

ORDINANCE NO. 1104

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UKIAH ADDING ARTICLE 10, ENTITLED: MARIJUANA CULTIVATION ENFORCEMENT, TO DIVISION 7, CHAPTER 1 AND AMENDING SECTION 9254, ENTITLED: "MARIJUANA CULTIVATION," OF THE UKIAH CITY CODE

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

SECTION ONE.

A new Article 10 is hereby added to Chapter 1 of Division 7 of the Ukiah City Code to read as follows:

DIVISION 7. POLICE REGULATIONS

CHAPTER 1 CRIMES AGAINST PUBLIC PEACE AND ORDER

ARTICLE 10 MARIJUANA CULTIVATION ENFORCEMENT

§6093 **MARIJUANA CULTIVATION PROHIBITED.** Outdoor Cultivation of marijuana, or Indoor Cultivation in excess of 12 mature plants or 24 immature plants, within the City Limits of the City of Ukiah in violation of Section 9254 constitutes a violation of this Article. Any person violating any provision of this Article shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed one thousand dollars (\$1,000), by imprisonment in the county jail not to exceed six months or by both a fine and imprisonment.

§6094 **SEIZURE AND DESTRUCTION OF MARIJUANA.** Except as otherwise expressly stated in this section, all marijuana seized by the City Police in the enforcement of this Article shall be seized, retained and destroyed in the same manner and subject to the same procedures as are provided in California Health and Safety Code sections 11472-11479, for marijuana possessed in violation of Division 10 of the Health and Safety Code. The requirements in subsection (b) of Health and Safety Code Section 11479, prescribing the conditions that must be satisfied before seized marijuana may be destroyed without a court order, as applied by this section, are revised as follows:

(b) Photographs have been taken which reasonably demonstrate the total number of mature and immature plants to be destroyed and the location where they were growing immediately prior to their seizure.

SECTION TWO.

Sections 1 and 2 of Section 9254 of the Ukiah City Code are hereby amended to read as follows.

§9254: MARIJUANA CULTIVATION:

Section 1. Definitions. As used herein the following definitions shall apply:

1. "Cultivation" means the planting, growing, harvesting, drying, or processing of marijuana plants or any part thereof.
2. "Fully enclosed and secure structure" means a space within a building that complies with the California Building Code, as adopted in the City of Ukiah ("CBC"), or, if exempt from the permit requirements of the CBC, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, and is accessible only through one or more lockable doors. Walls and roofs must be constructed of solid materials that cannot be easily broken through, such as 2" X 4" or thicker studs overlain with 3/8" or thicker plywood or the equivalent. Plastic sheeting, regardless of gage, or similar products do not satisfy this requirement. If indoor grow lights or air filtration systems are used, they must comply with the California Building, Electrical, and Fire Codes as adopted in the City of Ukiah.
3. "Immature marijuana plant" means a marijuana plant, whether male or female, that has not yet flowered and which does not yet have buds that are readily observed by unaided visual examination.
4. "Indoors" means within a fully enclosed and secure structure.
5. "Mature marijuana plant" means a marijuana plant, whether male or female, that has flowered and which has buds that are readily observed by unaided visual examination.
6. "Outdoor" means any location within the City of Ukiah that is not within a fully enclosed and secure structure.
7. "Parcel" means property assigned a separate parcel number by the Mendocino County Assessor.
8. "Primary caregiver" means a "primary caregiver" as defined in Health and Safety Code Section 11362.7(d).
9. "Qualified patient" means a "qualified patient" as defined in Health and Safety Code Section 11362.7(f).

Section 2. Cultivation of Marijuana.

A. Outdoor cultivation: It is hereby declared to be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any Parcel within any zoning district in the City of Ukiah to cause or allow such premises to be used for the outdoor cultivation of marijuana plants.

B. Indoor cultivation in residential zoning districts: It is hereby declared to be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any Parcel within any residential zoning district (R-1, R-2, R-3 and CN districts) in the City of Ukiah to cause or allow such Parcel to be used for the cultivation of more than twelve mature and twenty-four immature marijuana plants within a fully enclosed and secure structure on the Parcel.

C. Indoor cultivation of marijuana restricted to Qualified Patients and Primary Care Givers: It is hereby declared to be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any Parcel within the City of Ukiah to cause or allow such Parcel to be used for the cultivation of marijuana, unless the person is a Qualified Patient or Primary Caregiver, growing the amount of marijuana per qualified patient authorized by Health and Safety Code Section 11362.77(a) – (b) and (d) – (f), not to exceed the per Parcel limit in Section 2.B., above.

D. Public nuisance prohibited: [Unchanged]

SECTION THREE

1. COMPLIANCE WITH CEQA. The City Council finds that this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), 15061(b)(3) (there is no possibility the activity in question may have a significant effect on the environment). In addition to the foregoing general exemptions the following categorical exemptions apply, Sections 15308 (actions taken as authorized by local ordinance to assure protection of the environment), and 15321 (action by agency for enforcement of a law, general rule, standard, or objective administered or adopted by the agency, including by direct referral to the City Attorney as appropriate for judicial enforcement).

2. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby. The City Council hereby declares that it would have adopted this Ordinance and any section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

3. 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 5, 2007, by the following roll call vote:


AYES: Councilmember Thomas, Crane, McCowen, Baldwin, and Mayor Rodin
NOES: None
ABSENT: None
ABSTAIN: None

Adopted on December 19, 2007 by the following roll call vote:

AYES: Councilmember Thomas, McCowen, Rodin, Baldwin, and Mayor Crane
NOES: None
ABSENT: None
ABSTAIN: None


Douglas F. Crane, Mayor

ATTEST:


Linda Brown, City Clerk