

Town of Yountville

6550 Yount Street, Yountville, CA 94599

*** IMPORTANT NOTICE ***

**THIS MEETING IS BEING CONDUCTED UTILIZING TELECONFERENCING AND ELECTRONIC MEANS
CONSISTENT WITH STATE OF CALIFORNIA EXECUTIVE ORDER N-29-20 REGARDING THE COVID-19 PANDEMIC**



Town of Yountville

"The Heart of the Napa Valley"

Meeting Agenda - Final

Tuesday, June 2, 2020

3:00 PM

Special Meeting

Remote Teleconference

Town Council

Mayor John Dunbar

Vice Mayor Kerri Dorman

Council Member Margie Mohler

Council Member Marita Dorenbecher

Council Member Jeffrey Durham

The Town of Yountville is committed to complying with the Americans with Disabilities Act (ADA) and other similar federal and state laws in all respects. If, as an attendee or participant in this meeting, or in meetings on a regular basis, you will need special assistance beyond what is provided, the Town will provide reasonable accommodations for you. Individuals who need auxiliary aids or services for effective communication or participation in programs and services of the Town of Yountville are invited to make their needs and preferences known by contacting the Town Clerk at (707) 944-8851 at least 72 hours prior to the meeting. This notice is available in accessible alternate formats from the ADA Coordinator.

1. CALL TO ORDER; CONVENE SPECIAL MEETING - 3:00 P.M.**2. ROLL CALL****3. PLEDGE OF ALLEGIANCE****4. ADOPTION OF AGENDA****5. PROCLAMATIONS AND RECOGNITIONS**

- A. [20-2602](#) Presentation of Proclamation in recognition of June as LGBTQ Pride Month.

Attachments: [Proclamation](#)

6. PUBLIC COMMENT ON MATTERS NOT LISTED ON THE AGENDA

Individuals will be limited to a three-minute presentation. No action will be taken by the Council as a result of any item presented at this time.

- [20-2604](#) How to Participate during Public Comment at Town Council Meetings During the COVID-19 Emergency Declaration.

Attachments: [Public Comment Participation Instructions](#)

7. CONSENT CALENDAR

- A. [20-2597](#) Confirmation of Proclamation No. 2020-02 of the Director of Emergency Services of the Town of Yountville, State of California, Adopting Rules and Regulations Related to the Proclaimed Emergency (COVID-19).

Attachments: [Proclamation 2020-02](#)

- B. [20-2585](#) Receive and file Monthly Financial Report for April 2020.

Attachments: [Monthly Financial Report](#)

- C. [20-2551](#) Adopt Resolution Number 20-3990 Authorizing the filing of a Notice of Completion and accepting the work for the 2020 Oak Circle Rehabilitation Project (MT-3020) performed by Ghilotti Brothers Construction for \$370,752.86.

Attachments: [Resolution](#)
[Notice of Completion](#)

- D. [20-2588](#) Adopt Resolution Number 20-3991 Approving Amendment Number 2 to Professional Services Agreement 2008-226 with Lescure Technology Services in the amount of \$85,000.

Attachments: [Resolution](#)
 [Agreement](#)

- E. [20-2461](#) Approve minutes of the special remote teleconference meeting held May 5, 2020.

Attachments: [May 5, 2020 Minutes](#)

8. PRESENTATIONS - NONE

9. PUBLIC HEARINGS

- A. [20-2595](#) USE PERMIT REQUEST - NAPA VALLEY BALLOONS
Consider Adoption of Resolution Number 20-3982 Approving a Use Permit for Napa Valley Balloons to conduct hot air balloon launches from an open field within the existing vineyard at 6406 Washington Street. (APPLICANT REQUESTS PUBLIC HEARING BE CONTINUED TO NON-SPECIFIC DATE)

10. ADMINISTRATIVE / REGULAR ITEMS

- A. [20-2598](#) Consider Adoption of Resolution Number 20-3992 Establishing Late Payment Penalties for Violations of Chapter 10.28 of the Yountville Municipal Code - Stopping, Standing and Parking.

Attachments: [Resolution](#)
 [Exhibit A](#)

- B. [20-2599](#) CEREMONIAL FLAG REQUEST
Consider Adoption of Resolution Number 20-3993 Approving the display of the Rainbow Flag and Transgender Flag on the Town's Ceremonial Flag Pole pursuant to the Town's Flag Policy for the month of June in recognition of LGBTQ Pride Month.

Attachments: [Resolution](#)

- C. [20-2603](#) CANNABIS ORDINANCE DISCUSSION
Discussion and possible direction regarding Town Council placing a single ballot measure on the November 2020 ballot regarding regulation and taxation of a cannabis retail business.

Attachments: [Cannabis Ballot Measure \(Single Regulation and Tax Measure\)\(5-28\)\(Redline\)](#)
 [Cannabis Ballot Measure \(Single Regulation and Tax Measure\)\(5-28\)\(Clean\)](#)

11. STAFF INFORMATIONAL REPORTS**12. COUNCIL MEETING REPORTS, COMMENTS AND AGENDA ITEM REQUESTS**

- A. Napa County Flood Control & Water Conservation District (Dunbar/Dorman)
- B. Napa Valley Transportation Authority (NVTa) (Dunbar, Dorman, Mohler, Durham)
- C. League of California Cities Update (Dunbar, Dorman, Mohler, Dorenbecher)
- D. Council Ad Hoc and Standing Committee Reports (All Council)
- E. Reports and Announcements

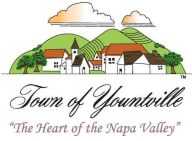
13. CLOSED SESSION - NONE**14. ADJOURNMENT**

Adjourn to the Town Council Regular Meeting Tuesday, June 16, 2020 at 6:00 p.m. being held by remote Teleconference.

I certify that a copy of this Town Council Agenda was posted at a location freely-accessible to the public at Yountville Town Hall, 6550 Yount Street within the Town of Yountville, the Friday before the meeting.

/s/ Michelle Dahme

Michelle Dahme, Town Clerk



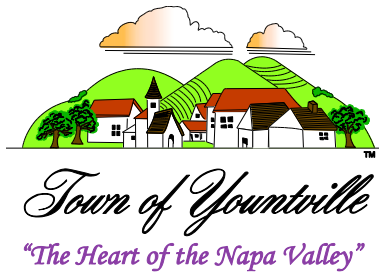
Town of Yountville

6550 Yount Street
Yountville, CA 94599

Staff Report

File #: 20-2602, Version: 1

Presentation of Proclamation in recognition of June as LGBTQ Pride Month.



PROCLAMATION

In Recognition of LGBTQ PRIDE MONTH

WHEREAS, this June marks the 51st anniversary of the Stonewall riots, which were a series of demonstrations by members of the gay community against a police raid that took place on June 28, 1969, at the Stonewall Inn in the Greenwich Village neighborhood of Manhattan, New York City that served as a catalyst for the gay rights movement.

WHEREAS, the rainbow flag, also known as the LGBT pride flag or gay pride flag, has been present since the 1970s as a symbol of Lesbian, Gay, Bisexual, Transgender inclusiveness and social movements;

WHEREAS, many residents, veterans, students, employees, business owners, and visitors to the Town of Yountville are part of the lesbian, gay, bisexual, transgender, and questioning community who contribute to the widespread academic, economic, artistic, and social fabric of the entire Napa Valley;

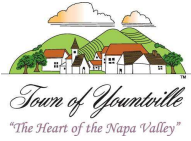
WHEREAS, the Town of Yountville is committed to support and encourage diversity in the workplace and throughout the community, as stated in the Town's 2009 Equal Rights Resolution;

WHEREAS, June is commemorated around the globe as "International Gay Pride Month" to honor and celebrate the history, achievements, and contributions of LGBTQ people, and it gives us the opportunity to come together in various celebrations of freedom and pride;

NOW, THEREFORE LET IT BE RESOLVED, that I, John F. Dunbar, Mayor of the Town of Yountville, along with the Town Council, do hereby proclaim June 2020 as "**Lesbian, Gay, Bisexual, Transgender, and Queer Pride Month**" and invite everyone to reflect on ways we all can advance the rights and protections of LGBTQ people and live and work together with a commitment to mutual respect and understanding.

John F. Dunbar, Mayor

Dated: June 2, 2020



Staff Report

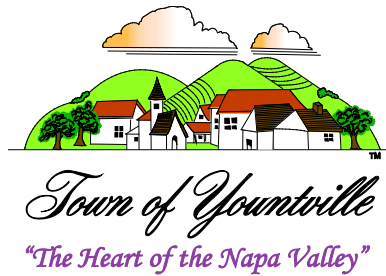
File #: 20-2604, Version: 1

How to Participate during Public Comment in Town Council Meetings during the COVID-19 Emergency Declaration

The Town of Yountville is committed to public comment participation in Town government in a manner that is consistent with guidance provided by the Napa County Public Health official. These guidelines relate to social distancing, and are intended to protect everyone, especially those over 65 and those with other medical conditions.

The Town of Yountville has taken steps to utilize technology to encourage full public comment participation during Town Council Meetings in order to comply with public health guidance.

Please see attachment on how to provide public comment remotely.



THE TOWN OF YOUNTVILLE ENCOURAGES ONLINE PUBLIC COMMENT PARTICIPATION IN TOWN COUNCIL MEETINGS AND OTHER TOWN MEETINGS BEING HELD IN CONFORMANCE WITH THE PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDER N-25-20 AND SUBSEQUENT N-29-20

Yountville, CA – The Town of Yountville is committed to public participation in Town government in a manner that is consistent with guidance provided by the Governor and Napa County Public Health officials. These guidelines relate to social distancing, and are intended to protect everyone, especially those over 65 and those with other medical conditions.

The Town of Yountville has taken the following steps to utilize technology and to encourage full public comment participation during Town Council Meetings and Other Town Meeting Bodies in order to comply with public health guidance.

1. The Town Council meetings and other Town Meeting bodies can be observed live on the Town's website at www.townofyountville.com or on our local cable TV Channel 28. *Parks & Recreation Advisory are viewable on Channel 28 Only.
2. Meetings are live-streamed via the Town's website by selecting this link directly <https://townofyountville.legistar.com/Calendar.aspx> and clicking on the "In Progress" button. Anyone with a computer, laptop, or mobile device and internet access can view our Town Council meetings live online.
3. If you would like to comment on an item, public comments may be emailed to publiccomment@yville.com. Please include in the subject line "COMMENT TO COUNCIL" or "COMMENT TO ZDRB". Any written testimony submitted will be provided to the Council members electronically, may be read into the record, and will become part of the meeting archive as long as it is received during public comment and prior to the Council's vote on the item.

Town staff will continue to evaluate these steps after meetings in order to improve our remote public participation process. These steps are designed to make our meeting accessible to everyone, but if you need additional accommodations for remote participation, please contact the Town Clerk at 707-944-8851 or by email at mdahme@yville.com.

If you are a member of the public, and have questions regarding COVID-19 testing, hygiene or other recommended guidance, please visit the Town's website at <http://www.townofyountville.com/about-yountville/covid-19-information-and-updates>

Thank you in advance for your cooperation and understanding!



Staff Report

File #: 20-2597, **Version:** 1

Yountville Town Council Staff Report

DATE: June 2, 2020

TO: Mayor and Town Council

FROM: Steven R. Rogers, Town Manager/Director of Emergency Services

TITLE

Confirmation of Proclamation No. 2020-02 of the Director of Emergency Services of the Town of Yountville, State of California, Adopting Rules and Regulations Related to the Proclaimed Emergency (COVID-19).

DISCUSSION/BACKGROUND

On March 16, 2020, the Town Manager, acting as Director of Emergency Services, proclaimed the existence of a local emergency pursuant to California Government Code section 8630 and Yountville Municipal Code Chapter 2.52 to respond to the Coronavirus (COVID-19). The Town Council subsequently ratified that proclamation on March 23, 2020 and the proclaimed local emergency is still in effect.

California Government Code section 8634 and Yountville Municipal Code section 2.52.060 authorize the Town Manager, acting as the Director of Emergency Services, to make and issue rules and regulations reasonably related to the protection of life and property affected by the proclaimed local emergency. On May 15, 2020, the Town Manager, acting as the Director of Emergency Services, adopted Proclamation No. 2020-02 adopting such rules and regulations entitled the "COVID19 Restaurant Transitional Support Program", the "COVID19 Wine Tasting Room and Bar Transitional Support Program", and the "COVID19 Retail Business Transitional Support Program". Yountville Municipal Code section 2.52.060, subdivision (F)(1) requires these rules and regulations be confirmed by the Town Council.

ENVIRONMENTAL REVIEW

Exempt per CEQA Guidelines Section 15061(b)(3). To the extent this is deemed a project under CEQA, it is categorically exempt under CEQA Guidelines Sections 15301 (Existing Facilities), 15303 (New Construction or Conversion of Small Structures), 15304 (Minor Alterations to Land) 15305 (Minor Alterations in Land Use Limitations), 15311 (Accessory Structures), 15324 (Regulations of Working Conditions), and 15322 (In-Fill Development Projects).

FISCAL IMPACT

Is there a Fiscal Impact? Yes

Is it Currently Budgeted? Yes

Where is it Budgeted? Click here to enter text.

Is it Mandatory or Discretionary? Discretionary

Is there a Staff Resource Impact? Nominal

STRATEGIC PLAN GOAL

Is item Identified in Strategic Plan? Yes

If yes, Identify Strategic Goal and Objective. **Exceptional Town Services and Staff:** The Town supports its talented staff who deliver high quality municipal programs and services while maintaining public infrastructure for the benefit of the community.

Briefly Explain Relationship to Strategic Plan Goal and Objective. Proclamation No. 2020-02 supports local businesses transitioning to serving customers while ensuring operations comply with applicable laws, state and local emergency proclamations, and state and local emergency rules and regulations.

ALTERNATIVES

Confirm the proclamation.

Do not confirm the proclamation (essentially rescinding it).

RECOMMENDATION

Receive staff report and direct questions to staff.

Receive public comment.

Conduct Council discussion on proposed Proclamation.

Confirm Proclamation No. 2020-02 of the Director of Emergency Services of the Town of Yountville, State of California, Adopting Rules and Regulations Related to the Proclaimed Emergency (COVID-19).

PROCLAMATION NO. 2020-02

PROCLAMATION OF THE DIRECTOR OF EMERGENCY SERVICES OF THE TOWN OF YOUNTVILLE, STATE OF CALIFORNIA, ADOPTING RULES AND REGULATIONS RELATED TO THE PROCLAIMED LOCAL EMERGENCY

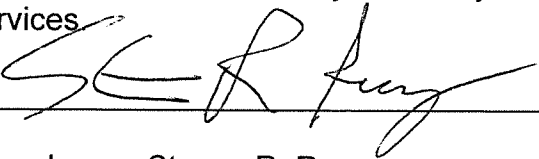
WHEREAS, on March 16, 2020, the Town Manager, acting as the Director of Emergency Services, proclaimed the existence of a local emergency pursuant to California Government Code section 8630 and Yountville Municipal Code Chapter 2.52, the Town Council ratified that proclamation on March 23, 2020, and the proclaimed local emergency is still in effect; and

WHEREAS, California Government Code Section 8634 and Yountville Municipal Code Section 2.52.060 authorize the Town Manager, acting as Director of Emergency Services, to make and issue rules and regulations reasonably related to the protection of life and property affected by the proclaimed local emergency.

NOW, THEREFORE, BE IT PROCLAIMED by the Town Manager of the Town of Yountville, in the capacity of the Director of Emergency Services of the Town of Yountville, as follows:

1. The "Restaurant Transitional Support Program", the "Wine Tasting Room Transitional Support Program", and the "Retail Business Transitional Support Program", attached hereto as Exhibit A and incorporated herein by this reference, are hereby adopted pursuant to California Government Code Section 8634 and Yountville Municipal Code Section 2.52.060 (the "Program").
2. The Program is necessary and reasonably related to the protection of life and property affected by the proclaimed local emergency.
3. The Program shall remain in force and effect unless modified or rescinded and only for so long as the proclaimed local emergency is in effect; the Program shall be automatically rescinded when the proclaimed local emergency is no longer in effect.
4. This Proclamation shall be published and promulgated in as widespread a manner as reasonably feasible in light of the conditions prevailing during the local emergency.
5. The Town Council shall confirm this Proclamation at its earliest convenience.
6. This Proclamation shall take effect immediately upon its execution.

This proclamation is hereby issued by the Town Manager, Director of Emergency Services



Signed: Steven R. Rogers
Title: Town Manager
Director of Emergency Services
Date: May 5, 2020

Town of Yountville

COVID19 Restaurant Transitional Support Program

Purpose: In support of our local businesses, the Town recognizes that many Yountville restaurants will be challenged to comply with new guidelines to allow for reopening due to COVID-19 State social distancing requirements and/or seating capacity limits which may require elimination of a number of existing seats in the approved interior and exterior patio areas as outlined by their Town of Yountville Use Permits. For a period of sixty (60) days, with the possibility of an extended duration determined by the Town, this program allows temporary modifications to some use permit conditions that would allow limited additional seating on patios or walkways, in designated public open space, and/or to be placed on adjacent lawn or other areas up to the maximum approved seat count identified in the Use Permits. This program is adopted under the Town's authority to make and issue rules and regulations on matters reasonably related to protection of life and property as affected by the Declared Local Emergency. As such, this program will only be in effect for so long as the Declared Local Emergency is in effect and may be modified or rescinded. When this program is no longer in effect, all conditions in use permits otherwise modified by this program shall continue in full force and effect.

Each individual restaurant is responsible for submitting a proposed plan for modified operations to the Town for approval. The Town may deny the proposed plan for failure to comply with the requirements of this program or federal, state, or local laws or regulations.

Key Elements:

- Each restaurant is unique and would need to identify adjacent or additional space such as patios, walkways, lawn areas, etc. and any specific Use Permit condition that might limit use of a patio or other area for its operations. For liability and ABC considerations, adjacent or additional space must be on the same parcel or an adjacent parcel owned by the same party or a parent or subsidiary of the party.
- In order to be eligible to participate in the program allowing for use of the adjacent or additional space, each restaurant must comply with the following:
 - Restaurant industry COVID-19 specific requirements established by County of Napa, in coordination with rules set by the State of California.
 - ADA accessibility requirements for use of the additional identified seating area.
 - Any applicable ABC licensing requirements use of space may require.
 - Approval of landlord (if different than owner of business) to participate in the program.
 - Social distancing and industry sector requirements.
 - Any other federal, state, or local laws or regulations applicable to the use.
- Each restaurant must submit a proposed written plan containing the above elements. This plan shall include a sketch of areas where seating is removed and relocated up to the maximum permitted capacity in the applicable Use Permit(s).
- If appropriate, the Town will evaluate and grant a temporary encroachment permit to designate a public parking spot(s) for curbside pick-up to help facilitate take out service pick up by guests. The Town will provide Public Works barricade and signage.
- Each restaurant may include their COVID-19 information and procedures on any currently permitted exterior signage (e.g "menu board") during this interim period.
- The Town will waive any application or processing fee associated with this program.

- Program may be extended beyond existing the sixty (60) day period based on Town staff's review of operational impacts and need.
- The Town may revoke temporary approval for any restaurant failing to abide by program requirements and in order to maintain compliance with County of Napa and State of California industry sector requirements and/or federal, state, or local law or regulations.

Issued May 15, 2020

Town of Yountville

COVID19 Wine Tasting Room and Bar Transitional Support Program

Purpose: In support of our local businesses, the Town recognizes that many Yountville wine tasting rooms and bars will be challenged to comply with new guidelines to allow for reopening due to COVID-19 State social distancing requirements and/or seating capacity limits which may require elimination of a number of existing seats in the approved interior and exterior patio areas as outlined by their Town of Yountville Use Permits. For a period of sixty (60) days, with the possibility of an extended duration determined by the Town, this program will allow temporary modifications to some use permit conditions that would allow limited additional seating on patio or walkway space, in designated public open space, and/or to be placed on adjacent lawn or other areas up to the maximum approved seat count identified in the Use Permits. This program is adopted under the Town's authority to make and issue rules and regulations on matters reasonably related to protection of life and property as affected by the Declared Local Emergency. As such, this program will only be in effect for so long as the Declared Local Emergency is in effect and may be modified or rescinded. When this program is no longer in effect, all conditions in use permits otherwise modified by this program shall continue in full force and effect.

Each individual wine tasting room and/or bar is responsible for submitting a proposed plan for modified operations to the Town for approval. The Town may deny the proposed plan for failure to comply with the requirements of this program or federal, state, or local laws or regulations.

Key Elements:

- Since each wine tasting room and/or bar site location is unique, each operation would need to identify adjacent or additional space such as patios, walkways, lawn areas, etc. and any specific Use Permit condition that might limit use of a patio or other area for its operations. Due to liability and ABC restrictions, adjacent or additional space must be on the same parcel or an adjacent parcel owned by the same party or a parent or subsidiary of the party.
- In order to be eligible to participate in the program allowing for use of the adjacent or additional space, each wine tasting room and/or bar must comply with the following:
 - Wine Tasting Room and/or bar industry COVID-19 specific requirements established by County of Napa, in coordination with rules set by the State of California.
 - ADA accessibility requirements for use of the additional identified seating area.
 - Any applicable ABC licensing requirements use of space may require.
 - Approval of landlord (if different than owner of business) to participate in the program.
 - Social distancing and industry sector requirements.
 - Any other federal, state, or local laws or regulations applicable to the use.
- Each wine tasting room and/or bar must submit a proposed written plan containing the above elements. This plan shall include a sketch of areas where seating is removed and relocated up to the maximum permitted capacity in their applicable Use Permit(s).
- Each wine tasting room and/or bar may include their COVID-19 information and procedures on any currently permitted exterior signage (e.g "menu board") during this interim period.
- The Town will waive any application or processing fee associated with this program.
- Program may be extended beyond existing the sixty (60) day period based on Town staff's review of operational impacts and need.

- The Town may revoke temporary approval for any wine tasting room and/or bar failing to abide by program requirements and in order to maintain compliance with County of Napa and State of California industry sector requirements and/or federal, state, or local law or regulations.

Issued May 15, 2020

Town of Yountville

COVID19 Retail Business Transitional Support Program

Purpose: In support of our local businesses, the Town recognizes that many Yountville retail businesses will be challenged to comply with new guidelines to allow for reopening due to COVID-19 State social distancing requirements and/or seating capacity limits which may require elimination of a number of existing seats in the approved interior and exterior patio areas as outlined by their Town of Yountville Use Permits. For a period of sixty (60) days, with the possibility of an extended duration determined by the Town, this program will allow temporary modifications to some use permit conditions that would allow limited outdoor display of merchandise, temporary pop-up retail operations where feasible, and other possible ideas. This program is adopted under the Town's authority to make and issue rules and regulations on matters reasonably related to protection of life and property as affected by the Declared Local Emergency. As such, this program will only be in effect for so long as the Declared Local Emergency is in effect and may be modified or rescinded. When this program is no longer in effect, all conditions in use permits otherwise modified by this program shall continue in full force and effect.

