedric Crook
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Please indicate whether you have comments, sign, and date below. Return this Referral Form by the date noted above to the Project Planner listed.

Name and Affiliation/Department (Please Print): _____

- ☐ No Comment
- ☐ Comments / Conditions of Approval Attached

Signature  #1184

Date

Comments / Conditions of Approval:

ORDINANCE AMENDMENT AGENCY REFERRAL

Please provide comments by: January 31, 2023

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Please indicate whether you have comments, sign, and date below. Return this Referral Form by the date noted above to the Project Planner listed.

Name and Affiliation/Department (Please Print): Waylon Hockemier/ Ukiah Valley Fire Authority



No Comment



Comments / Conditions of Approval Attached

Signature



Date 01-23-2023

Comments / Conditions of Approval:

City of Ukiah City Council
300 Seminary Ave.
Ukiah, CA 95482

Sept. 1, 2022

To Whom it May Concern,

My name is Kyle Greenhalgh and I am writing this letter on behalf of my business, Heritage Mendocino. We are a locally owned and operated cannabis microbusiness located on Cunningham St. just off of Talmage Rd.

We are looking for your support in addressing our request for outdoor onsite consumption. We have spoken with the Mayor and brought this issue to the City's attention over the last few years during meetings and hearings. The approval of onsite consumption would give us a chance to succeed at this time. As we all know, there is a Cookie's store that is opening just up the street from our family business. We can see that this is going to add a huge struggle for us to continue operating without having outdoor onsite consumption as a component of our business.

It has always been our goal and mission to bring value into our community by creating a beautiful space. We have rebuilt the city block around our business; installed sidewalks, planted street trees, and renovated an old building into one of the most beautiful businesses in the City of Ukiah. We have been very transparent with our plans and went through a painstaking 2 year permitting process working closely with the City. Allowing us to proceed with outdoor onsite consumption would bring tourism and provide a safe place for tourists and patrons to consume their cannabis.

We would like to propose urgent action on getting this ordinance amended and use the interim to initiate a pilot program for us to show you how we all can work together to make this work for the City of Ukiah.

With this County ordinance Sec 20.243.040 Section D #4 Subsection C, the majority of all dispensaries located in the County and the greater Ukiah area are currently operating with County and State approved onsite consumption. We feel that as business owners located within the City of Ukiah we are missing out on business and tourism opportunities that could benefit both our business and the City. A few of the dispensaries that currently have onsite consumption lounges are as follows; Kure, Compassionate Heart, Revolution Emporium, Cannabis 21+, Perfect Union, and The Plantshop.

Respectfully,

Kyle Greenhalgh, Founder/CEO