



**CITY OF CRESCENT CITY PLANNING COMMISSION
AND ARCHITECTURAL REVIEW COMMITTEE**

**Commission Members: Ray Altman, Chairperson
Holly Greene, Vice-Chairperson • Brad Kime •**

Incorporated April 13, 1854

web: www.crescentcity.org

Regular Meeting
Thursday, October 10th, 2019 at 5:30 p.m.
Board Chambers, 981 “H” Street, Suite 100, Crescent City, CA

AGENDA

I. CALL TO ORDER:

ROLL CALL:

II. PUBLIC COMMENT: The public may address the Planning Commission on any item of interest that is within the Commission’s subject matter jurisdiction or that appears on the agenda. The Commission is not able to discuss extensively or act on any items that do not appear on the agenda. After receiving recognition by the Chairperson, please state your name and city or county residency for the record. Public comment is limited to three (3) minutes or other reasonable limitations specified by the Chairperson on particular topics or individual speakers (Gov’t Code §54954.3(b)).

III. CONSENT CALENDAR: None.

IV A. APPROVAL OF MINUTES: Approval of the minutes of the September 12th, 2019 regular meeting of the Crescent City Planning Commission and Architectural Review Committee.

IV B.- BEACHFRONT MASTER PLAN UPDATE: A presentation from Holly Wendt, Director of Recreation and Events Coordinator.

V. ARCHITECTURAL REVIEW: None.

VI. CONTINUING BUSINESS:

VI A. Based on the direction received from the Planning Commission at the August 8, 2019 meeting, a draft commercial cannabis ordinance has been developed by planning staff, which is attached along with a staff report.

VI B. In August 2019, the City Council directed staff to work with the Planning Commission on

updating the mobile or temporary vending operations ordinance (Chapter 5.44 CMCC). Over the last several years, the Planning Commission has considered an expansion of the mobile vending operations in the City and consulted with the City attorney who provided more specific direction to staff. At the September 12th, 2019 meeting, staff received additional direction regarding the ordinance. The Commission also requested that staff bring back some additional information so that the Commission could be more informed about certain topics.

VII. NEW BUSINESS: None.

VII. REPORTS, CONCERNS, REFERRALS: In accordance with Gov't Code §54954.2(a)(2),

Planning Commissioners or staff may briefly respond to public comment, make brief announcements or reports, or ask questions for clarification. Planning Commissioners or the Commission may also direct staff to report back on any matter at a subsequent meeting or to place a matter of business on a future agenda.

Jon Olson Update Planning Commission on appointment of new Planning Commissioners.

IX. ADJOURNMENT: Adjourn to the regular meeting of the City of Crescent City Planning Commission and Architectural Review Committee scheduled for Thursday November 14th, 2019 at 5:30 p.m. at the Flynn Center, 981 H Street, Crescent City, CA 95531

POSTED:

October 7th, 2019

By: Heather Welton

Planning Secretary/Office Technician



**CITY OF CRESCENT CITY PLANNING COMMISSION
AND ARCHITECTURAL REVIEW COMMITTEE**

**Commission Members: Ray Altman, Chairperson
Holly Greene, Vice-Chairperson • Brad Kime •**

Incorporated April 13, 1854

web: www.crescentcity.org

Regular Meeting
Thursday, September 12th, 2019 at 5:45 p.m.
WWTP 210 Battery Street, Crescent City, CA

MINUTES

I. CALL TO ORDER: Chairman Altman called the meeting to order at 5:45 pm

ROLL CALL: Commissioners Present: Chairman Raymond Altman, Vice-Chair Holly Greene and Commissioner Kime.
Staff Present: City Manager Eric Wier, Public Works Director Jonathan Olson, Office Technician/ Planning Secretary Heather Welton.

II. PUBLIC COMMENT: *There was no public comment.*

III. CONSENT CALENDAR: *There were no consent calendar items.*

IV. APPROVAL OF MINUTES: Approval of the minutes of the August 8th, 2019 regular meeting of the Crescent City Planning Commission and Architectural Review Committee.

On a motion by Commissioner Kime seconded by Vice Chair Greene and carried unanimously on a 3-0 vote, the Crescent City Planning Commission and Architectural Review Committee approved the minutes of the August 8th, 2019 regular meeting.

V. ARCHITECTURAL REVIEW:

Agenda Item# VI-A.

Application #: U19-01

Applicant: Ray Walp

Project: A variance from the maximum fence height allowed within the side and front yard setback areas. The applicant is requesting a 6-foot fence instead of a 3 foot fence as required by sections 17.40.020 & 17.40.030 of the City's Municipal Code.

Site Address: 384 Fifth Street **APN:** 118-190-25
Lot Size: 16,099 sq.ft./0.369 acres **Project Size:** +/-32,848sf
GP Land Use: Multi Family 15-30 **Zoning:** R-3 High Density Residential

Background & Project Description:

The applicant received a building permit on June 14, 2019 approving the construction of a temporary fence (Permit #2019-074). The applicant subsequently constructed a permanent fence at a height of 6-feet. The applicant requests a variance to allow a fence height of 6-feet instead of 3-feet in both the front and the side yard setbacks. The applicant’s parcel is a corner lot.

As such, the fence as constructed by the applicant has a height of approximate six feet from grade. According to Crescent City Municipal Code (CCMC) 17.04.315 (Lot line, front.) the *““Front lot line” means...in the case of a corner lot or reversed corner lot, the shorter street frontage shall be considered the front of the lot. (Ord. 629 Exh. A, 1988; prior code § 30-700 (63)).”* The front of the lot is determined to be 5th street since it has a shorter street frontage. CCMC 17.16.030 (B.1) states *“Front Yard. Ten feet, except that where access to a garage or carport is from the front yard ...shall be twenty feet;”* requiring a minimum 10-foot front yard area beginning from the lot line. CMCC 17.40.020 (A) states that the regulations for fences in residential districts shall including the following: *“Front yards, maximum height above grade not to exceed thirty-sixty inches except that the fence may be erected to a maximum height of forty-eight inches; provided, that any fence which exceeds thirty-six inches is uniformly open to the extent of thirty-three and one-third percent. “Uniformly open” means that the interstices between the solid material of the fence are evenly spaced so as to make vision through the fence possible;”* requiring that a fence can be constructed within the front yard if they meet the maximum height of 3-feet, or with a maximum height of forty-eight inches when meeting the definition of uniformly open

Based on the prior determination for the property frontage, the side of the lot is determined to face D street. CCMC 17.16.030 (B.2) states that the *“Side Yard. Minimum five feet for interior and corner lots. Reverse corner lots shall have a side yard equal to one-half the required front yard of the lots abutting the rear of such reversed corner lots;”* requiring a minimum 5-foot side yard beginning from the lot line. CMCC 17.40.020 (C) states that the regulations for fences in residential districts shall including the following: *“Side yards, maximum height six feet above grade;”* requiring that a fence can be constructed within the side yard if they meet the maximum height of 6-feet. CMCC 17.40.030 (A) addresses corner lots as an exception *“Corner Lots. On corner lots, for a distance of twenty feet from the side street curb, no fence or hedge shall exceed a maximum height above grade of thirty-six inches except that the fence may be erected to a maximum height of forty-eight inches; provided, that any fence which exceeds thirty-six inches is uniformly open to the extent of thirty-three and one-third percent. “Uniformly open” means that the interstices between the solid material of the fence are evenly spaced so as to make vision through the fence possible.”* requiring that a fence that is constructed within the side yard setback areas meet the maximum height of 3-feet, or must meet a maximum height of 4-feet when meeting the definition of uniformly open, also requiring that the side yard area be increased to 20-feet from the side street curb. The above makes 2/3 of the existing fence exceeding the 3-foto height, and 1/3 of the existing fence in compliance.