Each individual retail business is responsible for submitting a proposed plan for modified operations to the Town for approval. The Town may deny the proposed plan for failure to comply with the requirements of this program or federal, state, or local laws or regulations.

Key Elements:

- Each retail business is unique and would need to identify adjacent or additional space such as patios, walkways, lawn areas, etc. and any specific Use Permit condition that might limit use of a patio or other area for its operations. For liability and ABC considerations, adjacent or additional space must be on same parcel or an adjacent parcel owned by the same party or a parent or subsidiary of the party.
- Each retail business will be allowed to operate its point of sale (POS) from pop up retail location if located away from place of business.
- In order to be eligible to participate in program allowing for use of the adjacent or additional space, each retail business must comply with the following:
 - Retail industry COVID-19 specific requirements established by County of Napa, in coordination with rules set by the State of California.
 - ADA accessibility requirements for use of the additional identified retail sales area.
 - Any applicable ABC licensing requirements use of space may require.
 - Approval of landlord (if different than owner of business) to participate in the program.
 - Social distancing and industry sector requirements.
 - Any other federal, state, or local laws or regulations applicable to the use.
- Each retail business must submit a proposed written plan containing the above elements. This plan shall include a sketch of areas where seating is removed and relocated up to the maximum permitted capacity in their Use Permit.
- Each retail business may post their COVID-19 information and procedures they have put in place outside of their entry during this interim period.
- The Town will waive any application or processing fee associated with this program.

- Program may be extended beyond existing the sixty (60) day period based on Town staff's review of operational impacts and need.
- The Town may revoke temporary approval for any retail business failing to abide by program requirements and in order to maintain compliance with County of Napa and State of California industry sector requirements and/or federal, state, or local law or regulations.

Issued May 15, 2020



TRANSITIONAL SUPPORT PROGRAM FOR RESTAURANTS, WINE TASTING ROOMS, & RETAIL BUSINESSES

The **Transitional Support Program** is intended to offer businesses flexibility with their seating and retail arrangements to cope with the new demands caused by COVID-19. It allows businesses a 60-day period when some use permit conditions may be modified to allow limited additional seating on patios or walkways, in designated public open space, or on adjacent lawn, up to the maximum approved seat count identified in the business' use permit.

BUSINESS NAME _____

APPLICANT NAME/TITLE _____ EMAIL _____

BUSINESS ADDRESS _____ PHONE # _____

MAILING ADDRESS (IF DIFFERENT FROM BUSINESS ADDRESS) _____

TYPE OF BUSINESS: RESTAURANT ☐ TASTING ROOM/BAR ☐ RETAIL BUSINESS ☐ OTHER: _____ ☐

IN ORDER TO BE ELIGIBLE, EACH BUSINESS MUST COMPLY WITH THE FOLLOWING:

- COVID-19 industry-specific requirements established by County of Napa, in coordination with rules set by the State of California.
- ADA accessibility requirements for use of the additional identified seating area.
- Any applicable ABC licensing requirements use of space may require.
- Approval of landlord (if different than owner of business) to participate in the program.
- Social distancing and industry sector requirements.
- Any other federal, state, or local laws or regulations applicable to the use.

PLEASE DESCRIBE THE PROPOSED ADDITIONAL SEATING (OR OTHER ARRANGEMENTS) FOR YOUR BUSINESS:

PLEASE ATTACH A SKETCH OF ADDITIONAL SEATING AREAS IDENTIFIED.

PLEASE CHECK HERE IF YOU ARE INTERESTED IN HAVING THE TOWN DESIGNATE A PUBLIC PARKING SPOT OUTSIDE YOUR BUSINESS FOR CURBSIDE PICKUP TO HELP FACILITATE TAKE OUT SERVICE: ☐

ANTICIPATED START DATE OF PROGRAM/YOUR BUSINESS' REOPENING: _____

THESE ADDITIONAL TERMS APPLY FOR THE DURATION OF THE PROGRAM:

- The Town may deny the proposed plan for failure to comply with the requirements of this program or federal, state, or local laws or regulations.
- For liability and ABC considerations, adjacent or additional space use must be on the same parcel or an adjacent parcel ownership by the same party or a parent or subsidiary of the party.
- Program may be extended beyond existing the sixty (60) day period based on Town staff's review of operational impacts and need.
- The Town may revoke temporary approval for any restaurant failing to abide by program requirements and in order to maintain compliance with County of Napa and State of California industry sector requirements and/or federal, state, or local law or regulations.

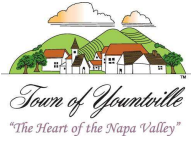
By signing here and submitting this application form, you agree to indemnify, defend, and hold harmless the other party from and against any loss, cost, or damage of any kind (including reasonable outside attorneys' fees) to the extent arising out of its breach of this Agreement, and/or its negligence or willful misconduct.

Signed: _____

Date: _____

Date Approved _____	Denied _____
Conditions of Approval _____	

Planning Officer Signature _____	



Staff Report

File #: 20-2585, **Version:** 1

Yountville Town Council Staff Report

DATE: June 2, 2020
TO: Mayor and Town Council
FROM: Celia King, Finance Director

TITLE

Receive and file Monthly Financial Report for April 2020.

DISCUSSION/BACKGROUND

The monthly financial reports are presented to provide a summary overview of revenues and expenses of the Town's major funds: General Fund, Capital Projects Fund, Water and Wastewater Enterprise Funds. This is a preliminary report, as the fiscal year will not be completely finalized until after the annual audit.

ENVIRONMENTAL REVIEW

Exempt per California Environmental Act (CEQA) Guideline, Section 15061(b)(3)

FISCAL IMPACT

Is there a Fiscal Impact? N/A

Is it Currently Budgeted? N/A

Where is it Budgeted? N/A

Is it Mandatory or Discretionary? N/A

Is there a Staff Resource Impact? N/A

STRATEGIC PLAN GOAL

Is item Identified in Strategic Plan? Yes

If yes, Identify Strategic Goal and Objective. **Responsible Fiscal Policy:** The Town maintains its fiscal health through policies designed to maximize economic opportunities, manage expenses, and ensure prudent reserves.

Briefly Explain Relationship to Strategic Plan Goal and Objective. Monthly budget and actual revenue and expense reports provide timely information and financial transparency. Timely financial information can help control costs by guiding policy and spending decisions.

ALTERNATIVES

N/A

RECOMMENDATION

Receive and file report.

TOWN OF YOUNTVILLE
MONTHLY FINANCIAL REPORT
April 30, 2020

General Fund Revenues

The following is a summary of General Fund revenue by major category as of April 30, 2020.
 April is 88.3% of the Fiscal Year:

Revenues:	Budget*	Actual	Variance	% of Budget
Property Taxes	1,593,500	1,934,741	341,241	121.4%
Sales Taxes	1,377,000	1,168,555	(208,445)	84.9%
Other Taxes	181,000	163,355	(17,645)	90.3%
Transient Occupancy Tax	7,000,000	5,248,777	(1,751,223)	75.0%
Investment Earnings	85,000	49,479	(35,521)	58.2%
Licenses & Permits	70,250	82,933	12,683	118.1%
Fines & Forfeitures	3,500	19,247	15,747	549.9%
Rents & Concessions	267,500	183,673	(83,827)	68.7%
Intergovernmental	124,700	160,003	35,303	128.3%
Parks & Recreation Fees	305,500	247,987	(57,513)	81.2%
Charges for Services	150,300	206,627	56,327	137.5%
Impact Fees	-	-	-	0.0%
Miscellaneous	105,420	80,913	(24,507)	76.8%
Transfers & Other Sources	-	-	-	0.0%
Total	11,263,670	9,546,288	(1,717,382)	84.8%

Transfers:	Budget	Actual	Variance	% of Budget
Tourist Business Imp. Dist.	11,667	8,747	(2,920)	75.0%

TOT is due one month after the collection period and received 45 days after the collection period.
 Sales tax receipts lag 2 ½ - 3 months behind the actual collection period. Property taxes are generally not received until December, after the first installment has been collected by Napa County.

TOWN OF YOUNTVILLE
MONTHLY FINANCIAL REPORT
April 30, 2020

General Fund Expenditures

The following is a summary of General Fund Expenditures by major category as of April 30, 2020:

Expenditures		Budget*	Actual	Variance	% of Budget
Town Council/Mayor	1001	148,277	91,472	(56,805)	61.7%
Non-Departmental	1010	165,820	64,035	(101,785)	38.6%
Town Manager	1101	527,293	430,811	(96,482)	81.7%
Information Technology	1011	-	-	-	0.0% Note 2
Community Promotion	1015	426,137	333,014	(93,123)	78.1%
Finance	1102	606,427	454,335	(152,092)	74.9%
Risk Management	1103	77,800	35,244	(42,556)	45.3% Note 1
Town Attorney	1105	196,500	98,892	(97,608)	50.3%
Town Clerk	1110	557,866	276,940	(280,926)	49.6%
Housing Opportunity Prog.	1500	-	-	-	0.0%
Planning & Building	2115	1,268,858	846,081	(422,777)	66.7%
Law Enforcement Services	3200	1,029,046	771,788	(257,258)	75.0%
Fire & Emergency Services	3201	630,590	401,112	(229,478)	63.6%
PW Admin. & Engineering	4301	735,346	516,301	(219,046)	70.2%
PW Street Maintenance	4305	401,878	288,280	(113,598)	71.7%
PW Park Maintenance	4320	581,696	472,319	(109,377)	81.2%
PW Government Bldgs.	4325	454,763	350,116	(104,647)	77.0%
Parks & Rec Admin & Services	5405	583,605	447,678	(135,927)	76.7%
Parks & Rec Camp Programs	5406	128,251	84,703	(43,548)	66.0%
Parks & Rec Pool & Aquatics	5407	-	-	-	0.0%
Community Center	5408	413,447	316,893	(96,554)	76.6%
Parks & Rec After School Prog.	5409	174,807	121,632	(53,175)	69.6%
Parks & Rec Leisure Prog.	5410	265,763	221,784	(43,979)	83.5%
Parks & Rec Sports Prog.	5412	55,789	47,344	(8,445)	84.9%
Parks & Rec Community Events	5413	177,403	146,965	(30,438)	82.8%
Yountville Arts	5415	49,719	20,519	(29,200)	41.3%
Total Expenditures		9,657,081	6,838,257	(2,818,824)	70.8%
Transfers Out:					
OPEB-Employee Retiree Ben.		139,000	130,000	9,000	93.5%
PERS UAL		350,000	350,000	-	100.0%
Emergency Reserve Fund		-	-	-	0.0%
Revenue Stabilization Fund		-	-	-	0.0%
Capital Projects Fund		100,000	100,000	-	100.0%
Facility Replacement Fund		225,000	-	225,000	0.0%
Fleet/Equip Replacement Fund		100,000	-	100,000	0.0%
Housing Opportunity Fund		-	-	-	0.0%
T.O.Y. Community Foundation		-	5,586	(5,586)	0.0%
Water Subsidy		5,000	-	5,000	0.0%
Wastewater Subsidy		5,000	-	5,000	0.0%
2013 Lease Rev. Debt Service		281,085	281,085	-	100.0%
2017 Lease Rev. Debt Service		546,769	546,769	-	100.0%
Total Transfers Out:		1,751,854	1,413,440	338,414	80.7%

Note 1: Allocations of liability, property damage and Workers Comp insurance will be allocated to departments by end of fiscal year.

Note 2: Allocations of information technology are made to each department so no expenses are shown for program

TOWN OF YOUNTVILLE
MONTHLY FINANCIAL REPORT
April 30, 2020

CAPITAL PROJECTS

Expenditures		Budget *	Actual	Variance	% of Budget
Stationary Emerg Gen CHC	CF-0015	157,841	145,990	(11,851)	92.5%
Community Center/Hall Parking Lot	CF-0023	15,000	15,000	-	100.0%
Civic Facilities Replacement Fund	CF-2020	179,900	-	(179,900)	0.0%
Civic Equipment Replacement Fund	CF-4020	21,236	-	(21,236)	0.0%
Geographic Info. System	CP-0007	50,000	3,582	(46,418)	7.2%
Finnell Path Maintenance/Repair	CP-0014	150,000	310	(149,690)	0.2%
Community Wifi/Hotspot	CP-0015	75,000	673	(74,327)	0.9%
Emergency Warning System	CP-0019	35,000	-	(35,000)	0.0%
ADA Acces. Improv. Prog.	CP-2019	36,685	-	(36,685)	0.0%
ADA Acces. Improv. Prog.	CP-2020	100,000	36,754	(63,246)	36.8%
Town-wide Drainage Imp. Prog.	DF-2020	16,538	11,322	(5,216)	68.5%
Annual St Maint/Paving Program	GT-3019	8,181	3,055	(5,126)	37.3%
Annual St Maint/Paving Program	GT-3020	94,000	42,934	(51,066)	45.7%
Measure S Housing Feasibility Study	MS-3020	100,000	-	(100,000)	0.0%
Annual St Maint/Paving Program	MT-3020	550,000	159,161	(390,839)	28.9%
Pedestrian Path-Oak Cir to Mission	PK-0003	550,000	87,724	(462,276)	15.9%
Yountville Bike Path Resurface	PK-0020	35,000	45,970	10,970	131.3%
New 3/4 Ton Utility Truck	PK-0022	50,000	46,167	(3,833)	92.3%
Rem & Repl Pour In Place Play Surface	PK-0023	10,000	-	(10,000)	0.0%
Park Major Equip Rep & Repl	PK-3020	10,000	-	(10,000)	0.0%
Annual St Maint/Paving Program	SB-6020	40,000	39,803	(197)	99.5%
Surveys & Monuments	ST-0004	15,000	7,143	(7,858)	47.6%
Traffic Calming Program	ST-4020	15,000	-	(15,000)	0.0%
Street Light Replacement	ST-5020	40,000	40,682	682	101.7%
Total		2,354,381	686,270	(1,668,111)	29.1%

Expenditures - Water & Wastewater		Budget *	Actual	Variance	% of Budget
Regulator Pit Relocation Project	WA-0007	160,765	147,320	(13,446)	91.6%
Washington Prk Mainline Pipe Asmt	WA-0013	13,437	-	(13,437)	0.0%
Water Meter Repl Program	WA-2020	26,250	-	(26,250)	0.0%
Main & Service Lateral Repl	WA-3020	150,000	131,550	(18,450)	87.7%
Hydrant & Main Flushing	WA-4020	25,000	-	(25,000)	0.0%
Joint Treatment Plant Office	WW-0011	100,000	58,105	(41,895)	58.1%
Video and Repair Outfall Line at JTP	WW-0015	100,000	-	(100,000)	0.0%
Epoxy Scum Wall	WW-0022	30,000	15,062	(14,938)	50.2%
Replacement Pump Station Pump	WW-0026	39,000	37,704	(1,296)	96.7%
Inflow & Infiltration Reduction Prog	WW-2019	74,819	74,819	-	100.0%
Inflow & Infiltration Reduction Prog	WW-2020	78,560	-	(78,560)	0.0%
Sewer Main Replacement	WW-3019	72,572	72,572	-	100.0%
Sewer Main Replacement	WW-3020	76,200	-	(76,200)	0.0%
Plant Equipment Repl Program	WW-4020	70,354	-	(70,354)	0.0%
Pump Station Equipment Replcmt	WW-5020	11,576	-	(11,576)	0.0%
Total		1,028,533	537,131	(491,401)	52.2%

* Budget includes amounts for prior year purchase order rollover

TOWN OF YOUNTVILLE
MONTHLY FINANCIAL REPORT
April 30, 2020

WATER CAPITAL IMPROVEMENT FUND (60)	Budget	Actual	Variance	% of Budget
Revenues - System Replacement Fees	100,000	91,712	(8,288)	91.7%
Impact Fees	-	-	-	0.0%
Interest Income	10,000	7,668	(2,332)	76.7%
Transfers from Wtr Op/Drought Res Fund (57/61)	400,000	400,000	-	100.0%
Total Revenues	510,000	499,380	(10,620)	97.9%
Capital Improvement (D 4500)	448,052	348,834	(99,218)	77.9%
Transfer to Wtr Cap Improv	-	-	-	0.0%
Total Expenses	448,052	348,834	(99,218)	77.9%
Net Operating Income/(Loss)	61,948	150,546	88,598	
WATER OPERATING ENTERPRISE FUND (61)	Budget	Actual	Variance	% of Budget
Revenues - Utilities	1,486,067	1,196,874	(289,193)	80.5%
Interest Income	4,800	166	(4,634)	3.4%
Transfer-Water Subsidy (01)	5,000	-	(5,000)	0.0%
Total Revenues	1,495,867	1,197,040	(298,827)	80.0%
O & M Expenses (D 4505)	585,301	414,142	(171,160)	70.8%
Water Purchases (D 4507)	982,486	983,717	1,231	100.1%
Transfer to Wtr Cap Improv (60-4500)	200,000	200,000	-	100.0%
Total Expenses	1,767,787	1,597,858	(169,929)	90.4%
Net Operating Income/(Loss)	(271,920)	(400,819)	(128,898)	

WASTEWATER OPERATING ENTERPRISE FUND (62)	Budget	Actual	Variance	% of Budget
Revenues - Utilities	1,970,680	1,960,481	(10,199)	99.5%
Interest Income	10,000	24,088	14,088	240.9%
Transfer-Wastewater Subsidy (01)	5,000	-	(5,000)	
Total Revenues	1,985,680	1,984,569	(1,111)	99.9%
			-	
WW Collection (D 4510)	381,251	272,691	(108,561)	71.5%
WW Treatment (D4515)	1,273,102	947,487	(325,615)	74.4%
Transfer to JTP Capital (63)	1,550,000	1,550,000	-	100.0%
Total Expenses	3,204,354	2,770,178	(434,175)	86.5%
Net Operating Income/(Loss)	(1,218,674)	(785,610)	433,064	
JOINT TREATMENT CAPITAL FUND (63)	Budget	Actual	Variance	% of Budget
Revenues System Replacement Fees	155,000	138,934	(16,066)	89.6%
Revenues Capital Recovery Vets	150,177	50,000	(100,177)	33.3%
Interest Income	27,000	24,587	(2,413)	91.1%
Transfer from Capital (Town)(62)	1,000,000	1,000,000	-	100.0%
Total Revenues	1,332,177	1,213,521	(118,656)	91.1%
WW Joint Treatment Plant (D 4518)	1,803,124	351,686	(1,451,438)	19.5%
Transfer to WW Cap Improv (64-4519)	-	-	-	0.0%
Total Expenses	1,803,124	351,686	(1,451,438)	19.5%
Net Operating Income/(Loss)	(470,947)	861,835	1,332,781	
WASTEWATER UTILITY CAPITAL FUND (64)	Budget	Actual	Variance	% of Budget
Transfer frm Joint Treatment Cap Fund (63)	550,000	550,000	-	100.0%
Impact Fees	-	-	-	0.0%
Interest Income	1,000	4,415	3,415	441.5%
Total Revenues	551,000	554,415	3,415	100.6%
			-	
WW Capital Improvement (D 4519)	438,081	266,652	(171,429)	60.9%
Transfer to Debt Service (53)	28,428	28,428	-	100.0%
Total Expenses	466,509	295,080	(171,429)	63.3%
Net Operating Income/(Loss)	84,491	259,335	174,844	



Staff Report

File #: 20-2551, **Version:** 1

Yountville Town Council Staff Report

DATE: June 2, 2020

TO: Mayor and Town Council

FROM: John Ferons; Deputy Public Works Director

TITLE

Adopt Resolution Number 20-3990 Authorizing the filing of a Notice of Completion and accepting the work for the 2020 Oak Circle Rehabilitation Project (MT-3020) performed by Ghilotti Brothers Construction for \$370,752.86.

DISCUSSION/BACKGROUND

At the June 17, 2019 Town Council meeting, Council approved the 2019-20 Capital Improvement Plan with MT -3020, the Annual Street Maintenance and Paving Program which included the rehabilitation of the public streets within the Oak Circle neighborhood.

This project consisted of the rehabilitation of the entire length of Oak Circle and Heather Street from Oak Circle to Mulberry Street. Rehabilitation to consist of edge and conform grinding the existing asphalt and overlaying the street surface with new hot-mix asphalt.

Design plans by Pavement Engineering were approved by Council on January 7, 2020 and the formal bid package was advertised in the construction trade journals and the Town's virtual plan room January 17, 2020 with a 30-day solicitation period. The Town received eight bids that were publicly opened and read aloud on February 20, 2020 with Ghilotti Brothers Inc. being the lowest bidder at price of \$361,787. Council awarded the contract to Ghilotti Bros. Inc. as the lowest responsive and responsible bidder at the March 3, 2020 Town Council Meeting and also authorized the Town Manager to execute the construction contract, change orders and amendments up to the MT-3020 remaining budgeted amount of \$430,000.

There was one change order issued by the Town during construction which added Oak Leaf Court to the scope of work including edge grinding and new asphalt at a lump sum cost of \$59,640. There was one deduction enforced by the Town as provided for in the project specifications for hot mix asphalt that did not meet the compaction criteria resulting in a deduction of \$24,880.10. The final contract price, including the Bid Schedule Cost, Change Order 1 and the Compaction Deduction, is \$370,752.86, which remains within the budgeted amount of \$430,000.

Except for the hot-mix asphalt that did not meet compaction, the work has been completed to the satisfaction of the Public Works staff. By this resolution, the Town Council authorizes the Director of Public Works to execute the Notice of Completion and directs the Town Clerk to file said Notice of Completion with the Napa County Clerk Recorder.

ENVIRONMENTAL REVIEW

Categorically Exempt per California Environmental Quality Act (CEQA) Guideline; Class 2, Replacement or Reconstruction.

FISCAL IMPACT

Is there a Fiscal Impact? Yes

Is it Currently Budgeted? Yes

Where is it Budgeted? MT-3020; Annual Street Maintenance and Paving Program

Is it Mandatory or Discretionary? Discretionary

Is there a Staff Resource Impact? Nominal

STRATEGIC PLAN GOAL

Is item Identified in Strategic Plan? Yes

If yes, Identify Strategic Goal and Objective. Responsible Fiscal Policy: The Town maintains its fiscal health through policies designed to maximize economic opportunities, manage expenses, and ensure prudent reserves. Quality of Life: The Town enhances the livability of Yountville by providing well-maintained public facilities, parks and trails, and quality programs and events.

Briefly Explain Relationship to Strategic Plan Goal and Objective. Using non-general, Measure T funds to reconstruct streets is fiscally responsible and enhances the livability of Yountville with well-maintained public streets.

ALTERNATIVES

Reject the notice of completion and provide direction to staff.

RECOMMENDATION

Adopt Resolution Number 20-3990 Authorizing the filing of a Notice of Completion and accepting the work for the 2020 Oak Circle Rehabilitation Project (MT-3020) performed by Ghilotti Brothers Construction for \$370,752.86.

Town of Yountville

Resolution Number 20-3990

Authorizing the filing of a Notice of Completion and Accepting the Work for the 2020 Oak Circle Rehabilitation Project (MT-3020) performed by Ghilotti Brothers Construction for \$370,752.86.

Recitals

- A. At the June 17, 2019 Town Council meeting, Council approved the 2019-20 Capital Improvement Plan with MT-3020, the Annual Street Maintenance and Paving Program which included the rehabilitation of the public streets within the Oak Circle neighborhood.
- B. This project consisted of the rehabilitation of the entire length of Oak Circle and Heather Street from Oak Circle to Mulberry Street. Rehabilitation to consist of edge and conform grinding the existing asphalt and overlaying the street surface with new hot-mix asphalt.
- C. Design plans by Pavement Engineering were approved by Council on January 7, 2020 and the formal bid package was advertised January 17, 2020 with a 30-day solicitation period. The Town received eight bids that were publicly opened and read aloud on February 20, 2020 with Ghilotti Brothers Inc. being the lowest bidder at price of \$361,787. Council authorized awarded the contract to Ghilotti Bros. Inc. as the lowest responsive and responsible bidder at the March 3, 2020 Town Council Meeting.
- D. There was one change order issued by the Town during construction which added Oak Leaf Court to the scope of work including edge grinding and new asphalt at a lump sum cost of \$59,640. There was one deduction enforced by the Town as provided for in the project specifications for hot mix asphalt that did not meet the compaction criteria resulting in a deduction of \$24,880.10. The final contract price with the Bid Schedule Cost, Change Order and Compaction Deduction is \$370,752.86, which is within the budget including the contingency.
- E. With the exception of the hot-mix asphalt that did not meet compaction, all of the work has been completed to the satisfaction of the Public Works staff. By this resolution, the Town Council authorizes the Director of Public Works to execute the Notice of Completion and directs the Town Clerk to file said Notice of Completion with the Napa County Clerk Recorder.

Now therefore, the Town Council of the Town of Yountville does resolve as follows:

- 1. Authorizing the filing of a Notice of Completion and accepting the work for the 2020 Oak Circle Rehabilitation Project (MT-3020) performed by Ghilotti Brothers Construction for \$370,752.86.
- 2. The Town Clerk is hereby directed to file a Notice of Completion for said project with the Napa County Clerk Recorder within 10 days.
- 3. The Resolution is hereby adopted and becomes effective and in full force immediately upon adoption.

Resolution Number 20-3990

PASSED AND ADOPTED at a special meeting of the Town Council of the Town of Yountville, State of California, held on this 2nd day of June 2020 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

John F. Dunbar, Mayor

ATTEST:

Michelle Dahme, CMC
Town Clerk

RECORDING REQUESTED BY

TOWN OF YOUNTVILLE

WHEN RECORDED MAIL TO:

Name Town of Yountville
Street Address Michelle Dahme, Town Clerk
6550 Yount Street
City & State Yountville, CA 94599

SPACE ABOVE FOR RECORDER'S USE ONLY

Recording Fees Exempted per Government Code Section 27383

NOTICE OF COMPLETION

NOTICE IS HEREBY GIVEN:

1. That the interest or estate stated in paragraph 3 herein in the real property herein described is owned by the **Town of Yountville, 6550 Yount Street, Yountville, CA 94599-1271.**
2. That the full name and address of the owner of said interest or estate is set forth in the preceding paragraph.
3. That the nature of the title of the stated owner is: **Right of Way**
4. That on **June 2, 2020** a work of improvement **in the amount of \$370,752.86** on the real property herein described was completed.
5. That the name of the original contractor(s), if any, for said work of improvement was: **Ghilotti Brothers Construction, Inc., 525 Jacoby Drive, San Rafael, CA 94901.**
6. That the name and address of the transferor is the same.
7. That the real property herein referred to is situated in the Town of Yountville, County of Napa, State of California, and is described as follows, **Oak Circle Street Rehabilitation Project (MT-3020), Oak Circle and Vicinity, Yountville, CA 94599.**

TOWN OF YOUNTVILLE

Joe Tagliaboschi
Public Works Director

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Town of Yountville, CA
Date and Place

Joe Tagliaboschi
Public Works Director



Staff Report

File #: 20-2588, **Version:** 1

Yountville Town Council Staff Report

DATE: June 2, 2020

TO: Mayor and Town Council

FROM: Julie Baldia, Human Resource Manager

TITLE

Adopt Resolution Number 20-3991 Approving Amendment Number 2 to Professional Services Agreement 2008-226 with Lescure Technology Services in the amount of \$85,000.

DISCUSSION/BACKGROUND

The Town is a cost-conscious provider of outstanding public services to its citizens and local businesses. The Town currently has no full-time staff dedicated to information technology (IT), nor does it have someone trained or with an IT background on staff. Information technology leadership at the Town is currently centered in the Administration Department for long-term planning, coordination between departments, and contract oversight.

The Town's entire "hands-on" IT staffing (Client Help Desk support, Desktop technician support, network administration, system administration, applications development, applications maintenance, data base administration, and specific project development, implementation and support) is outsourced to Lescure Technology Services.

Lescure Technology Services specializes in cost conscious technical planning that continues to strengthen the Town's infrastructure while lowering the total cost of ownership. Lescure's staff will continue to manage help desk support, desktop technician support, network administration, system administration, applications development, applications maintenance, data base administration, specific project development, implementation and support.

The amendment to this service agreement is a new pricing and management structure based on our current network infrastructure that includes servers, desktop/laptop computers, software management, workstations, firewalls and system back up. Our previous pricing structure was time and materials based, whereas the new structure is a monthly fee, based on our current IT environment. This structure provides better oversight and forecasting of our future needs, rather than only assessing and fixing issues as they arise.

Lescure Technology Services has provided appropriate insurance certifications and has reviewed and agreed to the terms and provisions of the Town's standard form contract language for Professional Services Agreement developed by the Town Attorney.

ENVIRONMENTAL REVIEW

N/A

FISCAL IMPACT

Is there a Fiscal Impact? Yes

Is it Currently Budgeted? Yes

Where is it Budgeted? Information Technology Budget, Contract Services

Is it Mandatory or Discretionary? Discretionary

Is there a Staff Resource Impact? Yes

STRATEGIC PLAN GOAL

Is item Identified in Strategic Plan? Yes

If yes, Identify Strategic Goal and Objective. Visionary Leadership

Briefly Explain Relationship to Strategic Plan Goal and Objective. The Town's Leadership maintains an open-minded, forward-thinking decision-making process.

ALTERNATIVES

The Town Council has the option to direct staff to continue a relationship with the current Information Technology Consultant.

RECOMMENDATION

Adopt Resolution Number 20-3991 Approving Amendment Number 2 to Professional Services Agreement 2008-226 with Lescure Technology Services in the amount of \$85,000.

Town of Yountville

Resolution Number 20-3991

Adopt Resolution Approving Amendment Number 2 to Professional Services Agreement 2008-226 with Lescure Technology Services not to exceed \$85,000.

Recitals

1. The Town's entire "hands-on" IT staffing (Client Help Desk support, Desktop technician support, network administration, system administration, applications development, applications maintenance, data base administration, and specific project development, implementation and support) is outsourced to Lescure Technology Services.
2. Lescure Technology Services specializes in cost conscious technical planning that continues to strengthen the Town's infrastructure while lowering the total cost of ownership. Lescure's staff will continue to manage help desk support, desktop technician support, network administration, system administration, applications development, applications maintenance, data base administration, specific project development, implementation and support.
3. The amendment to this service agreement is a new pricing and management structure based on our existing network infrastructure that includes servers, desktop/laptop computers, software management, workstations, firewalls and system back up.

Now therefore, the Town Council of the Town of Yountville does resolve as follows:

4. Adopt Resolution Number 20-3991 Approving Amendment Number 2 to Professional Services Agreement 2008-226 with Lescure Technology Services in the amount of \$85,000.
5. The Resolution is hereby adopted and becomes effective and in full force immediately upon adoption.

PASSED AND ADOPTED at a special meeting of the Town Council of the Town of Yountville, State of California, held on this 2nd day of June 2020 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

John F. Dunbar, Mayor

ATTEST:

Michelle Dahme, CMC
Town Clerk



PSA #: _____

PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES

(Town of Yountville /Lescure Technology Services)

1. IDENTIFICATION

This PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is entered into by and between the Town of Yountville, a California municipal corporation (“Town”), and Lescure Technology Services, a California Business (“Consultant”).

2. RECITALS

- 2.1. Town has determined that it requires the following professional services from a consultant: **Information Technology Management Services.**
- 2.2. Consultant represents that it is fully qualified to perform such professional services by virtue of its experience and the training, education and expertise of its principals and employees. Consultant further represents that it is willing to accept responsibility for performing such services in accordance with the terms and conditions set forth in this Agreement.
- 2.3. Consultant represents that it has no known relationships with third parties, Town Council members, or employees of Town which would (1) present a conflict of interest with the rendering of services under this Agreement under Government Code Section 1090, the Political Reform Act (Government Code Section 81000 *et seq.*), or other applicable law, (2) prevent Consultant from performing the terms of this Agreement, or (3) present a significant opportunity for the disclosure of confidential information.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, Town and Consultant agree as follows:

3. DEFINITIONS

- 3.1. “Scope of Services”: Such professional services as are set forth in Consultant’s **July 1, 2020** proposal to Town attached hereto as Exhibit A and incorporated herein by this reference. This agreement shall not exceed \$85,000 per fiscal year. Fiscal year is defined as July 1st to June 30th.
- 3.2. “Agreement Administrator”: The Agreement Administrator for this project is Julie Baldia, Human Resource Manager. The Agreement Administrator shall be the principal point of contact at the Town for this project. All services under this Agreement shall be performed at the request of the Agreement Administrator. The Agreement Administrator will establish the timetable for completion of services and any interim

milestones. Town reserves the right to change this designation upon written notice to Consultant.

- 3.3. “Approved Fee Schedule”: Consultant’s compensation rates are set forth in the fee schedule attached hereto as Exhibit B and incorporated herein by this reference. This fee schedule shall remain in effect for the duration of this Agreement unless modified in writing by mutual agreement of the parties.
- 3.4. “Maximum Amount”: The highest total compensation and costs payable to Consultant by Town under this Agreement. The Maximum Amount under this Agreement is Eighty-Five Thousand (\$85,000).
- 3.5. “Commencement Date”: July 1, 2020
- 3.6. “Termination Date”: June 30, 2020

4. TERM

The term of this Agreement shall commence at 12:00 a.m. on the Commencement Date and shall expire at 11:59 p.m. on the Termination Date unless extended by written agreement of the parties or terminated earlier under Section 16 (“Termination”) below. Consultant may request extensions of time to perform the services required hereunder. Such extensions shall be effective if authorized in advance by Town in writing and incorporated in written amendments to this Agreement.

5. CONSULTANT’S DUTIES

- 5.1. **Services.** Consultant shall perform the services identified in the Scope of Services. Town shall have the right to request, in writing, changes in the Scope of Services. Any such changes mutually agreed upon by the parties, and any corresponding increase or decrease in compensation, shall be incorporated by written amendment to this Agreement.
- 5.2. **Coordination with Town.** In performing services under this Agreement, Consultant shall coordinate all contact with Town through its Agreement Administrator.
- 5.3. **Budgetary Notification.** Consultant shall notify the Agreement Administrator, in writing, when fees and expenses incurred under this Agreement have reached eighty percent (80%) of the Maximum Amount. Consultant shall concurrently inform the Agreement Administrator, in writing, of Consultant’s estimate of total expenditures required to complete its current assignments before proceeding, when the remaining work on such assignments would exceed the Maximum Amount.
- 5.4. **Business License.** Consultant shall obtain and maintain in force a Town business license for the duration of this Agreement.

- 5.5. **Professional Standards.** Consultant shall perform all work to the standards of Consultant's profession and in a manner reasonably satisfactory to Town. Consultant shall keep itself fully informed of and in compliance with all local, state, and federal laws, rules, and regulations in any manner affecting the performance of this Agreement, including all Cal/OSHA requirements, the conflict of interest provisions of Government Code § 1090 and the Political Reform Act (Government Code § 81000 et seq.).
- 5.6. **Avoid Conflicts.** During the term of this Agreement, Consultant shall not perform any work for another person or entity for whom Consultant was not working at the Commencement Date if such work would present a conflict interfering with performance under this Agreement. However, Town may consent in writing to Consultant's performance of such work.
- 5.7. **Appropriate Personnel.** Consultant has, or will secure at its own expense, all personnel required to perform the services identified in the Scope of Services. All such services shall be performed by Consultant or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. **Michael Lescure** shall be Consultant's project administrator and shall have direct responsibility for management of Consultant's performance under this Agreement. No change shall be made in Consultant's project administrator without Town's prior written consent.
- 5.8. **Substitution of Personnel.** Any persons named in the proposal or Scope of Services constitutes a promise to the Town that those persons will perform and coordinate their respective services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of Town. If Town and Consultant cannot agree as to the substitution of key personnel, Town may terminate this Agreement for cause.
- 5.9. **Permits and Approvals.** Consultant shall obtain, at its sole cost and expense, all permits and regulatory approvals necessary for Consultant's performance of this Agreement. This includes, but shall not be limited to, professional licenses, encroachment permits and building and safety permits and inspections.
- 5.10. **Notification of Organizational Changes.** Consultant shall notify the Agreement Administrator, in writing, of any change in name, ownership or control of Consultant's firm or of any subcontractor. Change of ownership or control of Consultant's firm may require an amendment to this Agreement.
- 5.11. **Records.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to Town under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to Consultant under this Agreement. All such documents

shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of Town. In addition, pursuant to Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars, all such documents and this Agreement shall be subject to the examination and audit of the State Auditor, at the request of Town or as part of any audit of Town, for a period of three (3) years after final payment under this Agreement.

6. SUBCONTRACTING

- 6.1. **General Prohibition.** This Agreement covers professional services of a specific and unique nature. Except as otherwise provided herein, Consultant shall not assign or transfer its interest in this Agreement or subcontract any services to be performed without amending this Agreement.
- 6.2. **Consultant Responsible.** Consultant shall be responsible to Town for all services to be performed under this Agreement.
- 6.3. **Identification in Fee Schedule.** All subcontractors shall be specifically listed and their billing rates identified in the Approved Fee Schedule, Exhibit B. Any changes must be approved by the Agreement Administrator in writing as an amendment to this Agreement.
- 6.4. **Compensation for Subcontractors.** Town shall pay Consultant for work performed by its subcontractors, if any, only at Consultant's actual cost plus an approved mark-up as set forth in the Approved Fee Schedule, Exhibit B. Consultant shall be liable and accountable for any and all payments, compensation, and federal and state taxes to all subcontractors performing services under this Agreement. Town shall not be liable for any payment, compensation, or federal and state taxes for any subcontractors.

7. COMPENSATION

- 7.1. **General.** Town agrees to compensate Consultant for the services provided under this Agreement, and Consultant agrees to accept payment in accordance with the Fee Schedule in full satisfaction for such services. Compensation shall not exceed the Maximum Amount. Consultant shall not be reimbursed for any expenses unless provided for in this Agreement or authorized in writing by Town in advance.
- 7.2. **Invoices.** Consultant shall submit to Town an invoice, on a monthly basis or as otherwise agreed to by the Agreement Administrator, for services performed pursuant to this Agreement. Each invoice shall identify the Maximum Amount, the services rendered during the billing period, the amount due for the invoice, and the total amount previously invoiced. All labor charges shall be itemized by employee name and classification/position with the firm, the corresponding hourly rate, the hours worked, a description of each labor charge, and the total amount due for labor charges.

- 7.3. **Taxes.** Town shall not withhold applicable taxes or other payroll deductions from payments made to Consultant except as otherwise required by law. Consultant shall be solely responsible for calculating, withholding, and paying all taxes.
- 7.4. **Disputes.** The parties agree to meet and confer at mutually agreeable times to resolve any disputed amounts contained in an invoice submitted by Consultant.
- 7.5. **Additional Work.** Consultant shall not be reimbursed for any expenses incurred for work performed outside the Scope of Services unless prior written approval is given by the Town through a fully executed written amendment. Consultant shall not undertake any such work without prior written approval of the Town.
- 7.6. **Town Satisfaction as Precondition to Payment.** Notwithstanding any other terms of this Agreement, no payments shall be made to Consultant until Town is satisfied that the services are satisfactory.
- 7.7. **Right to Withhold Payments.** If Consultant fails to provide a deposit or promptly satisfy an indemnity obligation described in Section 11, Town shall have the right to withhold payments under this Agreement to offset that amount.

8. PREVAILING WAGES

Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., (“Prevailing Wage Laws”), which require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects. Consultant shall defend, indemnify, and hold the Town, its elected officials, officers, employees, and agents free and harmless from any claim or liability arising out of any failure or alleged failure of Consultant to comply with the Prevailing Wage Laws.

9. OWNERSHIP OF WRITTEN PRODUCTS

All reports, documents or other written material including, but not limited to, digital and electronic reports, documents or other written material, and hard copies and originals thereof (“written products” herein), developed by Consultant in the performance of this Agreement shall be and remain the property of Town without restriction or limitation upon its use or dissemination by Town except as provided by law. Consultant may take and retain copies of such written products as desired, but no such written products shall be the subject of a copyright application by Consultant.

10. RELATIONSHIP OF PARTIES

- 10.1. **General.** Consultant is, and shall at all times remain as to Town, a wholly independent contractor.
- 10.2. **No Agent Authority.** Consultant shall have no power to incur any debt, obligation, or liability on behalf of Town or otherwise to act on behalf of Town as an agent. Neither Town nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not represent that it is, or that any of its agents or employees are, in any manner employees of Town.
- 10.3. **Independent Contractor Status.** Under no circumstances shall Consultant or its employees look to the Town as an employer. Consultant shall not be entitled to any benefits. Town makes no representation as to the effect of this independent contractor relationship on Consultant's previously earned California Public Employees Retirement System ("CalPERS") retirement benefits, if any, and Consultant specifically assumes the responsibility for making such a determination. Consultant shall be responsible for all reports and obligations including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation, and other applicable federal and state taxes.
- 10.4. **Indemnification of CalPERS Determination.** In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or CalPERS to be eligible for enrollment in CalPERS as an employee of the Town, Consultant shall indemnify, defend, and hold harmless Town for the payment of any employee and/or employer contributions for CalPERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of Town.

11. INDEMNIFICATION

- 11.1 **Definitions.** For purposes of this Section 11, "Consultant" shall include Consultant, its officers, employees, servants, agents, or subcontractors, or anyone directly or indirectly employed by either Consultant or its subcontractors, in the performance of this Agreement. "Town" shall include Town, its officers, agents, employees and volunteers.
- 11.2 **Consultant to Indemnify Town.** To the fullest extent permitted by law, Consultant shall indemnify, hold harmless, and defend Town from and against any and all claims, losses, costs or expenses for any personal injury or property damage arising out of or in connection with Consultant's alleged negligence, recklessness or willful misconduct or other wrongful acts, errors or omissions of Consultant or failure to comply with any provision in this Agreement.

- 11.3 **Scope of Indemnity.** Personal injury shall include injury or damage due to death or injury to any person, whether physical, emotional, consequential or otherwise, Property damage shall include injury to any personal or real property. Consultant shall not be required to indemnify Town for such loss or damage as is caused by the sole active negligence or willful misconduct of the Town.
- 11.4 **Attorneys Fees.** Such costs and expenses shall include reasonable attorneys' fees for counsel of Town's choice, expert fees and all other costs and fees of litigation. Consultant shall not be entitled to any refund of attorneys' fees, defense costs or expenses in the event that it is adjudicated to have been non-negligent.
- 11.5 **Defense Deposit.** The Town may request a deposit for defense costs from Consultant with respect to a claim. If the Town requests a defense deposit, Consultant shall provide it within 15 days of the request.
- 11.6 **Waiver of Statutory Immunity.** The obligations of Consultant under this Section 11 are not limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to Town.
- 11.7 **Indemnification by Subcontractors.** Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section 11 from each and every subcontractor or any other person or entity involved in the performance of this Agreement on Consultant's behalf.
- 11.8 **Insurance Not a Substitute.** Town does not waive any indemnity rights by accepting any insurance policy or certificate required pursuant to this Agreement. Consultant's indemnification obligations apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.

12. INSURANCE

- 12.1. **Insurance Required.** Consultant shall maintain insurance as described in this section and shall require all of its subcontractors, consultants, and other agents to do the same. Approval of the insurance by the Town shall not relieve or decrease any liability of Consultant Any requirement for insurance to be maintained after completion of the work shall survive this Agreement.
- 12.2. **Documentation of Insurance.** Town will not execute this agreement until it has received a complete set of all required documentation of insurance coverage, including, but not limited to, a copy of the declarations and policy endorsements page for each insurance policy as applicable. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. Consultant shall file with Town:

- Certificate of Insurance, indicating companies acceptable to Town, with a Best's Rating of no less than A:VII showing. The Certificate of Insurance must include the following reference: **Lescure Technology Services**
- Documentation of Best's rating acceptable to the Town.
- Original endorsements effecting coverage for all policies required by this Agreement.
- Complete, certified copies of all required insurance policies, including endorsements affecting the coverage.

12.3. **Coverage Amounts.** Insurance coverage shall be at least in the following minimum amounts:

- Professional Liability Insurance: \$1,000,000 per claim,
\$2,000,000 aggregate
- General Liability:
 - General Aggregate: \$2,000,000
 - Products Comp/Op Aggregate \$2,000,000
 - Personal & Advertising Injury \$1,000,000
 - Each Occurrence \$1,000,000
 - Fire Damage (any one fire) \$ 50,000
 - Medical Expense (any 1 person) \$ 5,000
- Workers' Compensation:
 - Workers' Compensation Statutory Limits
 - EL Each Accident \$1,000,000
 - EL Disease - Policy Limit \$1,000,000
 - EL Disease - Each Employee \$1,000,000
- Automobile Liability
 - Any vehicle, combined single limit \$1,000,000

Any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements or limits shall be available to the Town as additional insured. Furthermore, the requirements for coverage and limits shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured

12.4. **General Liability Insurance.** Commercial General Liability Insurance shall be no less broad than ISO form CG 00 01. Coverage shall include contractual insurance, broad form property damage, independent consultants, personal injury, underground hazard, and explosion and collapse hazard where applicable. The General Liability policy shall cover inter-insured suits and include a "separation of insureds" or "severability" clause

which treats each insured separately. Coverage must be on a standard Occurrence form. Claims-Made, modified, limited or restricted Occurrence forms are not acceptable.