Jonathan Olson, Public Works Director, gave a brief background of the project. Pictures of the fence were presented to the Commission. He went over the different staff recommendations for the Commission to choose from.

Permitting process was discussed pertaining to staff recommendation options.

The following citizens addressed the commission:

Tammy Andrews, City Resident- A neighbor to the applicant, spoke about the bad state of the house before the applicant bought the it and how the fence has improved the neighborhood and security of the house.

Chairman Altman spoke about how fences are being built going against the code, and this project going before the Commission is the correct route for the fence permitting process.

Ray Walp, applicant, spoke about how the house had squatters in it before he purchased it. He said the preliminary before he built the fence was discussed with the Building Department and he built the fence according to specs he went over with them. He spoke about the numerous problems he had with thefts and trash that had been in his yard before the fencing was built. He said there was a stop work order placed on the fence due to the setbacks being wrong. He said that the next day after the stop notice was issued, he had a large power tool stolen from his yard. He mentioned he even found an RV buried in the brush of the yard. He stated the fence is around the yard and not the home. He said if the Commission moves to have him remove the fence, he would have to remove three trees off the property. He spoke about how numerous fences are built not to code around his home and how he would like to have the Planning Commission allow him to keep his fence where it is.

On a motion by Vice Chair Greene seconded by Commissioner Kime and carried unanimously on a 3-0 vote, the Crescent City Planning Commission and Architectural Review Committee approved the project with the staff recommendation of granting the variance request to allow the constructed 6-foot fence within both the front and side yard areas with an encroachment permit.

VII. NEW BUSINESS:

1.0 Request to give the City Manager broad authority to designate areas for plantings, monuments, plaques, etc. that are associated with our sister city of Rikuzentakata, Japan.

Jon Olson. Public Works Director, spoke about developing the sister city relationship and the tree planting ceremony that Rikuzentakata held on behalf of Crescent City. He said we are asking to allow the City Manager to set up a monument or something of interest to keep the relationship moving forward.

City Manager, Eric Wier, spoke about the spontaneity for this project and why they are asking for abroad allowance instead of bringing each item before the Commission.

The following citizens addressed the Commission:

Tammy Andrews, City Resident- Said she loves the Sister City relationship but she doesn't recommend having the Japanese flag involved in the monuments.

On a motion by Vice Chair Greene seconded by Commissioner Kime and carried unanimously on a 3-0 vote, the Crescent City Planning Commission and Architectural Review Committee approved giving the City Manager authority to designate areas for plantings, monuments, plaques, etc. that are associated with our sister city of Rikuzentakata, Japan.

2.0 Direction on development of a mobile vending ordinance.

Jonathan Olson, Director of Public Works, spoke about the past direction that was received on mobile vending from the Planning Commission. He spoke about the recent change in state laws and the licensing for selling item on sidewalks.

The Planning Commission discussed and came to consensus on the following:

Discussed definitions of a mobile vendor. Direction from the Commission was to have the term include a broader definition of the term.

Discussed zoning restrictions for mobile vending.

The following citizens addressed the Commission:

Ray Walp, City Resident- asked if the City was doing this ordinance from a revenue stand point or having an ordinance with directions for vending.

Chairman Altman stated it was outside of the Special Event Permit application they currently have, and this ordinance would allow Mobile Vending City wide.

Terry Andrews, City Resident- Stated she thought the mobile vending could get out of hand if they are allowed in residential areas.

Mobile vending should be allowed in all Zones on Public Streets and City parking lots.

Mobile vending should be allowed on Private property with a permit or use permit.

Discussed permit review process.

Permit should be transferable with change of ownership.

Commission asked staff to bring back a map showing public areas that could be used for mobile vending.

Permit application will require a written description of vending type.

Discussed location in zoning.

Commission reach consensus that mobile vendors may encumber a 20'x20' area, approximately

two parking spaces in public areas. This space may be occupied by tables and chairs etc. with no set distances between vendors.

Mobile vendors should be 300 feet away from brick & mortar establishments that sell similar products. Enforcement to be complaint based.

When mobile vending would be allowed was discussed. The exact time frames were not outlined at the last meeting but there was consensus that mobile vending ought to comply with existing noise ordinances. Staff suggest that the new ordinance be developed in accordance with Municipal Code 8.18.040 which discusses excessive noise. Based on that ordinance, Mobile vending would not be allowed after 10pm or before 7am. Enforcement to be complaint based.

No day/time restrictions that would limit how often a vendor could be at a specific place.

Special Event permits would take precedence over mobile vending permit when it comes to use of public spaces.

Discussed requirements for site plans. Direction from Commission was to require a site plan for use permits on private property in residential zones.

Direction from the Commission was to have a letter of permission from a property owner required as part of a permit or use permit application for mobile vending on private property.

Discussed annual renewal of permit and costs.

The following citizens addressed the Commission:

Ray Walp, City resident- recommend having no fees for mobile vending application.

Direction from Commission was that no additional annual or renewal vendor fees be required for mobile vending.

Permits should be Transferable with change of ownership. Provide new contact information etc.

No limit on the number of mobile vending permits issued by the city.

Manner of Vending Mobile Vending should include motor vehicles/towed trailers, pop-up tents, and tables in a public parking lots to vend merchandise. No vending to people in cars.

Merchant Goods

No used goods allowed.

Blanket displays allowed.

Crystals, rocks, and driftwood are allowed provided they are improved objects, crafts, art, etc.

Rentals/sales of recreational equipment-kayaks, surfboards, lifejackets, bicycles, etc. should be allowed.

No tobacco, drugs, or drug paraphernalia. Nothing otherwise prohibited by law.

Other Regulations

Special Events require \$1 million policy

Display of Business License Required.

(1) 55-gallon receptacle minimum with lid where food is being sold.

No special ADA accessibility required. May vend to people in cars who need accommodation.

Limitations on advertisements/signs: Recommended allowing signage as long as it is in the above defined area and is not creating an obstruction that causes a hazardous condition.

Sandwich Boards are prohibited by Muni-Code except for grand openings with a permit.

Should rules be different for mobile vending?

Planning commission reached consensus on the following items concerning Sidewalk Vendors in accordance with (SB 946)

SB 946 exempts “sidewalk vendors” from certain types of city regulations

Sidewalk vendors: a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one’s person, upon a public sidewalk or pedestrian path

Sidewalk vendors can be “stationary” or “roaming”

Proposed regulations of sidewalk vendors:

No business license required

Vending permit required- make it simple.

Food sales – must comply with Health and Safety Code 113700, et seq. (California Retail Food Code); maintain sanitary conditions including trash receptacles; obtain any additional licenses/permits required by state or other local agency for the particular activity

Locations:

Residential neighborhoods: no stationary sidewalk vending, roaming sidewalk vending allowed 8:00 a.m. to 8:00 p.m.

Commission recommended that the allowed time frames match those for mobile vending- 7am to 10pm.

Not allowed within 500 ft of a permitted farmer’s market or special event- Commission suggested 300 ft.