- 12.5. **Worker's Compensation Insurance.** Consultant is aware of the provisions of Section 3700 of the Labor Code which requires every employer to carry Workers' Compensation (or to undertake equivalent self-insurance), and Consultant will comply with such provisions before commencing the performance of the work of this Agreement. If such insurance is underwritten by any agency other than the State Compensation Fund, such agency shall be a company authorized to do business in the State of California.
- 12.6. **Automobile Liability Insurance.** Covered vehicles shall include all vehicles used in connection with the performance of this Agreement, including owned, non-owned, and hired automobiles and trucks.
- 12.7. **Professional Liability Insurance or Errors & Omissions Coverage.** The deductible or self-insured retention may not exceed \$50,000. If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the work. Coverage shall be continued for two years after the completion of the work by one of the following: (1) renewal of the existing policy; (2) an extended reporting period endorsement; or (3) replacement insurance with a retroactive date no later than the commencement of the work under this Agreement.

An employee of the Town signing this Agreement may, in his or her sole discretion, waive the requirement for Professional Liability Insurance by initialing here:

Initials: _____

Name: _____

- 12.8. **Additional Insured Endorsements.** The Town, its Town Council, Commissions, officers, and employees of Yountville must be endorsed as an additional insured for each policy required herein — other than Auto, Workers Compensation and Professional Errors and Omissions — for liability arising out of ongoing and completed operations by or on behalf of the Consultant. The Town must be named as an additional insured for Auto Insurance policies for ongoing operations. Consultant's insurance policies shall be primary as respects any claims related to or as the result of the Consultant's work. Any insurance, pooled coverage or self-insurance maintained by the Town, its elected or appointed officials, directors, officers, agents, employees, volunteers, or consultants shall be non-contributory. All endorsements shall be signed by a person authorized by the insurer to bind coverage on its behalf. General liability coverage can be provided using an endorsement to the Consultant's insurance at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37.
- 12.9. **Failure to Maintain Coverage.** In the event any policy is canceled prior to the completion of the project and the Consultant does not furnish a new certificate of

- insurance prior to cancellation, Town has the right, but not the duty, to obtain the required insurance and deduct the premium(s) from any amounts due the Consultant under this Agreement. Failure of the Consultant to maintain the insurance required by this Agreement, or to comply with any of the requirements of this section, shall constitute a material breach of this Agreement.
- 12.10. **Notices.** Contractor shall provide immediate written notice if (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; (3) or the deductible or self-insured retention is increased. Consultant shall provide no less than 30 days' notice of any cancellation or material change to policies required by this Agreement. Consultant shall provide proof that cancelled or expired policies of insurance have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverages. The name and address for Additional Insured Endorsements, Certificates of Insurance and Notices of Cancellation is: Town of Yountville, Attn: _____, 6550 Yount Street, Yountville, CA 94599.
- 12.11. **Consultant's Insurance Primary.** The insurance provided by Consultant, including all endorsements, shall be primary to any coverage available to Town. Any insurance or self-insurance maintained by Town and/or its officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.
- 12.12. **Waiver of Subrogation.** Consultant hereby waives all rights of subrogation against the Town. Consultant shall additionally waive such rights either by endorsement to each policy or provide proof of such waiver in the policy itself.
- 12.13. **Report of Claims to Town.** Consultant shall report to the Town, in addition to the Consultant's insurer, any and all insurance claims submitted to Consultant's insurer in connection with the services under this Agreement.
- 12.14. **Premium Payments and Deductibles.** Consultant must disclose all deductibles and self-insured retention amounts to the Town. The Town may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within retention amounts. Ultimately, Town must approve all such amounts prior to execution of this Agreement.
- Town has no obligation to pay any premiums, assessments, or deductibles under any policy required in this Agreement. Consultant shall be responsible for all premiums and deductibles in all of Consultant's insurance policies. The amount of deductibles for insurance coverage required herein are subject to Town's approval.
- 12.15. **Duty to Defend and Indemnify.** Consultant's duties to defend and indemnify Town under this Agreement shall not be limited by the foregoing insurance requirements and shall survive the expiration of this Agreement.

13. MUTUAL COOPERATION

- 13.1. **Town Cooperation in Performance.** Town shall provide Consultant with all pertinent data, documents and other requested information as is reasonably available for the proper performance of Consultant's services under this Agreement.
- 13.2. **Consultant Cooperation in Defense of Claims.** If any claim or action is brought against Town relating to Consultant's performance in connection with this Agreement, Consultant shall render any reasonable assistance that Town may require in the defense of that claim or action.

14. NOTICES

Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (i) the day of delivery if delivered by hand, facsimile or overnight courier service during Consultant's and Town's regular business hours; or (ii) on the third business day following deposit in the United States mail if delivered by mail, postage prepaid, to the addresses listed below (or to such other addresses as the parties may, from time to time, designate in writing).

If to Town

Julie Baldia, Human Resource
Manager
Town of Yountville
Administration
6550 Yount St.
Yountville, CA 94599
Telephone: (707) 944-8851
Facsimile: (707) 944-9619
Email: jbaldia@yville.com

If to Consultant

Michael Lescure
Michael Lescure
Lescure Technology Services
2301 Arnold Industrial Way
Suite C
Concord, CA 94520
Telephone: 925-283-2528

With courtesy copy to:

Gary B. Bell
Yountville Town Attorney
Colantuono, Highsmith & Whatley, PC
420 Sierra College Dr., Ste. 140
Grass Valley, CA 95945-5091
Telephone: (530) 432-7357

15. SURVIVING COVENANTS

The parties agree that the covenants contained in paragraph 5.11 (Records), paragraph 10.4 (Indemnification of CalPERS Determination), Section 11 (Indemnity), paragraph 12.7 (Claims-Made Policies), Section 13.2 (Consultant Cooperation in Defense of Claims), and Section 18.1 (Confidentiality) of this Agreement shall survive the expiration or termination of this Agreement, subject to the provisions and limitations of this Agreement and all otherwise applicable statutes of limitations and repose.

16. TERMINATION

- 16.1. **Town Termination.** Town may terminate this Agreement for any reason on five calendar days' written notice to Consultant. Consultant agrees to cease all work under this Agreement on or before the effective date of any notice of termination. All Town data, documents, objects, materials or other tangible things shall be returned to Town upon the termination or expiration of this Agreement.
- 16.2. **Consultant Termination.** Consultant may terminate this Agreement for a material breach of this Agreement upon 30 days' notice.
- 16.3. **Compensation Following Termination.** Upon termination, Consultant shall be paid based on the work satisfactorily performed at the time of termination. In no event shall Consultant be entitled to receive more than the amount that would be paid to Consultant for the full performance of the services required by this Agreement. The Town shall have the benefit of such work as may have been completed up to the time of such termination.
- 16.4. **Remedies.** Town retains any and all available legal and equitable remedies for Consultant's breach of this Agreement.

17. INTERPRETATION OF AGREEMENT

- 17.1. **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of California.
- 17.2. **Integration of Exhibits.** All documents referenced as exhibits in this Agreement are hereby incorporated into this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail. This instrument contains the entire Agreement between Town and Consultant with respect to the transactions contemplated herein. No other prior oral or written agreements are binding upon the parties. Amendments hereto or deviations herefrom shall be effective and binding only if made in writing and executed on by Town and Consultant.
- 17.3. **Headings.** The headings and captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are descriptive only and for convenience in

reference to this Agreement. Should there be any conflict between such heading, and the section or paragraph thereof at the head of which it appears, the language of the section or paragraph shall control and govern in the construction of this Agreement.

- 17.4. **Pronouns.** Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular form and vice versa, in any place or places herein in which the context requires such substitution(s).
- 17.5. **Severability.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to the extent necessary to, cure such invalidity or unenforceability, and shall be enforceable in its amended form. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
- 17.6. **No Presumption Against Drafter.** Each party had an opportunity to consult with an attorney in reviewing and drafting this agreement. Any uncertainty or ambiguity shall not be construed for or against any party based on attribution of drafting to any party.

18. GENERAL PROVISIONS

- 18.1. **Confidentiality.** All data, documents, discussion, or other information developed or received by Consultant for performance of this Agreement are deemed confidential and Consultant shall not disclose it without prior written consent by Town. Town shall grant such consent if disclosure is legally required. All Town data shall be returned to Town upon the termination or expiration of this Agreement.
- 18.2. **Conflicts of Interest.** Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Consultant further agrees to file, or shall cause its employees or subcontractor to file, a Statement of Economic Interest with the Town's Filing Officer if required under state law in the performance of the services. For breach or violation of this warranty, Town shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer, or employee of Town, during the term of his or her service with Town, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.
- 18.3. **Non-assignment.** Consultant shall not delegate, transfer, subcontract or assign its duties or rights hereunder, either in whole or in part, without Town's prior written

consent, and any attempt to do so shall be void and of no effect. Town shall not be obligated or liable under this Agreement to any party other than Consultant.

- 18.4. **Binding on Successors.** This Agreement shall be binding on the successors and assigns of the parties.
- 18.5. **No Third-Party Beneficiaries.** Except as expressly stated herein, there is no intended third-party beneficiary of any right or obligation assumed by the parties.
- 18.6. **Time of the Essence.** Time is of the essence for each and every provision of this Agreement.
- 18.7. **Non-Discrimination.** Consultant shall not discriminate against any employee or applicant for employment because of race, sex (including pregnancy, childbirth, or related medical condition), creed, national origin, color, disability as defined by law, disabled veteran status, Vietnam veteran status, religion, age (40 and above), medical condition (cancer-related), marital status, ancestry, or sexual orientation. Employment actions to which this provision applies shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; or in terms, conditions or privileges of employment, and selection for training. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, the provisions of this nondiscrimination clause.
- 18.8. **Waiver.** No provision, covenant, or condition of this Agreement shall be deemed to have been waived by Town or Consultant unless in writing signed by one authorized to bind the party asserted to have consented to the waiver. The waiver by Town or Consultant of any breach of any provision, covenant, or condition of this Agreement shall not be deemed to be a waiver of any subsequent breach of the same or any other provision, covenant, or condition.
- 18.9. **Excused Failure to Perform.** Consultant shall not be liable for any failure to perform if Consultant presents acceptable evidence, in Town's sole judgment, that such failure was due to causes beyond the control and without the fault or negligence of Consultant.
- 18.10. **Remedies Non-Exclusive.** Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance from the exercise by any party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any or all of such other rights, powers or remedies.
- 18.11. **Attorneys' Fees.** If legal action shall be necessary to enforce any term, covenant or condition contained in this Agreement, each party shall pay its own costs, including any accountants' and attorneys' fees expended in the action.

18.12. **Venue.** The venue for any litigation shall be Napa County, California and Consultant hereby consents to jurisdiction in Napa County for purposes of resolving any dispute or enforcing any obligation arising under this Agreement.

18.13. **Counterparts; Electronic Signatures.** This Agreement may be signed in one or more counterparts, each of which shall be deemed an original, but all of which together shall be deemed one and the same instrument. The parties further agree that this Agreement may be transmitted by facsimile, electronic mail (email), or other electronic means and that the production or reproduction of signatures by facsimile, electronic mail (email), or other electronic means shall be treated as binding as if originals thereof.

TO EFFECTUATE THIS AGREEMENT, the parties have caused their duly authorized representatives to execute this Agreement on the dates set forth below.

“Town”
Town of Yountville

“Consultant”

By: _____
Signature

By: _____
Signature

Printed: _____

Printed: _____

Title: _____

Title: _____

Date: _____

Date: _____

Attest:

By: _____
Michelle Dahme, Town Clerk

Date: _____

Approved as to form:

By: _____
Gary B. Bell, Town Attorney

Date: _____



PO Box 1757
3667 Mount Diablo Blvd
Lafayette, CA 94549
925.283.2528

Town of Yountville Information Systems Service Agreement

1. Lescure Technology will provide remote monitoring, management, and remote support/troubleshooting during the Town of Yountville's normal business hours for the devices listed in this agreement.
 - a. Monitoring will be on a 24x7 basis. With scheduled performance metrics taken every 15 minutes. Metrics will include, uptime, disk health, cpu and memory usage, file growth, and disk space.
 - b. Management will include administrative tasks of the PC/Server/Device and native applications (Office, Java, Flash, Active Directory). Administrative tasks include updates, account/mailbox creation.
 - c. Remote helpdesk support will be provided to the listed devices at no cost during Town of Yountville business hours. Helpdesk Support will be provided for all applications installed on a device at the time of agent deployment. Any helpdesk work done outside of Town of Yountville normal business hours will be billed at the normal rate of \$135.00, per hour, and will require approval. For information regarding installing new software please see section 2.
2. Adds, Moves or Changes are not covered by this agreement.
 - a. Any new devices or applications will be considered project work and will be proposed to the Town of Yountville based on the normal hourly rate of \$135.
 - b. Any movement of key applications (exchange) or Workstations will be considered project work and proposed to the Town of Yountville based on the normal hourly rate of \$135.00 per hour.
 - c. Any changes to the environment, such as adding subnets, vlans, more virtual hosts, more workstation etc. will be considered project work and proposed to the Town of Yountville based on the normal hourly rate of \$135 per hour.
3. The charges listed below are based on a per device basis. This agreement only covers devices listed below. The Town of Yountville can remove or add devices to this agreement at any time. Added devices will be charged monthly at the listed price based on their category. Any support for a device not listed in this document will be billed for at the normal hourly rate of \$135.00.

4. Charges: July 1, 2020 – June 30, 2023

Device	Qty.	Cost Per Device	Total Monthly Per Device Type	
Servers	4	\$460.00	\$1,840.00	
Switches/Firewalls	7	\$115.00	\$805.00	
Exchange/SQL	1	\$172.50	\$172.50	
Desktops/Laptops	54	\$46.00	\$2,484.00	
Access Points	5	\$46.00	\$230.00	
Virtual Hosts	2	\$115.00	\$230.00	
Storage Appliance	2	\$115.00	\$230.00	
Backups	3	\$57.50	\$172.50	
			Total Monthly Charge	\$6,164.00
			Yearly Charge	\$73,968.00
			3 Year Charge	\$221,904.00

Please see attached report for Desktop and Server List.

Switches/Firewalls

Device	Qty.	Description
MX84	1	Meraki Firewall
MS220-48	1	Meraki 48 Port Switch
MS225-48	1	Meraki 48 Port Switch
Dell 5xxxx Series Switch	1	Dell 48 Port Switch
MX64W	2	Meraki Firewall/Access Point
Linksys Switch	1	Linksys Switch

Access Points

Device	Qty.	Description
MR33	3	Meraki Access Points
ASUS AC6550	1	ASUS Access point (Town Council)
Netgear Access Point	1	Netgear Access Point (Annex)

Exchange/SQL

Device	Qty.	Description
Exchange Environment	1	Hosted by Intermedia. Managed by Lescure Technology

Virtual Hosts

Device	Qty.	Description
YVILLER440-01	1	Dell R440 Server Windows Hyper V
YVILLER440-01	1	Dell R440 Server Windows Hyper V

Backups

Device	Qty.	Description
YVILLER440-01	1	DC, HyperV, File Server
YVILLER440-02	1	HyperV, LF Host, LF Web Host
YVILLE2K16-LF	1	LaserFiche Document Management Server

Storage Appliance

Device	Qty.	Description
ReadyNAS	1	Local Backup Storage
NetApp	1	Local Document Storage

Signatures

Lescure Company

Signature

Print

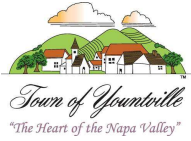
Date

Town of Yountville

Signature

Print

Date



Staff Report

File #: 20-2461, **Version:** 1

Yountville Town Council Staff Report

DATE: June 2, 2020

TO: Mayor and Town Council

FROM: Michelle Dahme, CMC, Town Clerk

TITLE

Approve minutes of the special remote teleconference meeting held May 5, 2020.

DISCUSSION/BACKGROUND

Approve minutes of the special remote teleconference meeting held May 5, 2020.

ENVIRONMENTAL REVIEW

Exempt per California Environmental Act (CEQA) Guideline, Section 15061(b)(3)

FISCAL IMPACT

Is there a Fiscal Impact? N/A

Is it Currently Budgeted? N/A

Where is it Budgeted? N/A

Is it Mandatory or Discretionary? Mandatory

Is there a Staff Resource Impact? Nominal

STRATEGIC PLAN GOAL

Is item Identified in Strategic Plan? Indirectly

If yes, Identify Strategic Goal and Objective. **Exceptional Town Services and Staff:** The Town supports its talented staff who deliver high quality municipal programs and services while maintaining public infrastructure for the benefit of the community.

Briefly Explain Relationship to Strategic Plan Goal and Objective. Minutes are required to ensure the Legislative History of Town Council actions is maintained.

ALTERNATIVES

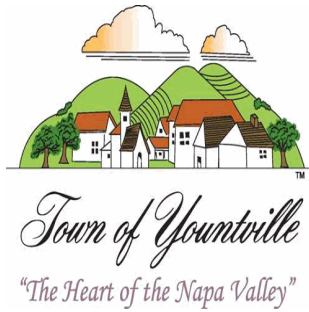
N/A

RECOMMENDATION

Approve minutes of the special remote teleconference meeting held May 5, 2020.

Town of Yountville

6550 Yount Street
Yountville, CA 94599



Meeting Minutes - Draft

Tuesday, May 5, 2020

3:15 PM

Special Teleconference Meeting

Town Council

Mayor John Dunbar
Vice Mayor Kerri Dorman
Council Member Margie Mohler
Council Member Marita Dorenbecher
Council Member Jeffrey Durham

1. CALL TO ORDER; CONVENE SPECIAL MEETING - 3:15 P.M.

Mayor Dunbar called the special teleconference meeting to order at approximately 3:15 p.m.

2. ROLL CALL

Present: 5 - Mayor John Dunbar, Vice Mayor Kerri Dorman, Council Member Margie Mohler, Council Member Marita Dorenbecher, and Council Member Jeffrey Durham

3. PLEDGE OF ALLEGIANCE

The pledge of allegiance was held.

4. ADOPTION OF AGENDA

A motion was made by Council Member Dorenbecher, seconded by Vice Mayor Dorman to Adopt the Agenda. The motion carried by the following roll call vote:

Aye: 5 - Mayor Dunbar, Vice Mayor Dorman, Council Member Mohler, Council Member Dorenbecher, and Council Member Durham

5. PROCLAMATIONS AND RECOGNITIONS

- A.** [20-2550](#) Presentation of Proclamation declaring May 2020 as National Public Works Month.

Attachments: [Proclamation](#)

Mayor Dunbar presented the Proclamation.

6. PUBLIC COMMENT ON MATTERS NOT LISTED ON THE AGENDA

None

- [20-2556](#) How to Participate during Public Comment at Town Council Meetings During the COVID-19 Emergency Declaration.

Attachments: [Public Comment Participation Instructions](#)

7. CONSENT CALENDAR

- A.** [20-2543](#) Adopt Resolution Number 20-3981 Awarding the Bid for the 2020 Sewer Main and Lateral Repairs Project (WW-2020 and WW-3020), Approving a Construction Contract with Robotic Sewer Solutions, Inc. for an amount not to exceed \$84,000, and Authorizing the Town Manager to execute the construction contract.

Attachments: [Resolution](#)
[Map of Locations](#)

This Resolution was adopted.

- B.** [20-2541](#) Approve minutes of the regular meeting held April 21, 2020.

Attachments: [April 21, 2020 Minutes](#)

The Minutes were approved.

Approval of the Consent Agenda

A motion was made by Council Member Mohler, seconded by Council Member Durham to approve the Consent Calendar items. The motion carried by the following roll call vote:

Aye: 5 - Mayor Dunbar, Vice Mayor Dorman, Council Member Mohler, Council Member Dorenbecher, and Council Member Durham

8. PRESENTATIONS - NONE

9. PUBLIC HEARINGS

- A.** [20-2482](#) USE PERMIT REQUEST - NAPA VALLEY BALLOONS
Consider Adoption of Resolution Number 20-3982 Approving a Use Permit for Napa Valley Balloons to conduct hot air balloon launches from an open field within the existing vineyard at 6406 Washington Street.

Attachments: [Resolution](#)
[Applicant's Project Narrative](#)
[Launch Site Photo Facing North](#)
[Launch Site Photo Facing South](#)
[Sound Measurements](#)
[Letter of Support](#)
[Land Use Permit Application](#)

Sandra Liston, Planning and Building Director, advised Council that staff has received correspondence in opposition to the item regarding Federal Aviation Administration (FAA) issues. The Town Attorney has not had an opportunity to review and respond so there is an opportunity for Council to continue the public hearing to June 2, 2020, if that is the Council's desire.

Gary Bell, Town Attorney, advised that there was an 18-page letter and a lot of documents submitted just after noon today and is asking for more time to review those items if the Council is willing to continue the item.

Public Hearing Opened

Gabe Gundling, Applicant, deferred to Council and stated he would be fine with the continuance.

Michelle Dahme, Town Clerk, clarified for the viewers at home that the public comment emails received would be included with the June 2, 2020, staff report.

The Town Council took the following action:

A motion was made by Council Member Dorenbecher, seconded by Council Member Mohler to continue the Public Hearing to June 2, 2020 at 3:00 p.m. The motion carried by the following roll call vote:

Aye: 5 - Mayor Dunbar, Vice Mayor Dorman, Council Member Mohler, Council Member Dorenbecher, and Council Member Durham

10. ADMINISTRATIVE / REGULAR ITEMS

- A. [20-2535](#) HOME INVESTMENT PARTNERSHIP PROGRAM - GRANT APPLICATION AMENDMENT
Consider Adoption of Resolution Number 20-3983 Approving Amendment to the 2018 Application to the California State Department of Housing and Community Development for a Grant of up to \$500,000 Under the HOME Investment Partnership Program in Response to the COVID-19 Pandemic.

Attachments: [Resolution](#)
[HOME Services Agreement with HACN](#)
[TBRA Program Guidelines](#)

Daniel Gordon, Planning Manager, presented staff report.

Jon Sakamoto, Housing Authority of the City of Napa, was present and answered Council questions.

Public Comment - None

Following Town Council discussion, Council took the following action:

A motion was made by Council Member Dorenbecher, seconded by Council Member Mohler to Adopt the Resolution. The motion carried by the following roll call vote:

Aye: 5 - Mayor Dunbar, Vice Mayor Dorman, Council Member Mohler, Council Member Dorenbecher, and Council Member Durham

- B. [20-2526](#) LEASE REVENUE BONDS, SERIES 2013
Consider Adoption of Resolution Number 20-3984 Approving the Form and Authorizing the Execution of Certain Lease Financing Documents in Connection with the Refunding of the Outstanding Yountville Finance Authority Lease Revenue Bonds, Series 2013, and Authorizing and

Directing Certain Actions with Respect Thereto.

Attachments: [Resolution](#)

[Letter Agreement for Purchase](#)

[Site and Facility Lease](#)

[Lease Agreement](#)

[Escrow Agreement](#)

[Termination Agreement](#)

Steve Rogers, Town Manager, presented staff report.

Brian Quint, Quint & Thimming LLP, and James Prichard and Jeff White of Columbia Capital participated in the Yountville Finance Authority meeting held just before this Town Council Meeting on the same item and responded to Council questions so were excused from participating in the Town Council Meeting.

Public Comment - None

The Council took the following action:

A motion was made by Council Member Mohler, seconded by Council Member Dorenbecher to Adopt the Resolution. The motion carried by the following roll call vote:

Aye: 5 - Mayor Dunbar, Vice Mayor Dorman, Council Member Mohler, Council Member Dorenbecher, and Council Member Durham

C. [20-2510](#) CANNABIS ORDINANCE DISCUSSION

Discussion and possible direction regarding the Town Council placing two ballot initiatives on the November 2020 election regarding cannabis retail businesses.

(This Item is for Discussion Only - No Action is Being Taken)

Attachments: [Cannabis Business License Tax Ordinance](#)

[Commercial Cannabis Ballot Measure](#)

Steve Rogers, Town Manager, and Gary Bell, Town Attorney, presented staff report.

Public Comment Held

The following individuals submitted public comment emails that were read into the record by the Town Clerk: Bruce Donsker, Nancy LaFortune, Pam Reeves and Warren Pinkert.

Council Discussion on Business License Tax Ordinance

Mayor Dunbar requested the Town Attorney explain the value of the Business License Tax locally.

Council Member Durham requested clarification regarding the lengthy ordinance referenced in public comment.

Council Member Dorenbecher expressed concern if both ballot measures were on the ballot that the Business License Tax ordinance would likely be voted down.

Council Discussion on Main Regulatory Ordinance

Council Member Mohler provided the following comments:

- Having the ordinances be separate makes sense.
- Do not include secondary retail.

Council Member Durham provided the following comments:

- Remove secondary retail business.
- Remove “substantial benefits to Town residents”.
- Keep both ordinances separate.

Council Member Dorenbecher provided the following comments:

- Agrees with removing secondary retail.
- Concerned if ordinances are kept separate that the Business License Tax Ordinance will be voted down.
- Would like both ordinances combined into one.

Vice Mayor Dorman provided the following comments:

- Agrees with removing secondary retail.
- Would like to come up with a list to support “substantial community benefit”.
- Would like section added to say we are going to have one (1) business.
- If time would like the Cannabis Overlay rolled into the ordinance.
- Would like the multiple lists paired down and put the actual meat on the bones via the resolutions.
- Would like to add language that the Town Attorney provided to allow Council to determine the selection of the second or third ranked Applicant which may be better suited for the Town. Upon further clarification, would appreciate the Town Manager/staff doing the ranking and would like to maintain Town Council discretion to make final selection.
- Do not support on-site consumption currently.
- Can go either way on one or two ballot measures.
- Concerned about renewal of license or regulatory permit being renewed administratively if the Council does not agree with the renewal.

Mayor Dunbar provided the following comments:

- Commented if Council does not want “substantial community benefit” he understands, but revenue is a significant community benefit even though that is not the main driver.
- Okay to remove secondary retail component.

- Agrees the Cannabis Overlay should be included in the ballot measure.
- Prefers on-site consumption be left in the ordinance.
- Okay to clarify one (1) permit maximum.
- Okay either way on one or two ordinances (ballot measures).
- Requested the Town Attorney and Town staff to draft a sample 75-word combined question and see if it is reasonable and accurate.
- Concerned about legal challenge related to ranking flexibility and stated staff would need to create best application process that we can.

Following Council discussion, Mayor Dunbar clarified that no final action was being take on this item and it has not been decided if there will be one or two ballot measures. Mayor Dunbar then asked the Town Attorney, Town Manager and Planning and Building Director if they have enough direction to move forward.

Steve Rogers, Town Manager, responded that the Town Council has given direction for clean-up language and stated staff will develop language consistent with the combined 75-word ballot measure.

Town Manager Rogers requested clarification on the Cannabis Overlay discussion at the next meeting so staff would be able to include the map with the ballot measure.

Vice Mayor Dorman requested clarification regarding on-site consumption as it relates to the Application which states in part that the application shall be automatically disqualified if application does not provide on-site consumption.

Mayor Dunbar asked the Town Attorney if he could soften the language regarding on-site consumption use.

- D.** [20-2548](#) **HOPPER CREEK PEDESTRIAN PATH**
Consider Adoption of Resolution Number 20-3985 Authorizing the Town Manager, on behalf of the Town, to sign the necessary documents to purchase real property located at 6470 Washington Street, APN 036-090-021 and for a temporary construction easement for the Hopper Creek Pedestrian Path (PK-0003) Segment from Oak Circle to Mission Street .

Attachments: [Resolution](#)

Vice Mayor Dorman disclosed for the record that she has been advised by the Town Attorney of a potentially disqualifying conflict of interest as to this agenda item due to the location of her home; and therefore, a possible affect on her financial interest in her home. She will be recusing herself from this item by disabling her video and microphone so that she cannot participate in the discussion of and possible vote on the item.

John Ferons, Deputy Public Works Director, presented staff report.

Public Comment - None

The Council took the following action:

A motion was made by Council Member Mohler, seconded by Council Member Durham to Adopt the Resolution. The motion carried by the following roll call vote:

Aye: 4 - Mayor Dunbar, Council Member Mohler, Council Member Dorenbecher, and Council Member Durham

Recuse: 1 - Vice Mayor Dorman

- E. [20-2485](#) YOUNTVILLE ELEMENTARY SCHOOL ART SCULPTURE**
Consider Adoption of Resolution Number 20-3986 Approving the Design and Acquisition of the Permanent Yountville Art Walk Sculpture in Recognition of Yountville Elementary School, Approving the Location of the Sculpture and Allocating \$10,000 in Funding.

Attachments: [Resolution](#)
[Sculpture Final Design](#)

Samantha Holland, Parks and Recreation Director, presented staff report.

Kim Cook, Yountville Arts Commission, was in attendance to answer Council questions.

Public Comment - None

Mayor Dunbar asked if staff has reached out to the Napa Valley Unified School District to contribute possible funding.

Town Manager Rogers said he would reach out to the School District.

Following discussion, the Town Council took the following action.

A motion was made by Council Member Dorenbecher, seconded by Council Member Durham to Adopt the Resolution. The motion carried by the following roll call vote:

Aye: 5 - Mayor Dunbar, Vice Mayor Dorman, Council Member Mohler, Council Member Dorenbecher, and Council Member Durham

- F. [20-2536](#) NAPA COUNTY GROUNDWATER COMMITTEE - YOUNTVILLE STAFF REPRESENTATIVE**
Consider appointment of a Yountville Representative to the Napa County Groundwater Sustainability Plan Advisory Committee.

Attachments: [Napa County Media Release](#)

Steve Rogers, Town Manager, presented staff report.

Public Comment - None

The Council took the following action:

A motion was made by Council Member Mohler, seconded by Council Member Durham to appoint the Public Works Director as the primary representative and the Deputy Public Works Director as the alternate on the Napa County Groundwater Committee. The motion carried by the following roll call vote:

Aye: 5 - Mayor Dunbar, Vice Mayor Dorman, Council Member Mohler, Council Member Dorenbecher, and Council Member Durham

- G. [20-2554](#) SETTLEMENT AGREEMENT**
Consider Adoption of Resolution Number 20-3987 Approving a Settlement Agreement and Parking Lease with Restoration Hardware.

Attachments: [Resolution](#)
[Settlement Agreement](#)
[Parking Lease Agreement](#)
[Parking Lease Exhibit A - Property Description](#)

Gary Bell, Town Attorney, presented staff report.

The following representatives were in attendance: Dave Stanchak, Zane Gresham and Luke Magini.

Public Comment Held

The following individual submitted public comment email that was read into the record by the Town Clerk: Pam Reeves.

Following Town Council discussion, Council took the following action:

A motion was made by Council Member Mohler, seconded by Council Member Durham to Adopt the Resolution. The motion carried by the following roll call vote:

Aye: 3 - Mayor Dunbar, Council Member Mohler, and Council Member Durham

Nay: 2 - Vice Mayor Dorman, and Council Member Dorenbecher

11. STAFF INFORMATIONAL REPORTS

- A. [20-2531](#) Bi- Annual Pavement Condition Index (PCI) Update.**

Attachments: [Pavement Management Program - Budget Options Report](#)
[Presentation](#)

Joe Tagliaboschi, Public Works Director, presented staff report.

Steve Rogers, Town Manager, reported on the latest news from the Governor regarding loosening of restrictions due to COVID-19 and how Yountville will be adapting to those changes.

12. COUNCIL MEETING REPORTS, COMMENTS AND AGENDA ITEM REQUESTS

A. Napa County Flood Control & Water Conservation District (Dunbar/Dorman)

Mayor Dunbar reported on District meeting.

B. LAFCO (Local Agency Formation Commission) of Napa County (Mohler)

Council Member Mohler reported on LAFCO meeting.

Council Member Mohler also reported on the CALAFCO meeting scheduled to be held in October and current discussions on whether or not to hold the meeting in person with less than half of the normal participants or doing something virtual.

C. League of California Cities Update (Dunbar, Dorman, Mohler, Dorenbecher)

Mayor Dunbar reported on the following:

He is on daily calls with the League of California Cities Executive Officers and Staff and they are in communication with representatives in the Governor's office and State Operations of Emergency Services. In addition, through his involvement with the U.S. Conference of Mayors and the National League of Cities all of these resources are providing information about COVID-19, public health activity or economic support coming from Congress and the State of California and he will continue to keep the Town updated.

Council Member Dorenbecher, as the League of California Cities North Bay Division President, is also very active in what we are doing for North Bay Counties and getting good ideas from colleagues around the North Bay about how they are dealing with parks and open space activities and how to bring businesses back on line.

The State Legislature is getting back into looking at the legislative agendas for the upcoming year and the Governor's budget revision which is a wholesale change to the budget which will be presented later this month.

D. Council Ad Hoc and Standing Committee Reports (All Council)

No Reports

E. Reports and Announcements

The Mayor reported on the following:

Would like to say thank you very much to Lydia Mondavi and some of the folks she is working with who have brought together the Community Organized Relief Effort (CORE) and Verily which is a testing organization that has been running the COVID-19 testing at the Napa Valley Expo for the past few weeks. Ms.

Mondavi was also instrumental in getting testing mobilized up at the Yountville Veterans Home and they have been able to test a significant number of health care workers and independent living members up at the Veterans Home.

Yountville Residents Amilia Lasar-Li and Man On Li, an amazing young family, who have donated over 2,000 N-95 and surgical face masks to the Napa County public health response. Many of the masks have been used by the health care workers up at the Veterans Home and by our employees here in Yountville - especially Town Public Works staff who continue to provide services to the public. Amilia and Manny have helped to keep the entire Yountville community safer because of their generosity.

Commented on the work being done to help facilitate the economic recovery from the pandemic and stated the Chambers of Commerce throughout the valley including Whitney Diver-McEvoy, Executive Director and CEO of the Yountville Chamber of Commerce, along with the Napa Chambers and business leaders throughout the valley have put together a very impressive strategy for business recovery. They are using all of the thought leaders and over a dozen different business sectors to figure out the best way to reopen. As the Town Manager was saying earlier, the Governor and Napa County are providing guidance and parameters within which we will be able to reactivate some of our businesses.

13. CLOSED SESSION - NONE

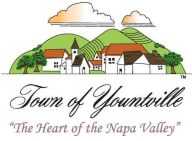
14. ADJOURNMENT

A motion by Vice Mayor Dorman, seconded by Council Member Dorenbecher to adjourn to the Town Council Budget Workshop Special Meeting Wednesday, May 13, 2020 at 9:30 a.m. being held by remote Teleconference was unanimously approved.

ATTEST:

Michelle Dahme, CMC
Town Clerk

Date Approved: June 2, 2020

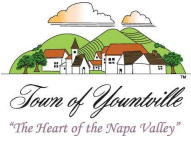


Staff Report

File #: 20-2595, Version: 1

USE PERMIT REQUEST - NAPA VALLEY BALLOONS

Consider Adoption of Resolution Number 20-3982 Approving a Use Permit for Napa Valley Balloons to conduct hot air balloon launches from an open field within the existing vineyard at 6406 Washington Street. (APPLICANT REQUESTS PUBLIC HEARING BE CONTINUED TO NON-SPECIFIC DATE)



Staff Report

File #: 20-2598, **Version:** 1

Yountville Town Council Staff Report

DATE: June 2, 2020

TO: Mayor and Town Council

FROM: Steven R. Rogers, Town Manager

TITLE

Consider Adoption of Resolution Number 20-3992 Establishing Late Payment Penalties for Violations of Chapter 10.28 of the Yountville Municipal Code - Stopping, Standing and Parking.

DISCUSSION/BACKGROUND

On February 18, 2020, the Town Council adopted Resolution Number 20-3973 "Establishing Civil Fines for Violations of Chapter 10.28 of the Yountville Municipal Code - Stopping, Standing and Parking". In addition to civil fines, California Vehicle Code section 40203.5, subdivision (a) allows the Town Council to adopt accompanying late payment penalties. That section also provides: "To the extent possible, issuing agencies within the same county shall standardize parking penalties". Resolution Number 20-3973, although adopting new civil fines for these violations, did not include late payment penalties. Town Staff is now requesting late payment penalties to assist in enforcement and payment of any citations issued.

This Resolution establishes late payment penalties at the same amounts imposed by the County of Napa and is therefore consistent with other issuing agencies in the county. Standardized late payment penalties will also increase efficiencies with citation processing.

ENVIRONMENTAL REVIEW

Exempt per CEQA Guidelines Section 15061(b)(3).

FISCAL IMPACT

Is there a Fiscal Impact? Yes

Is it Currently Budgeted? Yes

Where is it Budgeted? Click here to enter text.

Is it Mandatory or Discretionary? Discretionary

Is there a Staff Resource Impact? Nominal

STRATEGIC PLAN GOAL

Is item Identified in Strategic Plan? Yes

If yes, Identify Strategic Goal and Objective. **Quality of Life:** The Town enhances the livability of Yountville by providing well-maintained public facilities, parks, and trails, and quality programs and events.

Briefly Explain Relationship to Strategic Plan Goal and Objective. Enforcement of parking, standing, and stopping citations - including collection of payments - ensures public facilities are maintained and available for all users.

ALTERNATIVES

Do not adopt this Resolution.
Revise this Resolution prior to adoption.
Provide different or additional direction to Town Staff.

RECOMMENDATION

Receive staff report and direct questions to staff.
Receive public comment.
Conduct Council discussion on proposed Resolution.
Adopt Resolution Number 20-3992 Establishing Late Payment Penalties for Violations of Chapter 10.28 of the Yountville Municipal Code - Stopping, Standing and Parking.

Town of Yountville

Resolution Number 20-3992

Adoption of Resolution Establishing Late Payment Penalties for Violations of Chapter 10.28 of the Yountville Municipal Code – Stopping, Standing and Parking

Recitals

- A. On February 18, 2020, the Town Council adopted Resolution Number 20-3973 “Establishing Civil Fines for Violations of Chapter 10.28 of the Yountville Municipal Code – Stopping, Standing and Parking”; and
- B. Vehicle Code section 40203.5, subdivision (a) allows the “governing body of the jurisdiction where the notice of violation is issued” to establish a “schedule of parking penalties for parking violations and late payment penalties;”
- C. Vehicle Code section 40203.5, subdivision (a) further provides: “To the extent possible, issuing agencies within the same county shall standardize parking penalties”; and
- D. The Town Council now wishes to adopt late payment penalties consistently with those imposed in other jurisdictions within the County of Napa.

Now therefore, the Town Council of the Town of Yountville does resolve as follows:

- 1) The Recitals above are true and correct and incorporated herein by this reference.
- 2) The late payment penalties for violations of Chapter 10.28 of the Yountville Municipal Code and the California Vehicle Code, as specified in the attached Exhibit “A”, are hereby adopted. For all other violations of chapter 10.28 of the Yountville Municipal Code, the late payment penalties shall be \$28 if paid 15 or more days after due and an additional \$28 if paid 29 or more days after due.
- 3) Town Staff is authorized and directed to take all steps necessary or convenient to implement this Resolution.
- 4) The Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED at a special meeting of the Town Council of the Town of Yountville, State of California, held on this 2nd day of June 2020 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

John F. Dunbar, Mayor

ATTEST:

Michelle Dahme, CMC, Town Clerk

EXHIBIT A
(*Late Payment Penalties*)

Town of Yountville Parking Citation Penalty & Bail Amount Changes

Code	Description	Bail/Fine
4000(a) CVC	Expired Registration	\$ 285.00
22500(i) CVC	Parked in Bus Zone	\$ 1,105.00
22500(L) CVC	Parked Blocking Wheelchair Access	\$ 1,105.00
22500.1 CVC	Parked in Fire Lane	\$ 238.00
22507.8(A)CVC	Parked in Handicapped Zone	\$ 1,105.00
5204 (A) CVC	Display Expired Registration Tabs	\$ 197.00

Yountville Town Ordinance	Description	Bail/Fine
YTO 10.28.040	Use Street for Storage Prohibited/72 hrs	\$ 100.00
YTO 10.28.050	Prkng for Certain Purposes Prhbtd/Repair	\$ 100.00
YTO 10.28.060	Prkng on Private Property w/o Permission	\$ 100.00
YTO 10.28.070 1	Parking Restricted by Curb Markings- Red	\$ 100.00
YTO 10.28.070 2	Prkng Restricted by Curb Markings-Yellow	\$ 100.00
YTO 10.28.070 3	Prkng Restricted by Curb Markings-White	\$ 100.00
YTO 10.28.070 4	Prkng Restricted by Curb Markings- Green	\$ 100.00
YTO 10.28.090	Prkng Outside Desgntd Stall/Marked Space	\$ 100.00
YTO 10.28.110	Commercial Veh Prkng in Resdntl District	\$ 100.00
YTO 10.28.150 B	Prkng on Narrow Streets Proh When Posted	\$ 100.00
YTO 10.28.170 B	Temp "No Parking" Restricted When Posted	\$ 100.00
YTO 10.28.180 A	Stop, Standing or Parking Restricted	\$ 100.00
YTO 10.28.190 B	Parked in Handicapped Zone	\$ 262.00
YTO 10.28.020 A	Parked in Violation of Signage	\$ 100.00

1st Penalty (Paid 15 or More Days After Due)	2nd Penalty (Paid 29 or more Days After Due)
28	53
28	53
28	53
28	53
28	53
28	53

1st Penalty (Paid 15 or More Days After Due)	2nd Penalty (Paid 29 or More Days After Due)
28	28
28	28
28	28
28	28
28	28
28	28
28	28
28	28
28	28
28	28
28	28
28	28
28	53
28	28



Staff Report

File #: 20-2599, **Version:** 1

Yountville Town Council Staff Report

DATE: June 2, 2020

TO: Mayor and Town Council

FROM: Steven R. Rogers, Town Manager

TITLE

Adopt Resolution Number 20-3993 Approving the display of the Rainbow Flag and Transgender Flag on the Town's Ceremonial Flag Pole pursuant to the Town's Flag Policy for the month of June in recognition of LGBTQ Pride Month.

DISCUSSION/BACKGROUND

The Town Council adopted Resolution 19-3561 on June 4, 2019 which established a Ceremonial Flag Pole at Town Hall and guidelines related to the outdoor display of non-governmental flags on the Ceremonial Flag Pole.

The Town Council approved flying the Pride Flag or Rainbow Flag as is it is often referred and flew the Rainbow Flag for the first time last year. A Rainbow Flag was donated to the Town last year to fly on the ceremonial flag pole.

At the May 19, 2020 Council Meeting, Council Member Jeff Durham under Council Comments recommended that the Town Council consider a request to fly the Rainbow Flag again this year during the month of June as it is LGBTQ Pride month. He commented that this display would show local government support for community residents who are members of the LGBTQ community. He recommended that the flag fly for the balance of the remainder of the month of June.

There was Council consensus to place this item on the next (June 2, 2020) agenda for formal approval.

This request is in conformance with the requirements of the Ceremonial Flag Policies and Procedures.

ENVIRONMENTAL REVIEW

Exempt per California Environmental Act (CEQA) Guideline, Section 15061(b)(3)

FISCAL IMPACT

Is there a Fiscal Impact? No

Is it Currently Budgeted? N/A

Where is it Budgeted? Not Applicable

Is it Mandatory or Discretionary? Discretionary

Is there a Staff Resource Impact? N/A

STRATEGIC PLAN GOAL

Is item Identified in Strategic Plan? Yes

If yes, Identify Strategic Goal and Objective. **Engaged Residents:** The Town embraces our residents' commitment to community as seen through volunteerism, civic engagement, and public participation that enhances the quality of life in Yountville.

Briefly Explain Relationship to Strategic Plan Goal and Objective. The display of the Rainbow Pride flag is consistent with the Town's Diversity Resolution and Ceremonial Flag Policies and Procedures and encourages residents to engage with its local government.

ALTERNATIVES

Town Council could deny recommendation to fly the Rainbow Flag.

RECOMMENDATION

Receive staff report and direct questions to staff.

Receive public comment.

Conduct Council discussion on proposed Resolution.

Adopt Resolution Number 20-3993 Approving the display of the Rainbow Flag and Transgender Flag on the Town's Ceremonial Flag Pole pursuant to the Town's Flag Policy for the month of June in recognition of LGBTQ Pride Month.

Town of Yountville

Resolution Number 20-3993

A RESOLUTION OF THE TOWN COUNCIL APPROVING THE DISPLAY OF THE RAINBOW FLAG AND TRANSGENDER FLAG ON THE TOWN'S CEREMONIAL FLAG POLE PURSUANT TO THE TOWN'S FLAG POLICY FOR THE MONTH OF JUNE IN RECOGNITION OF LGBTQ PRIDE MONTH.