Other Regulations:

do not impede access to entrance of building or driveway;

do not impede pedestrian traffic along any sidewalk or pedestrian path;

do not occupy parking stalls or other designated parking areas;

do not occupy any public or private street or alleyway;

do not locate within 50 feet of a fire hydrant, fire escape, bus stop, loading zone, or driveway;

do not locate within 1000 ft of any elementary or secondary school on any school day

do not locate on sidewalk adjacent to curb marked white, yellow, blue or red

Additional regulations within the Parks:

Do not impede the use of any public facility by other members of the public;

Do not vend at any time other than open hours of the park

If not on sidewalk or pedestrian path, must get mobile vending permit

VII. REPORTS, CONCERNS, REFERRALS: In accordance with Gov't Code §54954.2(a)(2),

Planning Commissioners or staff may briefly respond to public comment, make brief announcements or reports, or ask questions for clarification. Planning Commissioners or the Commission may also direct staff to report back on any matter at a subsequent meeting or to place a matter of business on a future agenda.

IX. ADJOURNMENT: There being no further business to come before the Planning Commission, Chairman Altman adjourned the meeting at 8:19. to the regular meeting of the City of Crescent City Planning Commission and Architectural Review Committee scheduled for Thursday, October 10th, 2019 at 5:30 p.m. at the Flynn Center, 981 H Street, Crescent City, CA 95531

ATTEST:

Heather Welton, Planning Secretary/Office Technician

**CITY OF CRESCENT CITY
PLANNING COMMISSION
NOTICE OF MEETING**

NOTICE is hereby given that the Crescent City Planning Commission will meet on October 10th, 2019 at 5:30 p.m. at the County Board of Supervisors Chambers, 981 H Street, Crescent City, California to consider the following projects:

Recommend Amending the Crescent City Municipal Code to include Commercial Cannabis Regulations to the City Council

Description: The City is proposing to amend the Crescent City Municipal Code to allow certain commercial cannabis uses in the General Commercial (C-2) and Highway Service (HS) zoning districts with a use permit and subject to specific operating standards. The commercial cannabis uses that are proposed to be allowed include storefront retail with deliveries and onsite consumption, non-storefront retail (delivery only), non-volatile manufacturing, distribution, micro-businesses, and testing facilities.

Environmental Determination: The proposed amendment is determined to be exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) (general rule) of the CEQA Guidelines. All proposed commercial cannabis uses will require discretionary review (i.e., use permit) by the City of Crescent City Planning Commission. As part of the discretionary review process a CEQA determination must be adopted. It is anticipated that many of the future projects that would be allowed under the provisions of the proposed amendment will be found to be exempt under Class 1 (Existing Facilities), Class 3 (New Construction or Conversion of Small Structure), or Class 32 (In-Fill Development Projects) of the CEQA Guidelines. For projects that do not meet the criteria for an exemption, an Initial Study will be prepared pursuant to the CEQA Guidelines.

At the meeting, the discussion of the proposed amendment will be subject to the following procedure: 1) the Planning Department will provide a staff report; 2) the Planning Commission will receive public comment; and 3) the Planning Commission will discuss the proposed amendment and provide further direction to the Planning Department concerning the proposed amendment language and/or make a recommendation to the City Council concerning the proposed amendment.

Interested persons are invited to appear at the meeting and inform the City, orally or in writing, of any concerns they have regarding the proposed amendment. At the meeting, staff will describe the proposed amendment, and the Planning Commission will hear public comment, discuss the proposed amendment, and may take action as necessary and appropriate.

If you have any questions regarding this matter, please contact Jon Olson, City Engineer, at City Hall, 377 J Street, 707-464-9506.

Date: September 27th, 2019

Publish: October 3rd, 2019

**Crescent City Planning Commission
October 10, 2019
Staff Report**

Agenda Item# VI A.

Project: Commercial Cannabis Ordinance

Prior Direction from City Council and Planning Commission:

In November 2017, the City Council directed staff to work with the Planning Commission on development of a commercial cannabis ordinance. Over the last several years, the Planning Commission has considered the permitting of commercial cannabis uses in the City and provided direction to staff. Most recently, at the August 8, 2019 Planning Commission meeting, the Commission provided specific direction to staff on several items for which staff requested clarification. This additional direction from the Commission is summarized below:

- The Planning Commission reached a consensus that the Highway Service (HS) and General Commercial (C-2) zoning districts should be amended to allow certain commercial cannabis uses including storefront retail with deliveries and onsite consumption, non-storefront retail (delivery only), non-volatile manufacturing, distribution, microbusinesses, and testing laboratories.
- The Planning Commission reached a consensus that commercial cannabis cultivation, processing, and volatile manufacturing, should remain prohibited in City limits.
- The Planning Commission reached a consensus that all commercial cannabis uses should require a use permit.
- The Planning Commission reached a consensus that use permits for commercial cannabis uses should be subject to annual review by staff and/or the Commission.
- The Planning Commission reached a consensus that there should not be a cap on the number of use permits issued for commercial cannabis businesses.
- The Planning Commission reached a consensus that the setback requirements in state law for cannabis businesses are adequate.
- The Planning Commission reached a consensus that an applicant should be able to conduct multiple cannabis uses within City limits, including as a microbusiness.
- The Planning Commission reached a consensus that cannabis businesses should be subject to operating standards designed to limit impacts to the community, including similar standards to those found in Chapter 17.91 (Sale of Tobacco Products) of the City's Municipal Code.
- The Planning Commission reached a consensus that the City should not develop its own track and trace program since commercial cannabis businesses must participate in a state track and trace program.

Draft Commercial Cannabis Ordinance

Based on the direction received from the Planning Commission at the August 8, 2019 meeting, a draft commercial cannabis ordinance has been developed by planning staff, which is attached to this staff report.

The draft ordinance proposes amendments to Chapter 17.22 (C-2 General Commercial District) and Chapter 17.24 (HS Highway Service District) of the City's Municipal Code to allow certain commercial cannabis uses with a use permit. The draft ordinance also proposes the addition of Chapter 17.95 (Commercial Cannabis Regulations) to the Municipal Code, which would contain the regulations

applicable to commercial cannabis uses. Lastly, the draft ordinance proposes amendments to Chapter 17.93 (Standards for Marijuana) of the City's Municipal Code to provide reference to Chapter 17.95 (Commercial Cannabis Regulations).

Recommended Actions:

Staff recommends the Planning Commission take the following actions:

1. Receive a staff report from planning staff about the draft commercial cannabis ordinance.
2. Open the item for public comment.
3. Close the item for public comment.
4. Discuss the draft commercial cannabis ordinance.
5. Provide further direction to planning staff about the draft commercial cannabis ordinance.
6. Continue the item to the November 14, 2019 Planning Commission meeting or Recommend that the draft ordinance be forwarded to the City Council.

ORDINANCE NO. 8__

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CRESCENT CITY
ADDING CHAPTER 17.95, COMMERCIAL CANNABIS REGULATIONS, AND
AMENDING CHAPTER 17.22, C-2 GENERAL COMMERCIAL DISTRICT, CHAPTER
17.24, HS HIGHWAY SERVICE DISTRICT, AND CHAPTER 17.93, STANDARDS FOR
MARIJUANA, OF TITLE 17, ZONING, OF THE CRESCENT CITY MUNICIPAL CODE**

WHEREAS, in 1996, the voters of the State of California approved Proposition 215, which was codified as California Health and Safety Code section 11362.5, and entitled “The Compassionate Use Act of 1996.”; and

WHEREAS, the intent of Proposition 215 was to enable persons who are in need of cannabis for medical purposes to legally obtain and use it under limited, specified circumstances without fear of criminal prosecution. Proposition 215 further provides that “[n]othing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, nor to condone the diversion of marijuana for nonmedical purposes” (Health & Safety Code, § 11362.5(b)(2)); and

WHEREAS, in 2003, the California Legislature passed Senate Bill 420 (codified as California Health and Safety Code § 11362.7 *et seq.*) to clarify the scope of Proposition 215 and expressly allow cities and counties to adopt and enforce ordinances that are consistent with SB 420; and

WHEREAS, in November 2016, California voters approved Proposition 64, which enacted the Control, Regulate, and Tax Adult Use of Marijuana Act. Proposition 64 makes it legal under state law for anyone 21 years of age or older to possess, plant, cultivate, harvest, dry, and process up to six cannabis plants per private residence for personal use. (Health & Safety Code, §§ 11362.2 and 11362.3). Proposition 64 also explicitly provides for local control over personal use cultivation, enabling cities and counties to “enact and enforce reasonable regulations to regulate” indoor cultivation or cannabis for personal use and to prohibit all outdoor cultivation of cannabis for personal use on the grounds of a private residence. (Health & Safety Code, § 11362.2(b)(1) and (b)(3)); and

WHEREAS, in June 27, 2017, the Governor approved Senate Bill 94, which repealed the Medical Marijuana Regulation and Safety Act (MMRSA) and includes certain provisions of MMRSA in the licensing provisions of the Control, Regulate, and Tax Adult Use of Marijuana Act. Senate Bill 94, which seeks to align the regulatory frameworks for medical and nonmedical cannabis, amended, repealed, or added code sections in the following California Codes: Business and Professions, Fish and Game, Food and Agriculture, Health and Safety, Revenue and Taxation, and Water. Senate Bill 94 also consistently replaced the term “marijuana” with “cannabis” in state law, although the definition remains the same. For consistency with state law as revised by SB 94, the City adopted the term “cannabis” in place of “marijuana” in this Ordinance. The adoption of the term “cannabis” herein, however, shall not invalidate references to “marijuana” in any City ordinance, policy, or regulation. The two terms share the same meaning and are used interchangeably; and

WHEREAS, the Federal Controlled Substances Act (21 U.S.C. § 801 *et seq.*) make it unlawful, under federal law, for any person to cultivate, manufacture, distribute, dispense, or possess with the intent to manufacture, distribute, or dispense, cannabis. The Federal Controlled Substances Act contains no exemption for the cultivation, manufacture, distribution, dispensation, or possession of cannabis for medical purposes or for personal use permitted by state law; and

WHEREAS, on January 19, 2016, the City Council adopted Ordinance No. 793, adding Chapter 17.93 to Title 17 of the Crescent City Municipal Code, prohibiting all marijuana cultivation; and

WHEREAS, on July 2, 2018, the City Council adopted Ordinance No. 803, adding Chapter 17.94 to Title 17 of the Crescent City Municipal Code, regulating the cultivation of cannabis for personal use permitted under Proposition 64; and

WHEREAS, the City intends to amend the Crescent City Municipal Code to regulate certain commercial cannabis activities permitted under Senate Bill 94, including storefront retail, non-storefront retail (delivery only), non-volatile manufacturing, distribution, microbusinesses, and testing laboratories. Other commercial cannabis uses allowed under state law shall remain prohibited in City limits.

NOW, THEREFORE, the City Council of the City of Crescent City, State of California, hereby ordains:

SECTION 1. RECITALS. The City Council finds the above recitals to be true and correct and are incorporated herein as if set forth in full.

SECTION 2. CODE AMENDMENT – CHAPTER 17.22. The City Council hereby amends Section 17.22.020, Uses, of Chapter 17.22, C-2 General Commercial District, of Title 17, Zoning, of the Crescent City Municipal Code, to read as follows:

- A. The principal permitted general commercial use in the C-2 district includes:
 - 1. Retail and wholesale sales located inside a building, such as: large or small shops, stores, centers, and outlets.
 - 2. Services located inside a building, such as: offices, financial institutions and personal service shops, including Laundromats, small item repairs and printing services.
 - 3. Indoor and outdoor recreational or travel activities and services, such as: all eating and drinking places (including drive-thru services), hotels and motels, theaters, entertainment centers, and bus stations.
 - 4. Medical centers and services including convalescent homes.
 - 5. Accessory structures, such as: parking lots and secondary storage buildings.
 - 6. Improvements to existing residential uses which can be demonstrated to have been legally established before the year 2001.
- B. Other C-2 uses for which a use permit must first be secured:
 - 1. Outdoor service or accessory storage areas, such as: auto sales, communications facilities, automobile service storage, and uncovered lumber yard or nursery areas.
 - 2. Medical facilities for animals such as veterinary clinics and animal hospitals.

3. One residential unit for occupancy by the manager/caretaker of an existing commercial facility.
4. Residential units up to thirty units per acre density, as either a mixed-use activity which is secondary to an existing or proposed commercial use, or as a residential-only development.
5. Assisted care residential facilities.
6. Non-profit organization offices.
7. Stores in which more than fifty percent of the merchandise is second-hand.
8. Mortuaries.
9. Car, boat or other vehicle washing facilities.
10. Local and regional public utility and community service facilities.
11. Gas stations and light-commercial automobile service uses. (Ord. 715 § 2, 2006; Ord. 700 § 5 (Exh. A (part)), 2003)

12. Cannabis uses conducted pursuant to Chapter 17.95 (Commercial Cannabis Regulations), including: storefront retail, non-storefront retail (delivery only), non-volatile manufacturing, distribution, micro-businesses, and testing laboratories.

SECTION 3. CODE AMENDMENT – CHAPTER 17.24. The City Council hereby amends Section 17.24.020, Principal permitted uses, of Chapter 17.24, HS Highway Service District, of Title 17, Zoning, of the Crescent City Municipal Code, to read as follows:

- A. The principal permitted uses in the HS highway service district include:
 1. Visitor-serving facilities such as: hotels and motels, indoor and outdoor eating and drinking places (including drive-thru services), grocery shops, liquor stores, or indoor specialty shops such as gifts, art, antiques, pawn or collectibles;
 2. Transportation services such as public transportation stops;
 3. Indoor recreation and entertainment facilities such as specialty attractions, theatres, and sports activities including equipment rentals and sales;
 4. One residential unit for the owner or manager of an existing on-site permitted use; **and**
 5. Visitor oriented public recreation facilities such as public parks, trails, rest areas and parking lots; **and**
 6. Visitor and local-serving commercial uses such as real estate offices.
- B. Other HS uses for which a use permit must first be secured:
 1. Gas stations and light-commercial automobile service uses. (Ord. 715 § 2, 2006; Ord. 695 § 2, 2003)
 2. **Cannabis uses conducted pursuant to Chapter 17.95 (Commercial Cannabis Regulations), including: storefront retail, non-storefront retail (delivery only), non-volatile manufacturing, distribution, micro-businesses, and testing laboratories.**

SECTION 4. CODE AMENDMENT – CHAPTER 17.93. The City Council hereby amends Section 17.93.040, Prohibited Activities, of Chapter 17.93, Standards for Marijuana, of Title 17, Zoning, of the Crescent City Municipal Code, to read as follows:

- A. Marijuana processing, marijuana delivery, and marijuana dispensaries are prohibited activities in all zones and specific plan areas in the City, except **in compliance with Chapter 17.95** and where the City is preempted by federal or state law from enacting a prohibition on any such activity.
- B. Cultivation of marijuana for any commercial **purpose** is expressly prohibited in all areas, zones and specific plan areas in the City. No person or entity, including a qualified patient or primary caregiver, may cultivate any marijuana in the City, except in compliance with Chapter 17.94.
- C. No use permit, variance, building permit, or any other entitlement, license, or permit, whether administrative or discretionary, will be approved or issued for the activities of commercial marijuana cultivation, or marijuana processing, marijuana delivery, or the establishment or operation of a marijuana dispensary in the City-, **except in compliance with Chapter 17.95.**
- D. No person or entity may conduct, cause, allow, permit, or maintain a marijuana dispensary, commercial marijuana cultivation, marijuana processing or marijuana delivery within the City, except **in compliance with Chapter 17.95 and** where the City is preempted by federal or state law from enacting a prohibition on any such activity for which the use permit, variance, building permit, or any other entitlement, license, or permit is sought.
- E. Nothing in this chapter may be deemed to permit or authorize any use or activity which is otherwise prohibited by any state or federal law.