Recitals

- A. At the Town Council meeting held June 4, 2019, the Council established a uniform policy regarding: (1) the display of the United States Flag, the California State Flag, the POW-MIA Flag, and any current or future Town of Yountville flag on Town-owned property; (2) the display of non-governmental ceremonial flags ("Ceremonial Flags") on Town-owned property; and (3) the flying of the National, State and Town flags at half-staff on Town-owned property.
- B. In adopting this policy, the Town Council declares that the Town's flagpoles are not intended to serve as a forum for free expression of the public, but rather for the display of Federal, State, and Town (if any) Flags, the POW-MIA Flag, and any Ceremonial Flag as may be authorized by written resolution of the Town Council as an expression of the Town's official sentiments.
- C. The Ceremonial Flag Pole is located at Town Hall to the left of the front entrance and is separate from the flag pole on which the National and State flag is flown.
- D. Council Member Durham, at the May 19, 2020 Town Council meeting, requested an item be placed on the upcoming Town Council Agenda requesting the Council consider the display of the Rainbow Flag and Transgender Flag during the month of June in recognition of LGBTQ Pride Month on the Town's Ceremonial Flag Pole pursuant to the Town's Flag Policy.
- E. In accordance with Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines, the proposed policies are not subject to CEQA because it can be seen with certainty that there is no possibility that they could have a significant effect on the environment.

Now, therefore, the Town Council of the Town of Yountville does resolve as follows:

- 1. Hereby Adopts this Resolution approving the display of the Rainbow Flag and Transgender Flag on the Town's Ceremonial Flag Pole pursuant to the Town's Flag Policy for the month of June in recognition of LGBTQ Pride Month.
- 2. This Resolution shall be effective immediately upon its adoption.

#

Resolution Number 20-3993

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Yountville, State of California, held on this 2nd day of June, 2020 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

John F. Dunbar, Mayor

ATTEST:

Michelle Dahme, CMC
Town Clerk

Exhibit A

Policy on Flying Flags at Half-Staff on Town-Owned Property

Purpose

The purpose of this administrative policy is to establish a uniform policy to govern the flying of the United States, State of California and Town of Yountville (if any) flags at half-staff on Town-owned property.

General

National, State, and Town flags may be flown on any flag pole(s) located on Town-owned property. At Veterans Memorial Park, the PIA/MIA flag may also be flown in addition to the National and California flags.

Applicability

1. National flags on Town-owned property shall be flown at half-staff upon order of the President of the United States and may be flown at half-staff upon authorization of the Governor of California and on designated legal holidays.
2. National, State, and/or Town flags on Town-owned property may also be flown at half-staff at the direction of the Mayor upon the death of:
 - A Town Councilmember, past or present;
 - A Town employee whose death occurred during the discharge of duty;
 - A Town employee or retiree having served the Town for 25 or more years; or
 - A prominent citizen not holding or having held elected public office, whose accomplishments and contributions to the community clearly demonstrated a commitment over and beyond that which would be normally associated with the performance of work.

For the above circumstances, flags will be flown at half-staff as soon as practicable following the notification of a death, and will ordinarily be continued for 48 hours.

Public Notice

The public shall be notified of the reason for flying the National, State, and/or Town flags at half-staff, when reasonably feasible. This notice may include posting information on the Town's web site.

Exhibit B

Policy on the Display and Siting of Non-Governmental Ceremonial Flags

Purpose

The purpose of this administrative policy is to allow for the discretionary display of Ceremonial Flags when the Town Council makes a determination such display is an expression of the Town's official sentiments and promotes (1) appropriate public awareness, (2) non-profit organizations and/or (3) local cultural celebrations under certain circumstances.

Process

1. Any Council Member may submit a request to agendize the consideration of displaying a Ceremonial Flag. The request shall include the type and design of the flag, brief information supporting the display of the flag (taking into consideration the factors set forth in No. 3 following) and the time period suggested for display. The Town Manager shall agendize the request for consideration by the Town Council. The Town will not display a Ceremonial Flag based solely on a request from a third party and will not use its flagpoles to sponsor the expression of a third party.
2. Ceremonial Flags may be displayed only as authorized by written resolution of the Town Council.
3. In determining whether to display a particular Ceremonial Flag, the Council may consider any relevant factors, including but not limited to whether the proposed flag:
 - a. Promotes profit-making ventures, products or entities;
 - b. Promotes events or organizations with a direct relationship to the Town;
 - c. Suggests the Town's affiliation with any political cause or purpose; and/or
 - d. Promotes the interests of the Town's residents.
4. Ceremonial Flags shall be displayed for only a period of time that is reasonable or customary for the subject that is to be commemorated, but no longer than 31 continuous days.
5. Ceremonial Flags shall be displayed exclusively at Town Hall, on a ceremonial flag pole sited immediately outside the building; Ceremonial Flags may not be displayed on any other Town property. The Town may either fly a Town of Yountville flag on the ceremonial flag pole or remove the ceremonial flag pole when there is not a Ceremonial Flag on display. The Town Council has sole discretion to determine which flags are flown on the ceremonial flagpole and when they will be flown. The Town's ceremonial flagpole is not intended to serve as a forum for free expression by the public.



Staff Report

File #: 20-2603, **Version:** 1

Yountville Town Council Staff Report

DATE: June 2, 2020
TO: Mayor and Town Council
FROM: Steven R. Rogers, Town Manager

TITLE

Discussion and possible direction regarding Town Council placing a single ballot measure on the November 2020 ballot regarding regulation and taxation of a cannabis retail business.

DISCUSSION/BACKGROUND

At its meeting on May 19, 2020, the Town Council provided further direction to Town Staff on this item. Based on this direction, Town Staff has: (1) added a definition of "consumption", (2) combined the two ballot measures into a single ballot measure, (3) specified that the Town Council may permit only one cannabis retail business to operate in the Town, and (4) specified that cannabis retail businesses may not operate in the following residential land use designations (zones): RS, Single-family residential; RM, Mixed residential; MPR, Master planned residential; OTH, Old town historic; and MHP, Mobile home park residential.

The Town Council has been discussing and evaluating its current cannabis regulatory scheme since passage of Proposition 64. The Town initially banned all cannabis related activities except for those that were allowed by state law. Subsequently, the Town amended that ordinance to allow for delivery of cannabis within the Town limits. At this time, the Town allows up to 6 plants indoor as required by the personal grow allowance and for delivery of cannabis from a state approved retailer. The Town does not allow cultivation, outdoor growing, lab operations or testing, or permit a cannabis retail business.

The Town Council had previously indicated that it would continue to monitor the ever changing and evolving state regulations regarding cannabis. The Council initially appointed a Cannabis Ad Hoc Committee comprised of Vice Mayor Dorman and Council Member Durham to serve on the committee to research and discuss possible changes in the Town's regulatory framework. The Ad Hoc Committee transitioned to a standing committee which is now comprised of Mayor Dunbar and Vice Mayor Dorman.

The Cannabis Standing Committee further researched the issue and presented the full Town Council with a proposed draft of a possible cannabis regulatory framework for discussion and review purposes. The Town Council has engaged in those discussions. During those discussions there has been vigorous and engaging public feedback from those opposed to and those in support of the possibility of the Town allowing a cannabis retail business. As a part of the community discussion, the question was presented whether it might be appropriate for the Town Council to put consideration of allowing a cannabis retail business ordinance on the November 2020 ballot to let the community decide if this is appropriate or not.

The Cannabis Standing Committee met on Thursday, February 13, 2020 to discuss consideration of the ballot

measure idea. There were a number of residents who spoke in favor of placing this item before the voters. The Standing Cannabis Committee has recommended to the Town Council that the Town Council place a cannabis retail business ordinance on the November 2020 ballot. As will be described below, the single ballot measure creates a regulatory and land use regime for cannabis retail businesses and establishes a business license tax of no more than three percent of cannabis retail businesses' gross receipts.

If approved by a majority vote (50% + 1) of the electorate, the ballot measure will take effect ten days after the vote's certification.

REGULATORY AND LAND USE REGIME. The ballot measure updates Chapter 9.30 of the Yountville Municipal Code, which currently prohibits all cannabis activity within the Town's jurisdiction with limited exceptions for personal use cultivation and mobile delivery. The ballot measure first establishes a commercial cannabis permit which entitles holders to operate a cannabis retail business pursuant to regulations in Chapter 9.30. The ballot measure specifies the application process for a commercial cannabis permit. Applicants must first submit an application during an application period designated by resolution of the Town Council. This application must include specified information including, but not limited to:

1. A non-refundable application fee, as determined by resolution of the Town Council;
2. Certain information about the applicants, including other cannabis businesses they operate;
3. Information about the proposed site for the cannabis retail business, including a floor and site plan and consent of the property owner if the space is rented;
4. An odor control plan;
5. Business operations information, including: (a) business plans; (b) community relations plans; (c) community benefits plans; (d) neighborhood responsibility plan; (e) inventory control procedures; (f) tax compliance; and (g) insurance.
6. A security plan; and
7. Indemnification.

The ballot measure provides reasons that an application will be immediately disqualified including if it is not timely submitted, it is submitted incomplete, or if it is within 300 feet of certain sensitive receptors within the Town (community spaces, schools, etc.).

The ballot measure provides that the Town Manager or a third-party consultant hired for this purpose will rank applications based on the following criteria: (a) community benefit; (b) equity and labor; (c) messaging; (d) control of business location; and (e) financial investment. The Town Council is permitted to more clearly define these criteria before Town Manager reviews and ranks applications, including by creation of a points-based ranking system. Once ranked by the Town Manager, the Town Council may issue one commercial cannabis permit to the highest ranked applicant. However, the Town Council may choose not to offer a commercial cannabis permit to an applicant if it makes any of the following findings:

1. The highest ranked application(s) does not provide substantial benefits to Town residents;
2. The highest ranked application(s) will be detrimental to other uses in the surrounding area;
3. The highest ranked application(s) is incompatible with the character of the location the cannabis retail business is proposed in; or
4. The highest ranked application(s) may directly or indirectly create or exacerbate nuisance conditions, as defined by Yountville Municipal Code Chapter 9.32.

Once granted, a commercial cannabis permit is effective for 12 months. Commercial cannabis permits cannot be transferred to new owners or new retail locations, except as specified in Section 9.30.150(B). The ballot measure provides that applications can be renewed by renewal application submitted at least 60 days before the permit expires. The Town Manager is charged with granting or denying renewal applications. The Town Manager must make certain findings before approving a renewal permit; the applicant has the burden of

satisfying those findings by substantial evidence. The ballot measure also specifies reasons that a renewal application must and may be denied by the Town Manager.

Commercial cannabis permits can be suspended or revoked if they meet one or more of the circumstances upon which a commercial cannabis permit application or renewal application can or must be denied. The Town Manager has discretion to choose the appropriate administrative action based on the severity and regularity of the violations. The ballot measure also establishes which Town decisions are appealable and provides that such appeals must occur pursuant to the procedures set forth in Yountville Municipal Code section 1.30.010.

The ballot measure also establishes operating requirements for cannabis retail businesses including, but not limited to:

1. Cannabis and cannabis products cannot be visible from the exterior of the building;
2. Persons under 21 years of age shall not be allowed on the premises, and shall not be allowed to purchase cannabis or cannabis products;
3. Cannabis retail businesses must use odor control systems;
4. Cannabis retail businesses must maintain a comprehensive general liability policy;
5. Conditions placed on the conditional use permit issued for the property (described below) are also conditions of the commercial cannabis permit; and
6. Cannabis retail businesses must implement specified security measures.

Both the Town Council and the Town Manager may adopt additional regulations to be placed on cannabis retail businesses. All regulations established must be published on the Town's website and, after adoption, will have the same force and effect of law. The Town Council may adopt fees as necessary to implement Chapter 9.30, including an application fee representative of the Town's costs in processing the applications. All violations of the Chapter are subject to administrative enforcement and are deemed nuisances under the Yountville Municipal Code. Each responsible party as to a cannabis retail business can be held jointly and severally liable for all violations.

The ballot measure also requires a use permit, as described in Yountville Municipal Code Chapter 17.62. That Chapter requires that all cannabis retail businesses are only permitted in the CAN, Cannabis zone subject to a use permit. The ballot measure places the following conditions on use permits for cannabis retail businesses:

1. Obtain and maintain a commercial cannabis permit under Chapter 9.30 and an appropriate state license;
2. Operate in substantial compliance with the application materials submitted pursuant to Section 9.30.050 of the Yountville Municipal Code;
3. Cannabis retail businesses cannot be located on a property directly abutting a residential zoning district, except that a cannabis retail business may be located on a property directly abutting the rear yard of a private residence;
4. Cannabis retail businesses may not be located within 300 feet of certain sensitive receptors (community spaces, schools, etc.);
5. Cannabis retail businesses must pay all applicable current and future state and local taxes, fees and penalties;
6. Alcoholic beverages cannot be possessed, stored, sold, distributed, or consumed on the premises. A license for sale of alcoholic beverages cannot be held for that premises, nor can a business that sells alcoholic beverages operate in the same space or adjacent to a cannabis retail business;
7. No cannabis, cannabis products, or cannabis accessories may be displayed in windows or visible from the public right-of-way or from places accessible to the general public;
8. Minors and persons under the age of 21 cannot be allowed on the premises, even if accompanied by a parent or guardian;
9. Cannabis and cannabis products cannot be stored outdoors; and

10. Any other development or operational standards as the Town Council deems necessary or appropriate.

The Town Council, therefore, may establish other use permit conditions for a cannabis retail business. However, such permit conditions may not conflict with operational requirements applicable pursuant to other provisions of the Yountville Municipal Code.

Use permits are granted after a public hearing and only after the Town Council makes the following findings, in addition to those required for all use permits by Yountville Municipal Code section 17.156.020: (a) the proposed use provides benefits to residents; (b) the proposed use will not be environmentally detrimental to existing or potential commercial and residential uses in the surrounding area; (c) the street network is suitable and adequate to carry projected traffic that is generated by the proposed use; and (d) the design of the structure or structures is compatible with the character of the Town.

BUSINESS LICENSE TAX. The ballot measure also establishes a business license tax applicable to cannabis retail businesses. The business license tax is a general tax imposed on every cannabis retail business at a rate to be established by resolution of Town Council. As this is a general tax, proceeds from the tax may be used by the Town for any lawful purpose, including but not limited to, general Town services, public safety, road and transportation purposes, and parks and recreation. The tax is imposed on the gross receipts of cannabis retail businesses shall not exceed three percent of the businesses' gross receipts. The Town Council may adjust the tax from time to time up to the maximum three percent approved by voters. The tax will be implemented pursuant to the Town's existing procedures for collection and enforcement of business license taxes under Yountville Municipal Code Chapter 5.04.

DRAFT BALLOT QUESTION.

"Shall the measure authorizing no more than one cannabis retail business allowing retail sale, delivery, and/or on-site consumption of adult-use cannabis in the Town of Yountville excluding residential zones, allowing the Town to establish regulations and fees, requiring a use permit and conditions to operate, and permitting the Town Council to establish a general tax up to 3% on the business' gross receipts to raise between \$30,000 and \$100,000 annually until voters decide otherwise, be adopted?"

ENVIRONMENTAL REVIEW

Exempt per California Environmental Act (CEQA) Guideline, Section 15061(b)(3)

FISCAL IMPACT

Is there a Fiscal Impact? Yes

Is it Currently Budgeted? Yes

Where is it Budgeted? Town Clerk's Election Budget

Is it Mandatory or Discretionary? Discretionary

Is there a Staff Resource Impact? Yes

STRATEGIC PLAN GOAL

Is item Identified in Strategic Plan? Indirectly

If yes, Identify Strategic Goal and Objective. **Engaged Residents:** The Town embraces our residents' commitment to community as seen through volunteerism, civic engagement, and public participation that enhances the quality of life in Yountville.

Briefly Explain Relationship to Strategic Plan Goal and Objective. Town Council is being responsive to

request from a group of citizens that believe an issue of this significance should be determined by the residents/voters of the community.

ALTERNATIVES

Town Council could decide to approve a Cannabis Retail Business Ordinance at a future meeting without placing item on the November 2020 ballot.

Town Council could decide to consolidate the two proposed measures into one, or to proceed with only one of the two measures.

Town Council could take no action on this item.

RECOMMENDATION

Receive staff report and direct questions to staff.

Receive public comment.

Conduct Council discussion on proposed Ordinance.

This is a Town Council policy determination as to whether the issue is appropriate to place on the November 2020 ballot, and whether to place this issue on the ballot as one or two ballot measures. Staff notes that doing so provides clarity as to the outcome and next action steps if the initiative were to either pass or fail.

Town of Yountville
Ordinance Number 20-[XXXX]

AN ORDINANCE OF THE PEOPLE OF THE TOWN OF YOUNTVILLE AMENDING CHAPTER 9.30 OF TITLE 9 AND ADDING CHAPTER 17.62 OF TITLE 17 OF THE YOUNTVILLE MUNICIPAL CODE REGARDING CANNABIS RETAIL BUSINESSES, AND ADDING SECTIONS 5.04.310 AND 5.04.320 OF ARTICLE 8 OF CHAPTER 5.04 OF TITLE 5 OF THE YOUNTVILLE MUNICIPAL CODE ESTABLISHING A GENERAL BUSINESS LICENSE TAX ON CANNABIS RETAIL BUSINESSES

NOW THEREFORE, THE PEOPLE OF THE TOWN OF YOUNTVILLE HEREBY ORDAIN AS FOLLOWS:

SECTION 1. CODE AMENDMENT: With the exception of Sections 9.30.050 and 9.30.060, which are hereby unchanged and renumbered to Sections 9.30.040 and 9.30.160, respectively, Chapter 9.30 of Title 9 of the Yountville Municipal Code is hereby amended to read as follows:

9.30.010 Purpose.

The purpose of this chapter is to regulate all commercial cannabis activity in the Town-of-Yountville to the extent authorized by and in accordance with law, including, without limitation, to provide for the licensure and regulation of cannabis retail businesses within the Town-of-Yountville.

9.30.020 Definitions.

As used in this chapter, the following meanings shall apply unless the context clearly indicates a contrary intent:

The following words and terms shall have the meanings ascribed to them in Business and Professions Code section 26001 as that statute may be amended or renumbered from time to time: "cannabis," "cannabis accessories," "cannabis products," "commercial cannabis activity," "delivery," "license," "operation," "person," "premises," "sale."

"Accessory structure" means a legal and permitted building that is completely detached from a private home. An accessory structure shall comply with this code, the California Building Code, and have a complete roof enclosure supported by walls extending from the ground to the roof, and a foundation, slab or equivalent base. An accessory structure shall be secure against unauthorized entry and shall be accessible only through one or more lockable doors. The walls and roofs of an accessory structure must be constructed of solid materials not easily broken through. Exterior walls must be constructed with non-transparent material.

"Cannabis retail business(es)" means any business and its premises from which adult use cannabis and/or adult use cannabis products are offered for sale, onsite consumption, and/or delivery that is licensed pursuant to applicable provisions of State law and this chapter.

"Commercial cannabis permit" means a permit issued pursuant to the provisions of this chapter.

"Consumption" means smoking, vaporizing, or ingesting of adult use cannabis and/or adult use cannabis products including, but not limited to, ingestion by topical product, aerosol, or oils.

"Day care" means a State-authorized facility serving children (operated per the California Child Day Care Facilities Act), in which such care is conducted as a business.

"Director" means the Planning and Building Director or designee.

"Group home" means a facility regulated and licensed by a Federal and/or State agency. Unlicensed facilities shall not constitute group homes.

"Interested part(y/ies)" means any of the following:

- A. Any person with an aggregate ownership interest, other than a security interest, lien, or encumbrance, of at least 10 percent of the cannabis retail business;
- B. Partners, officers, directors, and stockholders of every corporation, limited liability company, joint venture, or general or limited partnership that own at least 10 percent of the cannabis retail business or that is one of the partners in the cannabis retail business;
- C. The manager(s) of the cannabis retail business; and
- D. Employees and agents of the cannabis retail business.

"Manager" means a person with responsibility for the establishment, registration, supervision, or oversight of the operation of a cannabis retail business, including, but not limited to, a person who performs the functions of a board member, director, officer, owner, operating officer, or manager of the cannabis retail business.

"Primary residence" means the place where a person, by custom and practice, makes his or her principal domicile and address and to which the person intends to return following any temporary absence, such as a vacation. Residence is evidenced by actual daily physical presence, use and occupancy of the primary residence, and the use of the residential address for domestic purposes, such as, but not limited to, preparation of and eating of meals, regular mail delivery, and vehicle and voter registration.

"Private home" means a house, an apartment unit, a manufactured home, or other similar dwelling.

"Private residence" means a detached residential dwelling that is lawfully used as a residence.

"Responsible part(y/ies)" means one or more individuals who have an ownership interest in a cannabis retail business and are designated to be personally responsible for compliance with all terms and conditions of the commercial cannabis permit, all other permits required by the Town, and all ordinances and regulations of the Town. Any person having an ownership interest of more than fifty percent in a cannabis retail business shall be designated a responsible party on the application. If no individual owns more than fifty percent of a cannabis retail business, the individual owning the largest share shall be a responsible party, and if multiple individuals have

the same percentage interest, each one shall be a responsible party. More than one individual can be designated a responsible party.

"Town Manager" means the Town Manager or his or her designee.

"Youth center" means a public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.

9.30.030 Compliance with State and local law.

Except as expressly provided by State law and this chapter, all commercial cannabis activity is prohibited in the Town regardless of any licenses issued under State law.

- A. Cannabis retail businesses shall operate in conformance with all requirements and standards set forth in State law and this chapter. No person shall open or operate a cannabis retail business without first possessing a commercial cannabis permit issued by the Town pursuant to this chapter, a use permit for use of the property as a cannabis retail business issued by the Town pursuant to Chapter 17.62, and an appropriate license issued by the State.
- B. Prior to beginning operations in the Town, a cannabis retail business shall submit to the Town Manager a copy of an appropriate license issued by the State for its operation.