SECTION 5. CODE AMENDMENT – CHAPTER 17.95. The City Council hereby amends the Crescent City Municipal Code by adding Chapter 17.95, Commercial Cannabis Regulations, to Title 17, Zoning, as follows:

17.95.010 Purpose and Intent.

The purpose and intent of this chapter is to protect the public health, safety, and welfare through strong and effective regulatory and enforcement controls, to protect neighborhood character, and to minimize the potential negative impacts of commercial cannabis activity on people, communities, and the environment by establishing minimum land use controls. Within the General Commercial (C-2) District and Highway Services (HS) District, commercial cannabis activity, as defined under Division 10 of the Business and Professions Code, may be permitted with a use permit, subject to the regulations governing the underlying zoning district, and the requirements set forth in this chapter.

17.95.020 Interpretation and Applicability.

- A. No part of this chapter shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. Section 800 et seq., nor to otherwise permit any activity that is prohibited under that Act or any other local, state, or federal law, statute, rule or regulation. Commercial cannabis activity in the city is controlled by the provisions of this chapter of the Crescent City Municipal Code.
- B. Nothing in this chapter is intended, nor shall it be construed, to burden any defense to criminal prosecution otherwise afforded by California law.

- C. Nothing in this chapter is intended, nor shall it be construed, to preclude a landlord from limiting or prohibiting commercial cannabis activities by tenants.
- D. Nothing in this chapter is intended, nor shall it be construed, to exempt any cannabis-related activity from any and all applicable local and state construction, electrical, plumbing, land use, or any other building or land use standards or permitting requirements.
- E. Nothing in this chapter is intended, nor shall it be construed, to make legal any cannabis-related activity that is otherwise prohibited under California law.
- F. All commercial cannabis activity within city limits shall be subject to the provisions of this chapter, regardless if the activity existed or occurred prior to adoption of this chapter or at the time of subsequent amendments to this chapter.

17.95.030 Definitions.

As used in this chapter, the following terms and phrases are defined as follows:

- A. "Cannabis" shall mean 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 the separated resin, whether crude or purified, obtained from marijuana. Cannabis also means marijuana as defined by § 11018 of the Cal. Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. 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 chapter, cannabis does not mean "industrial hemp" as defined by § 81000 of the Cal. Food and Agricultural Code or § 11018.5 of the Cal. Health and Safety Code.
- B. "Cannabis Activity" shall mean the commercial cultivation, possession, manufacture, processing, storing, laboratory testing, research and development, labeling, transportation, distribution, delivery, or sale of cannabis or a cannabis product.
- C. "Cannabis Edibles" shall mean cannabis goods which are ingested by eating or drinking.
- D. "Cannabis Goods" shall mean cannabis, including dried flower, and products containing cannabis.
- E. "Cannabis Processing" shall mean, but are not limited to, the following activities: manicuring, drying, curing, pressing, cooking, baking, infusing, grinding, bagging, packaging, and rolling.
- F. "Cannabis Manufacturer" shall mean a person required to be licensed as a manufacturer pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.
- G. "Cannabis Microbusiness" shall mean a person licensed to conduct multiple commercial cannabis activities, as described in Business and Professions Code Section 26070.
- H. "Cannabis Retailer" shall mean a person required to be licensed as a retailer pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.

- I. "Commercial Cannabis Activity" shall have the same meaning as set forth in Business and Professions Code § 26001.
- J. "Consumption" shall mean the smoking, vaping, ingestion, or other method of use or consumption of cannabis goods.
- K. "Cultivation" shall mean the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- L. "Cultivation Facility" shall mean a facility for cannabis cultivation for supply to a cannabis distributor or manufacturer, including a nursery that produces only clones, immature plants, or seeds.
- M. "Delivery Employee" shall mean an individual employed by a permitted retailer or permitted microbusiness authorized to engage in retail sales who delivers cannabis goods from the permitted retailer or permitted microbusiness premises to a customer at a physical address.
- N. "Distribution" shall mean the procurement, sales, and transport of cannabis goods between licensed entities. Distribution also includes the inspection, storage, including during quality assurance and batch testing processes, labeling, packaging, and other processes required prior to transport to a licensed cannabis retailer or cannabis manufacturing facility.
- O. "Facility or Facilities" shall mean a facility, premise, tenant space, site or location where one or more types of cannabis activity are undertaken.
- P. "Manufacturing Facility" shall mean a facility for 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, and includes a location that packages or repackages cannabis or cannabis products, or labels or relabels its container.
- Q. "Manufacturing Facility, Non-volatile" shall mean a manufacturing facility which does not involve the manufacturing, processing, generation, or storage of materials that constitute a physical or health hazard, as listed in Tables 307.1(1) and 307.1(2) of the California Building Code (CBC).
- R. "Manufacturing Facility, Volatile" shall mean a manufacturing facility which involves the manufacturing, processing, generation, or storage of materials that constitute a physical or health hazard, as listed in Tables 307.1(1) and 307.1(2) of the California Building Code (CBC).
- S. "Microbusiness Facility" shall mean a facility where one licensee may conduct two or more of the following cannabis activities: distribution, non-volatile manufacturing, retail sales, and indoor cultivation with a total cultivation area that does not exceed the maximum allowed in the zone district.
- T. "Non-storefront Retail" shall mean the commercial transfer of cannabis goods by delivery to a customer at a physical address. This definition does not include the mobile sales of cannabis goods.
- U. "Person" shall include any individual, firm, partnership, joint venture, limited liability company, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, assignee for the benefit of creditors, trustee, trustee in bankruptcy, or syndicate.
- V. "Storefront Retail" shall mean a physical storefront location that is open to the public and where cannabis goods are sold to customers. This definition includes the delivery of

cannabis goods to a customer at a physical address and the onsite consumption of cannabis goods.

- W. “Testing Laboratories” shall mean a facility that offers or performs testing of cannabis or cannabis products where no commercial cultivation, processing, manufacturing, distribution, or sale of cannabis or cannabis products occurs.
- X. “Volatile Solvents” shall mean those solvents used in the manufacture of cannabis products determined to be volatile by the California Department of Public Health or the Crescent City Volunteer Fire Department.

17.95.040 Commercial Cannabis Uses Allowed.

The following commercial cannabis uses are allowed in city limits:

- A. Storefront retail
- B. Non-storefront retail (delivery only).
- C. Non-volatile manufacturing.
- D. Distribution.
- E. Microbusinesses.
- F. Testing laboratories.

17.95.050 Commercial Cannabis Uses Prohibited.

The following commercial cannabis uses are prohibited in city limits:

- A. Cultivation or cultivation facilities.
- B. Processing or processing facilities.
- C. Volatile manufacturing or manufacturing facilities using volatile solvents.
- D. Mobile or drive-thru retail sales.

17.95.060 Use Permit Required.

- A. Commercial cannabis activity shall not be allowed in the corporate limits of the City of Crescent City without a use permit. Use permits to conduct commercial cannabis activity shall be governed primarily by this chapter. The procedures for use permits set forth in Chapter 17.54 of this title shall apply as well.
- B. The use permit shall be reviewed annually subject to the following requirements:
 - 1. City staff shall conduct an annual review of the use permit around the date of issuance of the state license.
 - 2. An onsite compliance inspection may be conducted, with at least 24 hours prior notice, by appropriate city officials during regular business hours (Monday – Friday, 9:00 a.m. – 5:00 p.m.). Appropriate city officials include those officials identified in section 17.95.130 of this chapter.
 - 3. At the discretion of city staff, annual review of the use permit may be conducted by the Planning Commission at a public hearing. The criteria for requiring annual review by the Planning Commission may include, but is not limited to:

- i. Any violation of any provision of this chapter during the prior year of operation of the commercial cannabis facility.
 - ii. Receipt of one or more complaints by city staff concerning operation of the commercial cannabis facility during the prior year. City staff shall investigate all complaints received prior to determining whether review by the Planning Commission is warranted.
 - 4. During annual review, the Planning Commission may revoke the use permit, recommend administrative penalties, amend the use permit to include conditions necessary to ensure compliance with the provisions of this chapter, or take no action.
- C. All commercial cannabis activity shall be subject to the following:
- 1. Before commencing operation of a commercial cannabis activity, the permittee shall secure a license from the appropriate state licensing authority, pursuant to Division 10 of the Business and Professions Code. A copy of the license shall be provided to the Planning Department.
 - 2. The permittee shall be in compliance with all conditions of the state license and all state laws, any violation of which shall constitute a violation of the City Municipal Code.
 - 3. The permittee shall timely remit all taxes required by state or local law to the appropriate agency, and shall maintain all records necessary to determine the amount of tax owed, which records the city shall have a right to inspect at all reasonable times.
 - 4. The permittee shall post or cause to be posted onsite the use permit and all required city and state permits and licenses required to operate. Such posting shall be in a central location, visible to patrons, at the operating site, and in all vehicles that deliver or transport cannabis or cannabis products.
 - 5. The permittee shall maintain clear and adequate records and documentation demonstrating that all cannabis or cannabis products have been obtained from and are provided to other permitted and licensed cannabis operations. The city shall have the right to examine, monitor, and audit such records and documentation at all reasonable times.
 - 6. The permittee shall not place or maintain, or cause or allow to be placed or maintained, in any manner, any advertising or promotion of cannabis or cannabis products on an advertising display sign in a publicly visible location within five hundred feet of the perimeter of any elementary or secondary school, high school, public playground or playground area in a public park (e.g., a public park with equipment such as swings and seesaws, baseball diamonds, or basketball courts), day care center, public community center, or public library.
 - 7. The permittee shall not market, license, distribute, sell, or cause to be marketed, licensed, distributed, or sold, any item or service to a person under 21 years of age, which bears the brand name, alone or in conjunction with, any other word, logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia or product identification identical with, or similar to, or identifiable with, those used for any brand of cannabis product.
 - 8. The operation of a commercial cannabis facility shall not adversely affect the health or safety of the facility occupants or employees, or nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gases, smoke, traffic, vibration,

surface runoff, or other impacts, or be hazardous because of the use or storage of materials, process, products, or wastes, and no odor shall be detectible outside the walls of the facility.

9. Operators of cannabis facilities shall maintain active enrollment and participate in a track and trace program as approved by the city. The city may require participation in a track and trace program separate from the state's track and trace program. Any separate program shall be in addition to the state's track and trace program.
 10. To ensure compliance with the provisions of this chapter, an onsite compliance inspection may be conducted, with at least 24 hours prior notice, by appropriate city officials during regular business hours (Monday – Friday, 9:00 a.m. – 5:00 p.m.). Appropriate city officials include those officials identified in section 17.95.130 of this chapter.
- D. Before the Planning Commission approves any use permit for commercial cannabis activity, the Planning Commission shall hold a public hearing, noticed pursuant to Government Code §65091, shall make the following findings, and shall set forth the facts supporting its determination in writing:
1. The applicant has demonstrated that it can and will comply with all requirements of the state and city to operate the proposed commercial cannabis activity.
 2. The proposed activity, as conditioned, will not result in significant unavoidable impacts on the environment.
 3. The operation plan includes adequate measures to minimize nuisances to the neighborhood and community, including minimizing odor, noise, light, traffic, and loitering.
 4. The operation plan includes adequate security measures.
 5. The proposed activity will have no likely or reasonably foreseeable negative effect on any sensitive land use in the surrounding area, regardless of physical distance from the subject property. For the purpose of this section, sensitive uses include, but are not limited to, churches, schools, parks, public buildings, and healthcare facilities.
- E. All applications for a use permit for a commercial cannabis activity shall be filed with the Planning Department. In all cases the application shall contain, without limitation, the following documentation:
1. Notarized, written authorization from all persons and entities having a right, title, or interest in the property that is the subject of the application consenting to the application and the operation of the proposed commercial cannabis activity on the subject property.
 2. The name and address of all persons and entities responsible for the operation of the commercial cannabis activity, including managers, corporate officers, any individual with an ownership interest, any member of a board of directors, any general or limited partner, and/or any member of a decision-making body for the commercial cannabis activity, and a complete list of all the valid licenses, including license type and license number which has been issued to each person by the state or any other city or county.
 3. An application fee as prescribed by the current fee schedule resolution of the City Council.
 4. An indemnification agreement on a form provided by the City.

5. Proof of having obtained a surety bond in an amount not less than \$15,000, payable to the City, issued by a corporate surety approved by the City, which is licensed to transact surety business in the State of California.
6. A detailed operation plan, which includes:
 - i. Site plans, floor plans, conceptual improvement plans, and a general description of the nature, size, and type of commercial cannabis activity(ies) being requested;
 - ii. Onsite security measures both physical and operational;
 - iii. Standard operating procedures manual detailing how operations will comply with state and local regulations; how safety and quality of products will be ensured; recordkeeping procedures for financing, testing, and adverse effect recording; and product recall procedures;
 - iv. Proposed hours of operation;
 - v. Waste disposal information;
 - vi. Product supply chain information including where cultivation occurs, where the product is processed or manufactured, any required testing of cannabis or cannabis products, transportation, and packaging and labeling criteria;
 - vii. A recordkeeping policy;
 - viii. Track and trace measures;
 - ix. Sustainability measures including water efficiency measures, energy efficiency measures, high efficiency mechanical systems, and alternative fuel transportation methods;
 - x. Odor prevention devices;
 - xi. Size, height, colors, and design of any proposed signage at the site;
 - xii. A parking plan, if applicable;
 - xiii. A storage protocol and hazardous response plan;
 - xiv. Information on products used during operation, including liquids, solvents, agents, and processes; and
 - xv. A quality control plan.
7. Such other information as city staff may require.

17.95.070 Storefront Retail

Cannabis retailers conducting storefront retail, which can include deliveries and onsite consumption, shall meet the following minimum requirements:

- A. The use permit shall specify whether the permittee may sell adult-use cannabis or medicinal cannabis, as those terms are used in Division 10 of the Business and Professions Code.
- B. The retailer shall operate only in accordance with the operating plans reviewed and approved by the city. The city shall limit the hours of operation for a retail facility to begin no earlier than eight a.m. and to end no later than eight p.m.
- C. Retailers shall not distribute any cannabis or cannabis product unless the cannabis goods are labeled, and in a tamper-evident package, in compliance with Section 26120 of the California Business and Professions Code and any additional rules promulgated by the licensing authority.