9.30.050 Permit applications.

- A. A person may apply for a commercial cannabis permit by submitting an application to the Town during an application period designated by resolution of the Town Council. Each person may submit only one application during a designated application period. The application shall be on a form approved by the Town Manager, and shall include:
 - 1. A non-refundable application fee in an amount determined by resolution of the Town Council.
 - 2. **Application Information.**
 - i. The printed full name, signature, date of birth and present address and telephone number of all interested parties for the cannabis retail business, and designation of responsible parties.
 - ii. A primary physical and mailing address, if different, for notices and other mailed information.
 - iii. The names and addresses of all cannabis retail businesses operated by responsible parties for the five years preceding the date of the application.
 - iv. A list identifying any litigation, or settled claims not litigated, in which interested parties have been involved during the five years immediately preceding the date of the application

- v. A statement whether any business currently operated by an interested party, or operated by an interested party in the five years immediately preceding the date of the application, has been investigated by a government agency or the permit, license, or other authorization for the operation of such business has been revoked or suspended.
- vi. Live Scan for each interested party that was conducted within 14 days immediately preceding the date of the application.
- vii. The name and telephone number of an emergency contact available at all times. The emergency contact must reside within a one-hour drive of the cannabis retail business.
- viii. A certification, under penalty of perjury, that the information in the application is true and correct and that no person listed in the application, as an interested party, a responsible party, or an applicant, or as an owner, director, officer, or board member of the applicant, has been convicted of a felony.

3. Business Site Information.

- i. Floor Plan. A scaled floor plan for each level of each building that makes up the business site, including, but not limited to, the entrances, exits, walls, cannabis storage areas and customer-access areas. The floor plan shall distinguish locations where onsite consumption of cannabis and/or cannabis products will occur if permitted.
- ii. Site Plan. A scaled site plan, including, but not limited to, all buildings, structures, driveways, parking lots, landscape areas, and boundaries.
- iii. Property Owner's Consent. Evidence of the legal right to occupy and to use the proposed location for a cannabis retail business.

4. Odor Control Plan. A list and description of proposed odor control devices and techniques to prevent odors from cannabis and cannabis products from being detectable off-premises.

5. Business Operations Information.

- i. Business Plan. A plan describing how the cannabis retail business will operate in accordance with this code, State law, and other applicable laws and regulations. The business plan must also include the following:
 - 1. Hours of operation; and
 - 2. Record-keeping procedures
- ii. Community Relations Plan. A plan describing outreach and communications with the surrounding community, including the neighborhood and businesses, and a designated contact person responsible for implementing the plan.
- iii. Community Benefits Plan. A plan describing community benefits the cannabis retail business intends to provide to the surrounding community.
- iv. Neighborhood Responsibility Plan. A plan to address potential effects of the cannabis retail business on the surrounding neighborhood area.

- v. **Inventory Control Procedures.** A list and description of procedures for inventory control including prevention of diversion of cannabis and cannabis products, employee screening, securing and storage of cannabis and cannabis products, personnel policies, and record-keeping procedures.
 - vi. **Tax Compliance.** A current copy of the responsible party's Town business license tax certificate, [State sales tax seller's permit](#), and responsible party or parties' most recent year's financial statement and tax returns, as applicable.
 - vii. **Insurance.** Proof of insurance, as required by Section 9.30.090(G).
6. **Security Plan.** An operations and security plan in conformance with Section 9.30.100.
7. **Indemnification.** An agreement, on a form provided by the Town Manager, whereby the responsible party defends, indemnifies and holds harmless the Town and its officers, employees, agents, independent contractors, and volunteers.
8. **Certification.** A statement in writing by the responsible party that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.
- B. In addition to any other reason established by resolution of the Town Council, an application shall be automatically disqualified if:
- 1. The application is incomplete, filed late, or is not responsive to the requirements of this chapter.
 - 2. The application contains a false or misleading statement or an omission of any material fact.
 - 3. The operation of the business site described in the application fails to comply with any of the requirements in this code, State law, or any other applicable law or regulation.
 - 4. An interested party has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made.
 - 5. The proposed location for the cannabis retail business is within 300 feet of Yountville Community Park, Yountville Community Church, St. Joan of Arc Church, or any school providing instruction in kindergarten or grades 1 through 12, day care center or youth center that is in existence at the time the application is submitted, measured in a straight line from the closest property line of the school, day care center or youth center to the closest point of the premises where the cannabis retail business is proposed.
 - 6. An interested party has operated a cannabis retail business within five years immediately preceding the date of the application for which a State or local license, permit, or other authorization has been revoked.
 - 7. The application does not permit onsite consumption of cannabis in compliance with Business and Professions Code section 26200.

8. Operation of the proposed site for the cannabis retail business, as represented in the application, is a threat to the public health, safety, or welfare or would create a public nuisance.
- C. The Town Manager or a third-party consultant hired for this purpose shall rank applications by the following criteria, giving equal weight to each, and shall, thereafter, report to the Town Council the ranking of each application:
1. Community Benefit. Applicants' commitment to Town demonstrated through local hiring and community support.
 2. Equity and Labor. Applicants' commitment to equity ownership and competitive compensation in comparison to other mainstream commercial businesses.
 3. Messaging. Applicants' commitment to responsible messaging practices.
 4. Control of Business Location. Applicants' control of a site to ensure a successful and timely transition from being awarded a license to opening the business.
 5. Financial Investment. Applicants' plans and capital to support a vibrant business within the Town.
 6. Other Criteria. Any other criteria established by resolution of the Town Council.
- D. The Town Council may issue one commercial cannabis permit to the highest ranked application. The Town Council may choose to not offer a commercial cannabis permit to the highest ranked application if it makes any of the following findings:
1. The highest ranked application does not provide substantial benefits to Town residents;
 2. The highest ranked application will be detrimental to other uses in the surrounding area;
 3. The highest ranked application is incompatible with the character of the location the cannabis retail business is proposed in; or
 4. The highest ranked application may directly or indirectly create or exacerbate public nuisance conditions, as defined by Chapter 9.32.
- E. If two or more applications are equally ranked highest, the Town Council may designate the highest ranked applicant by analyzing each such application based on the criteria set forth in Section 9.30.050(C)
- F. The responsible party or parties selected shall have the opportunity to apply for a use permit as [required by](#) Chapter 17.62.
- G. A commercial cannabis permit shall expire twelve months after the date of issuance. In accordance with this chapter, a responsible party may apply for a renewal of a commercial cannabis permit prior to its expiration in accordance with this chapter.
- G.H. Notwithstanding any other provision of this chapter or this code, or any regulations adopted thereunder, the Town Council shall not permit more than one cannabis retail business to operate in the Town.

9.30.060 Permit renewal.

- A. An application for renewal of a commercial cannabis permit shall be filed by a responsible party at least 60 days before the expiration of the permit. The renewal application shall be filed on a form approved by the Town Manager and shall include a renewal application fee established by resolution of the Town Council.
- B. The Town Manager shall grant or deny renewal applications in writing and, if the renewal application is denied, shall specify the reasons for its denial. The Town Manager shall only approve a renewal permit if he or she makes the following findings, which the applicant has the burden to satisfy by substantial evidence:
 - 1. The cannabis retail business has substantially complied with the business operations information as described in Section 9.30.050(A)(5);
 - 2. The cannabis retail business provides substantial benefits to Town residents;
 - 3. The cannabis retail business has not been detrimental to other uses in the surrounding area; and
 - 4. The cannabis retail business has not directly or indirectly created or exacerbated public nuisance conditions, as defined by Chapter 9.32.
- C. An application for renewal of a commercial cannabis permit shall be denied if any of the following exist:
 - 1. The commercial cannabis permit is revoked before renewal.
 - 2. The cannabis retail business has not timely paid cannabis business license tax pursuant to Section 5.04.310.
 - 3. The responsible party conducted unpermitted commercial cannabis activity in the Town at any time preceding the renewal application.
 - 4. Any of the grounds for denying a permit application, as described in Section 9.30.050(B).
 - 5. The cannabis retail business, or any responsible party or interested party, has violated any provision of this chapter or this code, or any regulations adopted thereunder, or State law, or any conditions on the commercial cannabis permit or use permit authorizing the cannabis retail business.
 - 6. The Town Manager does not make the findings required by Section 9.30.060(B).
- D. An application for renewal of a commercial cannabis permit may be denied if any of the following exists:
 - 1. The commercial cannabis permit is suspended at the time the application is submitted or thereafter.
 - 2. The application is filed late.
 - 3. The cannabis retail business, or any responsible party or interested party, has received a notice of violation, abatement order, and/or administrative citation under Chapter 8.05 for violating any provision of this code related to commercial cannabis activity in the Town during the prior twelve months and the notice of

violation, abatement order, and/or administrative citation has not been resolved in favor of the party to whom it was issued at the time the application is submitted.

4. The cannabis retail business has not been in regular and continuous operation in the three months immediately preceding the date the application is submitted.
- E. If a timely and complete application for renewal of a commercial cannabis permit is filed, the permit's expiration shall be stayed until a decision on the renewal application is issued.

9.30.070 Permit suspension or revocation.

- A. A commercial cannabis permit may be suspended or revoked if one or more of the circumstances upon which a commercial cannabis permit application or renewal application may be or must be denied, as described in Sections 9.30.050(B) and 9.30.060(C), (D), exists.
- B. The Town Manager has discretion to choose the appropriate administrative action based on the severity and regularity of the violations. The Town Manager shall provide notice of the revocation or suspension in writing. The notice shall describe the reason for suspension or revocation and the process to appeal the determination.
- C. Pursuant to Business and Professions Code Section 26200(c), the Town Manager shall promptly notify the Bureau of Cannabis Control within the Department of Consumer Affairs upon the Town's revocation of any local license, permit, or authorization for a [State](#) licensee to engage in commercial cannabis activity within the Town.

9.30.080 Appeal.

- A. The following decisions are not appealable:
 1. Ranking of applications pursuant to Section 9.30.050(C); and
 2. Disqualification of an application pursuant to Section 9.30.050(D).
- B. The following decisions may be appealed to the Town Council no later than 15 days after issuance:
 1. Denial of a renewal application pursuant to Section 9.30.060(C), (D); [and](#)
 2. Suspension or revocation of a commercial cannabis permit pursuant to Section 9.30.070.
- C. Appeals shall follow the procedures set forth in Section 1.30.010. If the appeal includes a notice of violation, abatement order, and/or an administrative citation issued under Chapter 8.05, the Town Council may choose to consolidate appeals in a single hearing pursuant to this section.

9.30.090 Operating requirements.

The following operating requirements shall apply to any cannabis retail business operating in the Town:

- A. No cannabis or cannabis products shall be visible from the exterior of the building. No outdoor storage of cannabis or cannabis products is permitted.
- B. The cannabis retail business shall utilize a point-of-sale tracking system to track and report on all aspects of business, including, but not limited to, cannabis tracking, inventory data,

and gross sales (by weight and by sale) and shall ensure that such information is compatible with the Town's record-keeping systems. The system must be able to produce historical transactional data for review by the Town.

- C. The cannabis retail business shall not allow persons under the age of 21 years on the premises or sell cannabis or cannabis products to such persons.
- D. The cannabis retail business shall not employ persons under 21 years of age.
- E. The cannabis retail business shall use odor control systems to ensure that cannabis odors are not detectable off-premises. Odor control systems shall include, but are not limited to, ventilation and exhaust systems.
- F. The cannabis retail business shall post the original copy of their commercial cannabis permit in a location readily-visible to the public.
- G. The cannabis retail business shall maintain a comprehensive general liability combined single occurrence insurance policy issued by an "A" rated insurance carrier in an amount not less than five million dollars (\$5,000,000) with primary coverage, naming the Town and its officers, employees, agents, and volunteers as additional insured.
- H. The cannabis retail business shall ensure all delivery, loading and unloading areas are within a secured area.
- I. The cannabis retail business shall pay all employees in lawful money of the United States as hourly or salaried employees of the business and all federal, state, and local laws pertaining to employees shall be followed including, but not limited to, workers' compensation laws.
- J. The cannabis retail business shall update the Town at least once per month if there are any changes to the information submitted as part of the application pursuant to Section 9.30.050.
- K. The cannabis retail business shall substantially comply with the business plan, community relations plan, community benefits plan and neighborhood responsibilities plan submitted to the Town with the application pursuant to Section 9.30.050. The cannabis retail business may submit a request, in writing, to the Town Manager to amend such plans.
- L. The cannabis retail business shall comply with all conditions placed on the use permit issued for the property.
- M. The Town Manager may adopt regulations imposing additional requirements on cannabis retail businesses, including the maximum amount of cannabis and cannabis products allowed on the site, the number and type of equipment allowed, and security measures.

9.30.100 Security measures.

- A. A cannabis retail business shall implement security measures to:
 - 1. Deter and prevent unauthorized entrance into areas containing cannabis or cannabis products and theft of cannabis or cannabis products.
 - 2. Protect customers and the public from potential harms associated with the cannabis retail business.

- B. The Town Manager may adopt regulations specifying security measures to implement the requirements of Section 9.30.100(A).
- C. A cannabis retail business shall notify the Town Manager within 24 hours of discovering any of the following:
 - 1. Significant discrepancies in quantity, type, composition, or other characteristics of cannabis or cannabis products identified during inventory.
 - 2. Diversion, theft, loss, or any other criminal activity involving the cannabis retail business or any agent or employee of the cannabis retail business.
 - 3. The loss or unauthorized alteration of records related to cannabis or cannabis products, or employees or agents, of the cannabis retail business.
 - 4. Any breach of security.
- D. The Town Manager and any other Town employee charged with enforcing provisions of this code, may enter the location of a cannabis retail business at any time during regular hours of operation without notice and inspect the location as well as recordings and records maintained pursuant to this chapter or State law. No person shall refuse to allow, impede, obstruct, or interfere with an inspection or the review of records, including, but not limited to, the concealment, destruction, or falsification of any recordings or records.

9.30.110 Onsite consumption.

- A. Consumption of cannabis on the premises of the cannabis retail business is permitted only if authorized by a use permit issued pursuant to Chapter 17.62 and:
 - 1. Access to the area where cannabis consumption is proposed is restricted to persons 21 years or older and can only be accessed by persons who have made an appointment with the cannabis retail business at least 24 hours in advance;
 - 2. Cannabis consumption is not visible from any public place or nonage-restricted area; and
 - 3. Sale or consumption of alcohol or tobacco is prohibited on the premises.
- B. Cannabis retail businesses shall create an appointment system for customers to schedule a time period for onsite consumption. Customers must make an appointment with the cannabis retail business prior to onsite consumption of cannabis or cannabis products. Such appointments shall be no longer than 60 minutes and customers may attend no more than one appointment per day.

9.30.120 Records and reporting.

- A. Cannabis retail businesses shall maintain the following records in physical format for at least three years on the business site, and shall produce them to the Town within 24 hours of receipt of a request from the Town:
 - 1. The name, address, and telephone numbers of the owner and landlord of the property.

2. The name, date of birth, address, and telephone number of each manager and staff of the cannabis retail business; the date each was hired; and the nature of each manager's and staff's participation in the cannabis retail business.
3. A written accounting of all income and expenditures of the cannabis retail business, including, but not limited to, cash and in-kind transactions.
4. A copy of the cannabis retail business's commercial general liability insurance policy and all other insurance policies related to the business.
5. A copy of the cannabis retail business's most recent year's financial statement and tax return.
6. An inventory record documenting the dates and amounts of cannabis and cannabis products received at the business site, the daily amounts of cannabis and cannabis products stored on the site, and the daily amounts of cannabis and cannabis products sold from the site.

- B. The cannabis retail business shall report any loss, damage, or destruction of these records to the Town Manager within twenty-four hours of the loss, damage, or destruction.

9.30.130 Regulations and fees.

The Town Council or designee may establish all regulations necessary or convenient to implement the requirements and fulfill the policies of this chapter and to expand upon the same.

- A. Regulations shall be published on the Town's website.
- B. Regulations established by the Town Council or designee shall have the same force and effect of law and become effective upon the date of approval.

The Town Council may, by resolution, adopt such fees to implement this chapter with respect to the application and qualification for, and the selection, future selection, investigation, process, issuance, renewal, and revocation and suspension of, commercial cannabis permits.

9.30.140 Limitations on Town liability.

The Town shall not be liable for issuing, or failing to issue, suspending, revoking or failing to renew, a commercial cannabis permit pursuant to this chapter or otherwise approving or disapproving the operation of any cannabis retail business pursuant to this chapter.

9.30.150 Assignment prohibited.

- A. No person shall operate a cannabis retail business under a commercial cannabis permit issued pursuant to this chapter at any place or location other than that identified on the permit.
- B. No person shall transfer ownership or control of a commercial cannabis permit issued pursuant to this chapter, and/or a cannabis retail business licensed under this chapter, unless and until that person first obtains the consent of the Town Manager and the proposed transferee submits all required application materials, pays all applicable fees and charges, and independently meets the requirements of this chapter such that the transferee would be entitled to the issuance of an original commercial cannabis permit.

- C. Any attempt to transfer or any transfer of a commercial cannabis permit in violation of this section is hereby declared void and the commercial cannabis permit deemed immediately forfeited and no longer of any force or effect.

9.30.170 Violations.

- A. A violation of any provision of this chapter shall be subject to administrative enforcement under Chapter 8.05 of this code in addition to any other enforcement remedies available under law and this code.
- B. A violation of any provision of this chapter shall constitute a public nuisance which may be abated and/or enjoined pursuant to law and this code.
- C. Each responsible party as to a cannabis retail business shall be jointly and severally liable for all violations of State laws or of regulations and ordinances of the Town, whether committed by the permittee or an employee or agent of the permittee.
- D. Notwithstanding any other provision of this code, no conduct which is protected from criminal liability pursuant to State or Federal law shall be made criminal by this code.

SECTION 2. CODE AMENDMENT: Chapter 17.62 of Title 16 of the Yountville Municipal Code is hereby added to read as follows:

17.62.010 Purpose and application.

17.62.020 Supplemental definitions.

17.62.030 Requirements.

17.62.040 Uses requiring a use permit.

17.62.050 General conditions.

17.62.060 Criteria for a use permit.

17.62.010 Purpose and application.

The purpose of this section is to protect the public health, safety, and welfare, enact strong and effective regulatory and enforcement controls in compliance with [State law](#), protect neighborhood character, and minimize potential for negative impacts on people, communities, and the environment within the Town by establishing land use requirements and development standards for cannabis retail businesses. Cannabis retail businesses, as defined in chapter 9.30, include locations where adult use cannabis and/or adult use cannabis products are offered for sale, onsite consumption, and/or delivery and which are licensed pursuant to the provisions of State law and chapter 9.30. Therefore, this section recognizes that cannabis retail businesses require land use controls due to [State legal constraints](#) on commercial cannabis activity, and the potential environmental and social impacts associated with cannabis retail businesses. Nothing in this section is intended to affect or alter federal law, which identifies marijuana (cannabis) as a Schedule I controlled substance.

17.62.020 Supplemental definitions.

In addition to the definitions provided in Section 17.08.010, the definitions provided in Section 9.30.020 shall apply to this chapter unless the context clearly indicates a contrary intent.

17.62.030 Requirements.

- A. No person or entity shall operate or conduct a cannabis retail business without first obtaining both a commercial cannabis permit from the Town pursuant to Chapter 9.30 and a use permit from the Town pursuant to this chapter. Any use permit authorizing a cannabis retail business pursuant to this chapter shall be conditioned on the holder obtaining and maintaining a commercial cannabis permit pursuant to Chapter 9.30 and an appropriate license issued by the State for its operation.
- B. No person shall have any entitlement or vested right to operate a cannabis retail business solely by virtue of issuance of a use permit under this chapter. Operation of a cannabis retail business requires both the approval of a use permit under this chapter and issuance of a commercial cannabis permit under Chapter 9.30, which is a revocable privilege and not a right in the Town. The applicant bears the burden of proving that all qualifications for both permits have been satisfied and continuously maintained prior to operating or conducting a cannabis retail business in the Town.
- C. A use permit application shall include all information required for a commercial cannabis permit application pursuant to Section 9.30.050.

D. Notwithstanding any other provision of this chapter or this code, or any regulations adopted thereunder, a cannabis retail business shall not operate in the following land use designations: RS, Single-family residential; RM, Mixed residential; MPR, Master planned residential; OTH, Old town historic; and MHP, Mobile home park residential.

17.62.040 Uses requiring a use permit.

Cannabis retail businesses shall be allowed in areas demarcated with CAN, Cannabis overlay zoning subject to a use permit as provided in Chapter 17.156 and this chapter.

17.62.050 General conditions.

The following general conditions shall be required for all use permits issued for a cannabis retail business on land designated as CAN, Cannabis:

- A. Obtaining and maintaining a commercial cannabis permit under chapter 9.30 and an appropriate license issued by the State for its operations.
- B. Operating in substantial compliance with the application materials submitted pursuant to section 9.30.050.
- C. No cannabis retail business may be located on a property that directly abuts a residential zoning district, except that a cannabis retail business may be located on a property directly abutting the rear yard of a private residence.
- D. No cannabis retail business may be within 300 feet of Yountville Community Park, Yountville Community Church, St. Joan of Arc Church, or any school providing instruction in kindergarten or grades 1 through 12, day care center or youth center that is in existence at the time the commercial cannabis permit application is submitted, measured in a straight line from the closest property line of the school, day care center or youth center to the closest point of the premises where the cannabis retail business is proposed.

- E. Payment of applicable current and future [State](#) and local taxes and all applicable commercial cannabis fees and related penalties established by the Town.
- F. Prohibition of the possession, storage, sale, distribution or consumption of alcoholic beverages on the premises, or the holding of license from the State Division of Alcoholic Beverage Control for the sale of alcoholic beverages, or operating a business that sells alcoholic beverages on or adjacent to the cannabis retail business.
- G. No cannabis, cannabis products, or cannabis accessories may be displayed in windows or visible from the public right-of-way or from places accessible to the general public.
- H. Prohibition of minors and persons under the age of twenty-one on the premises, even if accompanied by a parent or guardian.
- I. Prohibition on outdoor storage of cannabis or cannabis products.
- J. Any other development and operational standards as the Town Council deems necessary or appropriate for the cannabis retail business under consideration, provided that such conditions do not conflict with operational requirements applicable pursuant to other provisions of this code. The Town Council may, regardless of what commercial cannabis activity is permitted by a commercial cannabis permit under Chapter 9.30, limit a cannabis retail business to one or more of the following activities: sale, on-site consumption, or delivery of cannabis in any form.

17.62.060 Criteria for a use permit.

In addition to the findings listed in Section 17.156.020, the Town Council, after a public hearing, shall make the following findings before granting a use permit for a proposed use in the overlay designation CAN, Cannabis:

- A. The proposed use provides benefit to residents;
- B. The proposed use will not be environmentally detrimental to existing or potential commercial and residential uses in the surrounding area;
- C. The street network is suitable and adequate to carry projected traffic that is generated by the proposed use;
- D. The design of the structure or structures is compatible with the character of the Town; and
- E. The existing or proposed utility, police and fire services are adequate to serve the proposed use.