- D. Cannabis deliveries that are associated with a permitted retail facility located within city limits, and for which delivery originates from the retail facility, shall only be allowed when the delivery activity is specifically authorized under the use permit for the retail facility.
- E. Cannabis deliveries that are associated with a permitted retail facility located within city limits shall comply with all state regulations, including those implemented by the Bureau of Cannabis Control. This includes, but is not limited to, Cal. Code Regs. Tit.16 § 5415 through § 5421.
- F. A vehicle used in the delivery of cannabis goods shall not have any marking or other indications on the exterior of the vehicle that may indicate that the delivery employee is carrying cannabis goods for delivery.
- G. While carrying cannabis goods for delivery, a permitted retailer's delivery employee shall ensure the cannabis goods are not visible to the public. Cannabis goods shall be locked in a fully enclosed box, container, or cage that is secured on the inside of the vehicle.
- H. The retailer shall not permit the smoking, vaping, ingestion, or consumption of cannabis onsite unless specifically authorized under the use permit for the retail facility.
- I. Retailers allowing onsite consumption shall comply with all state laws and regulations for consumption. The applicant shall submit a site plan and operations plan that will demonstrate that onsite consumption facilities comply with the standards of this chapter and all other limitations and restrictions required by state law.
- J. Customers engaging in onsite consumption may not leave the retail facility with cannabis or cannabis products unless they are in the originally sealed and unopened packaging or have been transferred by the retailer for repackaging in a container that is compliant with applicable state law and regulation.
- K. Access to the area where cannabis consumption is allowed is restricted to persons 21 years of age and older.
- L. Cannabis consumption shall not be visible from any public place or area open to persons under 21 years of age.
- M. Sale or consumption of alcohol or tobacco is not allowed on the premises.
- N. Retailers shall implement and maintain sufficient security measures to both deter and prevent unauthorized entrance into areas containing cannabis goods in compliance with Section 26070 of the California Business and Professions Code and any rules promulgated by the licensing authority. Security measures shall include, but are not limited to, the following:
 - 1. Prevent individuals from loitering on the premises of the retailer if they are not engaging in activity expressly related to the operations of the retailer;
 - 2. Establish limited access areas accessible only to authorized dispensary personnel;
 - 3. Store all cannabis goods in a secured and locked safe room, safe, or vault, and in a manner as to prevent diversion, theft, and loss, except for limited amounts of cannabis goods used for display purposes, samples, or immediate sale; and
 - 4. Install security cameras on site.
- L. Retailers shall notify the Crescent City Police Department and the licensing authority within twenty-four (24) hours after discovering any of the following:
 - 1. Significant discrepancies identified during inventory;
 - 2. Diversion, theft, loss, or any criminal activity involving the dispensary or any agent or employee of the retailer;

3. The loss or unauthorized alteration of records related to cannabis, patients, or retailer's employees or agents; or
4. Any other breach of security.

17.95.080 Non-storefront Retail (Delivery Only).

Cannabis retailers conducting non-storefront retail (delivery only) activities shall meet the following minimum requirements:

- A. Cannabis deliveries originating from non-storefront retail facilities within city limits shall comply with all state regulations, including those implemented by the Bureau of Cannabis Control. This includes, but is not limited to, Cal. Code Regs. Tit.16 § 5414 through § 5421.
- B. Cannabis deliveries originating from outside city limits, and delivering cannabis goods within city limits, shall only be allowed upon the granting of a business license.
- C. A vehicle used in the delivery of cannabis goods shall not have any marking or other indications on the exterior of the vehicle that may indicate that the delivery employee is carrying cannabis goods for delivery.
- D. While carrying cannabis goods for delivery, a permitted retailer's delivery employee shall ensure the cannabis goods are not visible to the public. Cannabis goods shall be locked in a fully enclosed box, container, or cage that is secured on the inside of the vehicle.

17.95.090 Non-volatile Manufacturing.

Cannabis manufacturers shall meet the following minimum requirements:

- A. Cannabis manufacturing shall be conducted using only non-volatile solvents, or no solvents.
 1. "Volatile solvent" means a solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. For the purposes of this section, carbon dioxide and ethanol are non-volatile solvents, however, a use permit for manufacturing shall specify whether carbon dioxide or ethanol will be permitted.
- B. A cannabis manufacturer shall operate only in accordance with the operating plans reviewed and approved by the city.
- C. A cannabis manufacturer shall notify the Crescent City Police Department and the licensing authority within twenty-four (24) hours after discovering any of the following:
 1. Significant discrepancies identified during inventory;
 2. Diversion, theft, loss, or any criminal activity involving the dispensary or any agent or employee of the manufacturer;
 3. The loss or unauthorized alteration of records related to cannabis, patients, or manufacturer's employees or agents; or
 4. Any other breach of security.
- D. A cannabis manufacturer shall implement and maintain sufficient security measures to both deter and prevent unauthorized entrance into areas containing cannabis goods. Security measures shall include, but are not limited to, the following:

1. Prevent individuals from loitering on the premises if they are not engaging in activity expressly related to the operations of the retailer;
 2. Establish limited access areas accessible only to authorized dispensary personnel;
 3. Store all cannabis goods in a secured and locked safe room, safe, or vault, and in a manner as to prevent diversion, theft, and loss, except for limited amounts of cannabis goods used for display purposes, samples, or immediate sale; and
 4. Install security cameras onsite.
- E. All employees of a cannabis manufacturing facility operating potentially hazardous equipment shall be trained on the proper use of equipment and on the proper hazard response protocols in the event of equipment failure. In addition, employees handling edible cannabis goods or ingredients shall be trained on proper food safety practices.

17.95.100 Distribution.

Cannabis distributors shall meet the following minimum requirements:

- A. The distribution of cannabis goods within city limits shall comply with all state regulations, including those implemented by the Bureau of Cannabis Control. This includes, but is not limited to, Cal. Code Regs. Tit.16 § 5300 through § 5315.
- B. Cannabis distribution conducted by a permitted cannabis use within city limits, shall only be allowed when the distribution activity is specifically authorized through a use permit.
- C. Cannabis distribution that is not conducted by a permitted cannabis use within city limits, shall only be allowed upon the granting of a business license.

17.95.110 Microbusinesses.

Cannabis microbusinesses shall meet the following minimum requirements:

- A. Microbusinesses operated within city limits shall comply with all state regulations, including those implemented by the Bureau of Cannabis Control. This includes, but is not limited to, Cal. Code Regs. Tit.16 § 5500 through § 5507.
- B. A microbusiness shall only be allowed to conduct the commercial cannabis uses identified in section 17.95.50 of this chapter.
- C. All retail, non-volatile manufacturing, and distribution activities conducted by a permittee under a microbusiness shall occur on the same premises.

17.95.120 Testing Laboratories.

- A. Testing laboratories operated within city limits shall comply with all state regulations, including those implemented by the Bureau of Cannabis Control. This includes, but is not limited to, Cal. Code Regs. Tit.16 § 5700 through § 5739.

17.95.130 Enforcement.

This chapter may be enforced in any lawful manner by any peace officer, or by any employee, agent, or officer of any of the following City department or agencies:

- A. Police Department
- B. Community Development Department
- C. City Attorney
- D. Fire Department

17.95.140 Public Nuisance.

Any violation of this chapter is hereby declared a public nuisance and may be abated by the City pursuant to Title 8 of this Code.

17.95.150 Separate offense for each day.

Any person who violated any provision of this chapter will be guilty of a separate offense for each and every day during which any person commits, continues to permit, or causes a violation thereof.

17.95.160 Criminal penalties.

Any violation of any provision of this chapter may be prosecuted as a misdemeanor.

17.95.170 Administrative remedies.

In addition to the civil remedies and criminal penalties set forth above, any violation of this chapter may be subject to administrative remedies, as set forth by Chapter 1.24.

17.95.180 Other ordinance code provisions.

Notwithstanding this chapter, the City, its employees, agents, and officers have the authority to pursue any and all applicable remedies for any other violations of any local, state, or federal laws.

SECTION 6. CEQA. This Ordinance has been reviewed for compliance with the California Environmental Quality Act (CEQA), and the CEQA Guidelines, and has been found to be exempt pursuant to Section 15061(b)(3) (general rule) of the CEQA Guidelines, because the City Council hereby finds with certainty that there is no possibility the passage of this Ordinance will have a significant effect on the environment.

All proposed commercial cannabis uses will require discretionary review (i.e., use permit) by the City of Crescent City Planning Commission. As part of the discretionary review process a CEQA determination must be adopted. It is anticipated that many of the future projects that would be allowed under the provisions of this Ordinance will be determined to be categorically exempt under Class 1 (Existing Facilities), Class 3 (New Construction or Conversion of Small Structure), or Class 32 (In-Fill Development Projects) of the CEQA Guidelines. For projects that do not meet the criteria for a categorical exemption, an Initial Study will be prepared pursuant to the CEQA Guidelines.

SECTION 7. SEVERABILITY. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 8. EFFECTIVE DATE & PUBLICATION. This Ordinance will become effective 30 days after the date of its adoption. The City Clerk shall cause this Ordinance to be published in a newspaper of general circulation in Del Norte County once within 15 days of its adoption in accordance with the requirements of Government Code Section 36933.

INTRODUCED on the ___ day of _____ 2019.

PASSED AND ADOPTED by the City Council of the City of Crescent City at a regular meeting of the City Council held this ___ day of _____ 2019, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Blake Inscore, Mayor

ATTEST:

Robin Patch, City Clerk

APPROVED AS TO FORM:

Martha D. Rice, City Attorney

**Crescent City Planning Commission
October 4, 2019
Staff Report-**

Agenda Item# VI B.

Project: Modification of Mobile Vending Ordinance

Prior Direction from City Council and Planning Commission:

In August 2019, the City Council directed staff to work with the Planning Commission on updating the mobile or temporary vending operations ordinance (Chapter 5.44 CMCC). Over the last several years, the Planning Commission has considered an expansion of the mobile vending operations in the City and consulted with the City attorney who provided more specific direction to staff. At the September 12th, 2019 meeting, staff received additional direction regarding the ordinance. The Commission also requested that staff bring back some additional information so that the Commission could be more informed about certain topics.

Recap of consensus items from the Commission.

- Mobile vending should be recognized as a separate use. The definition should be broad in nature.
- Mobile vending should be allowed in all zones.
- Mobile vending should be allowed on private property in all zones including RP as a principally permitted use except R-1, R-2, and R-3. A use permit should be required for mobile vending in R-1, R-2, and R-3 zones on private property.
- Review City map highlighting city parking lots, turnouts etc. October meeting (See attached Map). Are there special areas that the commission wants to promote for mobile vending.
- Mobile vending should be allowed in all Zones on Public Streets and City parking lots.
- Mobile vending should be allowed on Private property with a permit or use permit.
- Mobile vendors may encumber 20'x20' area, approximately two parking spaces in public areas. This space may be occupied by tables and chairs etc. with no set distances between vendors.
- Mobile vendors should be 300 feet away from brick & mortar establishments that sell similar products. Enforcement to be complaint based.
- When mobile vending would be allowed was discussed. The exact time frames were not outlined at the last meeting but there was consensus that mobile vending ought to comply with existing noise ordinances. Staff suggest that the new ordinance should be developed in accordance with Municipal Code 8.18.040 which discusses excessive noise. Based on that ordinance, Mobile vending would not be allowed after 10pm or before 7am. Enforcement to be complaint based.
- No day/time restrictions that would limit how often a vendor could be at a specific place.
- Special Event permits would take precedence over mobile vending permit when it comes to use of public spaces.

- **Permit Review Process should be a** check box on business license. Annual review with renewal of Business. License Complaints should be attached to business license so that they can be included in the annual review. Site plan would be required for use permit in residential zones. Area may be greater than the 20’x20’ on private property.
- Mobile vendors must provide a simple explanation of proposed activities. Eg. “selling food,” “selling new clothing,” “recreational equipment rental.”
- Written approval/agreement from the property owner is required when activity is located on private property to be filed with the application.
- No additional fees are recommended other than the Annual Renewal of Business License.
- **Permits should be** Transferable with change of ownership. Provide new contact information etc.
- No limit on the number of mobile vending permits issued by the city.
- **Manner of Vending** Mobile Vending should include motor vehicles/towed trailers, pop-up tents, and tables in a public parking lots to vend merchandise. No vending to people in cars.
- **Merchant Goods**
 - No used goods allowed.
 - Blanket displays allowed.
 - Crystals, rocks, and driftwood are allowed provided they are improved objects, crafts, art, etc.
 - Rentals/sales of recreational equipment-kayaks, surfboards, lifejackets, bicycles, etc. should be allowed.
 - No tobacco, drugs, or drug paraphernalia. Nothing otherwise prohibited by law.
- **Other Regulations**
 - Special Events require \$1 million policy
 - Display of Business License Required.
 - (1) 55-gallon receptacle minimum with lid where food is being sold.
 - No special ADA accessibility required. May vend to people in cars who need accommodation.
 - Limitations on advertisements/signs: Recommended allowing signage as long as it is in the above defined area and is not creating an obstruction that causes a hazardous condition.
 - Sandwich Boards are prohibited by Muni-Code except for grand openings with a permit. Should rules be different for mobile vending?

Sidewalk Vendors (SB 946)

In accordance with SB 946 Staff is proposing the minimum required changes to the Municipal Code. If less stringent implementation is desired, then the ordinance could be even less restrictive.

- SB 946 exempts “sidewalk vendors” from certain types of city regulations

- Sidewalk vendors: a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one's person, upon a public sidewalk or pedestrian path
- Sidewalk vendors can be "stationary" or "roaming"
- Proposed regulations of sidewalk vendors:
 - No business license required
 - Vending permit required- make it simple.
 - Food sales – must comply with Health and Safety Code 113700, et seq. (California Retail Food Code); maintain sanitary conditions including trash receptacles; obtain any additional licenses/permits required by state or other local agency for the particular activity
- Locations:
 - Residential neighborhoods: no stationary sidewalk vending, roaming sidewalk vending allowed 8:00 a.m. to 8:00 p.m. Should match time frames for mobile vending- 7am to 10pm.
 - Not allowed within 500 ft of a permitted farmer's market or special event- Commission suggested 300 ft.
- Other Regulations:
 - do not impede access to entrance of building or driveway;
 - do not impede pedestrian traffic along any sidewalk or pedestrian path;
 - do not occupy parking stalls or other designated parking areas;
 - do not occupy any public or private street or alleyway;
 - do not locate within 50 feet of a fire hydrant, fire escape, bus stop, loading zone, or driveway;
 - do not locate with 1000 ft of any elementary or secondary school on any school day
 - do not locate on sidewalk adjacent to curb marked white, yellow, blue or red
- Additional regulations within the Parks:
 - Do not impede the use of any public facility by other members of the public;
 - Do not vend at any time other than open hours of the park
 - If not on sidewalk or pedestrian path, must get mobile vending permit

Recommended Actions:

Staff recommends the Planning Commission take the following actions:

1. Provide additional direction to Planning Staff concerning updating the mobile or temporary vending operations and sidewalk vendors.