SECTION 3. CODE AMENDMENT: Article 8 of Chapter 5.04 of Title 5 of the Yountville Municipal Code is hereby added to read as follows:

Article 8. Cannabis Business License Tax

5.04.310 Purpose.

- A. This ordinance is intended to achieve the following purposes, among others, and shall be interpreted to accomplish such purposes:

1. Impose a tax on the privilege of conducting commercial cannabis activity in the Town to the extent authorized by and in accordance with law.
 2. Impose a general tax that generates revenue that may be used by the Town for any lawful purpose including, but not limited to, general Town services, public safety, road and transportation purposes, and parks and recreation.
 3. Specify the type of tax and rate of tax applicable to commercial cannabis activity in the Town.
- B. This Article is enacted solely to raise revenue and not for regulation. It is not a sales and use tax, a tax on income, a transient occupancy tax, utility user tax, or a tax on real property, and does not change any obligations under those taxes. It shall apply to all persons engaged in commercial cannabis activity in the Town. The tax imposed by this article is a general tax under Articles XIII A and XIII C of the California Constitution.
- C. No payment of any tax required under this section shall be construed as authorizing the conduct or continuance of any illegal business or of a legal business in an illegal manner. Nothing in this section implies or authorizes that any activity connected with the cultivation, possession or provision of cannabis is legal unless otherwise authorized and allowed by the State and permitted by the Town. This Article is in addition to any other requirements set forth in this code and is not intended to exempt, substitute, or replace any other requirements necessary for a cannabis retail business to legally operate in the Town.

5.04.320 Cannabis business license tax.

- A. There is hereby imposed at a rate to be established from time to time by resolution of the Town Council an annual tax on all commercial cannabis activity permitted under chapter 9.30. The tax for commercial cannabis activity under this section shall be imposed with respect to the gross receipts of any such business engaging in such up to a maximum of three percent (3%) of the business' gross receipts.
- B. The tax imposed by this article is intended to and shall apply only to those portions of the gross receipts which are attributable to the business activity carried on within the Town. In any case where business activities are conducted both inside and outside the Town, the business may upon written application to the Tax Collector request the apportionment of those gross receipts which are attributable to business activity within the Town and those portions of those gross receipts which are wholly, or partially, exempt from taxation as not being attributable to business activity carried on within the Town. In making such application, the Tax Collector may require, and the business shall be responsible for providing, any business records necessary to determine a fair and equitable apportionment. Any apportionment established shall be reviewed annually by the Tax Collector before the renewal of such license.
- C. The Town Council may by resolution, in its discretion, implement a tax rate lower than the maximum rate established in subsection (a) of this section for all persons engaged in a cannabis retail business, or establish differing tax rates for each of different categories of cannabis retail business activity. The Town Council may, by resolution, also decrease or

increase any such tax rate from time to time, provided that the tax rate shall not, at any time, be above the maximum tax rate established in subsection (a) of this section.

D. For purposes of this section, the following terms have the following meanings:

1. "Gross receipts" has the same meaning as the meaning ascribed to it in Revenue and Taxation Code section 6012, as that statute may be amended or renumbered from time to time.
2. "Cannabis retail business" has the same meaning as the meaning ascribed to it in Section 9.30.020 of this code.
- 2.3. "Commercial cannabis activity" has the same meaning as the meaning ascribed to it in Business and Professions Code section 26001, as that statute may be amended or renumbered from time to time.
- 3.4. "Reporting period" means a year, quarter or calendar month, as determined by the Tax Collector.

E. The cannabis business license tax is subject to all provisions of Chapter 5.04, including, but not limited to, the process for collection of business license tax described in Article 6 and enforcement and penalties under Article 7, to the extent not inconsistent with the provisions herein.

SECTION 4. AMENDMENT: This Ordinance may be amended from time to time by the Town Council without a vote of the People. Notwithstanding the foregoing, voter approval is required for any amendment that would increase, within the meaning of Government Code section 53750(h), the tax rate beyond the maximum rates authorized by this Ordinance.

SECTION 5. CEQA: The Town Council has considered all of the evidence in the record, including the staff reports, the testimony received during the meeting on the matter held by the Town Council, and hereby determines that this Ordinance is exempt from review under the California Environmental Quality Act (CEQA). Pursuant to section 15061(b)(3) of the CEQA Guidelines, CEQA applies only to projects which have the potential for causing a significant effect on the environment. This Ordinance will not result in a significant foreseeable environmental impact. Further, a portion of this measure adopts a general tax on cannabis retail businesses. Under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant impact on the environment. Prior to commencement of any project that may result from the expenditure of revenues from this Ordinance, any necessary environmental review required by CEQA shall be completed.

SECTION 6. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town Council declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases or portions might be declared invalid or unconstitutional.

SECTION 7. EFFECTIVE DATE: This ordinance shall not take effect until ten days after the certification of its approval by a majority vote (50% + 1) of the electorate voting at the general election to be held on November 3, 2020 under Elections Code sections 9217 and 9222.

SECTION 8. CERTIFICATION: The Mayor shall sign and the Town Clerk shall attest to the passage of this Ordinance upon certification by the Town Council of the results of the election approving this Ordinance.

I hereby certify that the foregoing ordinance was duly adopted by a majority of the voters of the Town of Yountville casting votes on the question in the election held on November 3, 2020:

John F. Dunbar, Mayor

ATTEST:

Michelle Dahme, CMC
Town Clerk

DRAFT

Town of Yountville

Ordinance Number 20-[XXXX]

AN ORDINANCE OF THE PEOPLE OF THE TOWN OF YOUNTVILLE AMENDING CHAPTER 9.30 OF TITLE 9 AND ADDING CHAPTER 17.62 OF TITLE 17 OF THE YOUNTVILLE MUNICIPAL CODE REGARDING CANNABIS RETAIL BUSINESSES, AND ADDING SECTIONS 5.04.310 AND 5.04.320 OF ARTICLE 8 OF CHAPTER 5.04 OF TITLE 5 OF THE YOUNTVILLE MUNICIPAL CODE ESTABLISHING A GENERAL BUSINESS LICENSE TAX ON CANNABIS RETAIL BUSINESSES

NOW THEREFORE, THE PEOPLE OF THE TOWN OF YOUNTVILLE HEREBY ORDAIN AS FOLLOWS:

SECTION 1. CODE AMENDMENT: With the exception of Sections 9.30.050 and 9.30.060, which are hereby unchanged and renumbered to Sections 9.30.040 and 9.30.160, respectively, Chapter 9.30 of Title 9 of the Yountville Municipal Code is hereby amended to read as follows:

9.30.010 Purpose.

The purpose of this chapter is to regulate all commercial cannabis activity in the Town to the extent authorized by and in accordance with law, including, without limitation, to provide for the licensure and regulation of cannabis retail businesses within the Town.

9.30.020 Definitions.

As used in this chapter, the following meanings shall apply unless the context clearly indicates a contrary intent:

The following words and terms shall have the meanings ascribed to them in Business and Professions Code section 26001 as that statute may be amended or renumbered from time to time: “cannabis,” “cannabis accessories,” “cannabis products,” “commercial cannabis activity,” “delivery,” “license,” “operation,” “person,” “premises,” “sale.”

“Accessory structure” means a legal and permitted building that is completely detached from a private home. An accessory structure shall comply with this code, the California Building Code, and have a complete roof enclosure supported by walls extending from the ground to the roof, and a foundation, slab or equivalent base. An accessory structure shall be secure against unauthorized entry and shall be accessible only through one or more lockable doors. The walls and roofs of an accessory structure must be constructed of solid materials not easily broken through. Exterior walls must be constructed with non-transparent material.

“Cannabis retail business(es)” means any business and its premises from which adult use cannabis and/or adult use cannabis products are offered for sale, onsite consumption, and/or delivery that is licensed pursuant to applicable provisions of State law and this chapter.

“Commercial cannabis permit” means a permit issued pursuant to the provisions of this chapter.

“Consumption” means smoking, vaporizing, or ingesting of adult use cannabis and/or adult use cannabis products including, but not limited to, ingestion by topical product, aerosol, or oils.

“Day care” means a State-authorized facility serving children (operated per the California Child Day Care Facilities Act), in which such care is conducted as a business.

“Director” means the Planning and Building Director or designee.

“Group home” means a facility regulated and licensed by a Federal and/or State agency. Unlicensed facilities shall not constitute group homes.

“Interested part(y/ies)” means any of the following:

- A. Any person with an aggregate ownership interest, other than a security interest, lien, or encumbrance, of at least 10 percent of the cannabis retail business;
- B. Partners, officers, directors, and stockholders of every corporation, limited liability company, joint venture, or general or limited partnership that own at least 10 percent of the cannabis retail business or that is one of the partners in the cannabis retail business;
- C. The manager(s) of the cannabis retail business; and
- D. Employees and agents of the cannabis retail business.

“Manager” means a person with responsibility for the establishment, registration, supervision, or oversight of the operation of a cannabis retail business, including, but not limited to, a person who performs the functions of a board member, director, officer, owner, operating officer, or manager of the cannabis retail business.

“Primary residence” means the place where a person, by custom and practice, makes his or her principal domicile and address and to which the person intends to return following any temporary absence, such as a vacation. Residence is evidenced by actual daily physical presence, use and occupancy of the primary residence, and the use of the residential address for domestic purposes, such as, but not limited to, preparation of and eating of meals, regular mail delivery, and vehicle and voter registration.

“Private home” means a house, an apartment unit, a manufactured home, or other similar dwelling.

“Private residence” means a detached residential dwelling that is lawfully used as a residence.

“Responsible part(y/ies)” means one or more individuals who have an ownership interest in a cannabis retail business and are designated to be personally responsible for compliance with all terms and conditions of the commercial cannabis permit, all other permits required by the Town, and all ordinances and regulations of the Town. Any person having an ownership interest of more than fifty percent in a cannabis retail business shall be designated a responsible party on the application. If no individual owns more than fifty percent of a cannabis retail business, the individual owning the largest share shall be a responsible party, and if multiple individuals have

the same percentage interest, each one shall be a responsible party. More than one individual can be designated a responsible party.

“Town Manager” means the Town Manager or his or her designee.

“Youth center” means a public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.

9.30.030 Compliance with State and local law.

Except as expressly provided by State law and this chapter, all commercial cannabis activity is prohibited in the Town regardless of any licenses issued under State law.

- A. Cannabis retail businesses shall operate in conformance with all requirements and standards set forth in State law and this chapter. No person shall open or operate a cannabis retail business without first possessing a commercial cannabis permit issued by the Town pursuant to this chapter, a use permit for use of the property as a cannabis retail business issued by the Town pursuant to Chapter 17.62, and an appropriate license issued by the State.
- B. Prior to beginning operations in the Town, a cannabis retail business shall submit to the Town Manager a copy of an appropriate license issued by the State for its operation.

9.30.050 Permit applications.

- A. A person may apply for a commercial cannabis permit by submitting an application to the Town during an application period designated by resolution of the Town Council. Each person may submit only one application during a designated application period. The application shall be on a form approved by the Town Manager, and shall include:
 - 1. A non-refundable application fee in an amount determined by resolution of the Town Council.
 - 2. **Application Information.**
 - i. The printed full name, signature, date of birth and present address and telephone number of all interested parties for the cannabis retail business, and designation of responsible parties.
 - ii. A primary physical and mailing address, if different, for notices and other mailed information.
 - iii. The names and addresses of all cannabis retail businesses operated by responsible parties for the five years preceding the date of the application.
 - iv. A list identifying any litigation, or settled claims not litigated, in which interested parties have been involved during the five years immediately preceding the date of the application

- v. A statement whether any business currently operated by an interested party, or operated by an interested party in the five years immediately preceding the date of the application, has been investigated by a government agency or the permit, license, or other authorization for the operation of such business has been revoked or suspended.
- vi. Live Scan for each interested party that was conducted within 14 days immediately preceding the date of the application.
- vii. The name and telephone number of an emergency contact available at all times. The emergency contact must reside within a one-hour drive of the cannabis retail business.
- viii. A certification, under penalty of perjury, that the information in the application is true and correct and that no person listed in the application, as an interested party, a responsible party, or an applicant, or as an owner, director, officer, or board member of the applicant, has been convicted of a felony.

3. Business Site Information.

- i. Floor Plan. A scaled floor plan for each level of each building that makes up the business site, including, but not limited to, the entrances, exits, walls, cannabis storage areas and customer-access areas. The floor plan shall distinguish locations where onsite consumption of cannabis and/or cannabis products will occur if permitted.
- ii. Site Plan. A scaled site plan, including, but not limited to, all buildings, structures, driveways, parking lots, landscape areas, and boundaries.
- iii. Property Owner's Consent. Evidence of the legal right to occupy and to use the proposed location for a cannabis retail business.

4. Odor Control Plan. A list and description of proposed odor control devices and techniques to prevent odors from cannabis and cannabis products from being detectable off-premises.

5. Business Operations Information.

- i. Business Plan. A plan describing how the cannabis retail business will operate in accordance with this code, State law, and other applicable laws and regulations. The business plan must also include the following:
 - 1. Hours of operation; and
 - 2. Record-keeping procedures
- ii. Community Relations Plan. A plan describing outreach and communications with the surrounding community, including the neighborhood and businesses, and a designated contact person responsible for implementing the plan.
- iii. Community Benefits Plan. A plan describing community benefits the cannabis retail business intends to provide to the surrounding community.
- iv. Neighborhood Responsibility Plan. A plan to address potential effects of the cannabis retail business on the surrounding neighborhood area.

- v. **Inventory Control Procedures.** A list and description of procedures for inventory control including prevention of diversion of cannabis and cannabis products, employee screening, securing and storage of cannabis and cannabis products, personnel policies, and record-keeping procedures.
 - vi. **Tax Compliance.** A current copy of the responsible party's Town business license tax certificate, State sales tax seller's permit, and responsible party or parties' most recent year's financial statement and tax returns, as applicable.
 - vii. **Insurance.** Proof of insurance, as required by Section 9.30.090(G).
 - 6. **Security Plan.** An operations and security plan in conformance with Section 9.30.100.
 - 7. **Indemnification.** An agreement, on a form provided by the Town Manager, whereby the responsible party defends, indemnifies and holds harmless the Town and its officers, employees, agents, independent contractors, and volunteers.
 - 8. **Certification.** A statement in writing by the responsible party that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.
- B. In addition to any other reason established by resolution of the Town Council, an application shall be automatically disqualified if:
- 1. The application is incomplete, filed late, or is not responsive to the requirements of this chapter.
 - 2. The application contains a false or misleading statement or an omission of any material fact.
 - 3. The operation of the business site described in the application fails to comply with any of the requirements in this code, State law, or any other applicable law or regulation.
 - 4. An interested party has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made.
 - 5. The proposed location for the cannabis retail business is within 300 feet of Yountville Community Park, Yountville Community Church, St. Joan of Arc Church, or any school providing instruction in kindergarten or grades 1 through 12, day care center or youth center that is in existence at the time the application is submitted, measured in a straight line from the closest property line of the school, day care center or youth center to the closest point of the premises where the cannabis retail business is proposed.
 - 6. An interested party has operated a cannabis retail business within five years immediately preceding the date of the application for which a State or local license, permit, or other authorization has been revoked.
 - 7. The application does not permit onsite consumption of cannabis in compliance with Business and Professions Code section 26200.

8. Operation of the proposed site for the cannabis retail business, as represented in the application, is a threat to the public health, safety, or welfare or would create a public nuisance.
- C. The Town Manager or a third-party consultant hired for this purpose shall rank applications by the following criteria, giving equal weight to each, and shall, thereafter, report to the Town Council the ranking of each application:
 1. Community Benefit. Applicants' commitment to Town demonstrated through local hiring and community support.
 2. Equity and Labor. Applicants' commitment to equity ownership and competitive compensation in comparison to other mainstream commercial businesses.
 3. Messaging. Applicants' commitment to responsible messaging practices.
 4. Control of Business Location. Applicants' control of a site to ensure a successful and timely transition from being awarded a license to opening the business.
 5. Financial Investment. Applicants' plans and capital to support a vibrant business within the Town.
 6. Other Criteria. Any other criteria established by resolution of the Town Council.
 - D. The Town Council may issue one commercial cannabis permit to the highest ranked application. The Town Council may choose to not offer a commercial cannabis permit to the highest ranked application if it makes any of the following findings:
 1. The highest ranked application does not provide substantial benefits to Town residents;
 2. The highest ranked application will be detrimental to other uses in the surrounding area;
 3. The highest ranked application is incompatible with the character of the location the cannabis retail business is proposed in; or
 4. The highest ranked application may directly or indirectly create or exacerbate public nuisance conditions, as defined by Chapter 9.32.
 - E. If two or more applications are equally ranked highest, the Town Council may designate the highest ranked applicant by analyzing each such application based on the criteria set forth in Section 9.30.050(C)
 - F. The responsible party or parties selected shall have the opportunity to apply for a use permit as required by Chapter 17.62.
 - G. A commercial cannabis permit shall expire twelve months after the date of issuance. In accordance with this chapter, a responsible party may apply for a renewal of a commercial cannabis permit prior to its expiration in accordance with this chapter.
 - H. Notwithstanding any other provision of this chapter or this code, or any regulations adopted thereunder, the Town Council shall not permit more than one cannabis retail business to operate in the Town.

9.30.060 Permit renewal.

- A. An application for renewal of a commercial cannabis permit shall be filed by a responsible party at least 60 days before the expiration of the permit. The renewal application shall be filed on a form approved by the Town Manager and shall include a renewal application fee established by resolution of the Town Council.
- B. The Town Manager shall grant or deny renewal applications in writing and, if the renewal application is denied, shall specify the reasons for its denial. The Town Manager shall only approve a renewal permit if he or she makes the following findings, which the applicant has the burden to satisfy by substantial evidence:
 - 1. The cannabis retail business has substantially complied with the business operations information as described in Section 9.30.050(A)(5);
 - 2. The cannabis retail business provides substantial benefits to Town residents;
 - 3. The cannabis retail business has not been detrimental to other uses in the surrounding area; and
 - 4. The cannabis retail business has not directly or indirectly created or exacerbated public nuisance conditions, as defined by Chapter 9.32.
- C. An application for renewal of a commercial cannabis permit shall be denied if any of the following exist:
 - 1. The commercial cannabis permit is revoked before renewal.
 - 2. The cannabis retail business has not timely paid cannabis business license tax pursuant to Section 5.04.310.
 - 3. The responsible party conducted unpermitted commercial cannabis activity in the Town at any time preceding the renewal application.
 - 4. Any of the grounds for denying a permit application, as described in Section 9.30.050(B).
 - 5. The cannabis retail business, or any responsible party or interested party, has violated any provision of this chapter or this code, or any regulations adopted thereunder, or State law, or any conditions on the commercial cannabis permit or use permit authorizing the cannabis retail business.
 - 6. The Town Manager does not make the findings required by Section 9.30.060(B).
- D. An application for renewal of a commercial cannabis permit may be denied if any of the following exists:
 - 1. The commercial cannabis permit is suspended at the time the application is submitted or thereafter.
 - 2. The application is filed late.
 - 3. The cannabis retail business, or any responsible party or interested party, has received a notice of violation, abatement order, and/or administrative citation under Chapter 8.05 for violating any provision of this code related to commercial cannabis activity in the Town during the prior twelve months and the notice of

violation, abatement order, and/or administrative citation has not been resolved in favor of the party to whom it was issued at the time the application is submitted.

4. The cannabis retail business has not been in regular and continuous operation in the three months immediately preceding the date the application is submitted.
- E. If a timely and complete application for renewal of a commercial cannabis permit is filed, the permit's expiration shall be stayed until a decision on the renewal application is issued.

9.30.070 Permit suspension or revocation.

- A. A commercial cannabis permit may be suspended or revoked if one or more of the circumstances upon which a commercial cannabis permit application or renewal application may be or must be denied, as described in Sections 9.30.050(B) and 9.30.060(C), (D), exists.
- B. The Town Manager has discretion to choose the appropriate administrative action based on the severity and regularity of the violations. The Town Manager shall provide notice of the revocation or suspension in writing. The notice shall describe the reason for suspension or revocation and the process to appeal the determination.
- C. Pursuant to Business and Professions Code Section 26200(c), the Town Manager shall promptly notify the Bureau of Cannabis Control within the Department of Consumer Affairs upon the Town's revocation of any local license, permit, or authorization for a State licensee to engage in commercial cannabis activity within the Town.

9.30.080 Appeal.

- A. The following decisions are not appealable:
 1. Ranking of applications pursuant to Section 9.30.050(C); and
 2. Disqualification of an application pursuant to Section 9.30.050(D).
- B. The following decisions may be appealed to the Town Council no later than 15 days after issuance:
 1. Denial of a renewal application pursuant to Section 9.30.060(C), (D); and
 2. Suspension or revocation of a commercial cannabis permit pursuant to Section 9.30.070.
- C. Appeals shall follow the procedures set forth in Section 1.30.010. If the appeal includes a notice of violation, abatement order, and/or an administrative citation issued under Chapter 8.05, the Town Council may choose to consolidate appeals in a single hearing pursuant to this section.

9.30.090 Operating requirements.

The following operating requirements shall apply to any cannabis retail business operating in the Town:

- A. No cannabis or cannabis products shall be visible from the exterior of the building. No outdoor storage of cannabis or cannabis products is permitted.
- B. The cannabis retail business shall utilize a point-of-sale tracking system to track and report on all aspects of business, including, but not limited to, cannabis tracking, inventory data,

and gross sales (by weight and by sale) and shall ensure that such information is compatible with the Town's record-keeping systems. The system must be able to produce historical transactional data for review by the Town.

- C. The cannabis retail business shall not allow persons under the age of 21 years on the premises or sell cannabis or cannabis products to such persons.
- D. The cannabis retail business shall not employ persons under 21 years of age.
- E. The cannabis retail business shall use odor control systems to ensure that cannabis odors are not detectable off-premises. Odor control systems shall include, but are not limited to, ventilation and exhaust systems.
- F. The cannabis retail business shall post the original copy of their commercial cannabis permit in a location readily-visible to the public.
- G. The cannabis retail business shall maintain a comprehensive general liability combined single occurrence insurance policy issued by an "A" rated insurance carrier in an amount not less than five million dollars (\$5,000,000) with primary coverage, naming the Town and its officers, employees, agents, and volunteers as additional insured.
- H. The cannabis retail business shall ensure all delivery, loading and unloading areas are within a secured area.
- I. The cannabis retail business shall pay all employees in lawful money of the United States as hourly or salaried employees of the business and all federal, state, and local laws pertaining to employees shall be followed including, but not limited to, workers' compensation laws.
- J. The cannabis retail business shall update the Town at least once per month if there are any changes to the information submitted as part of the application pursuant to Section 9.30.050.
- K. The cannabis retail business shall substantially comply with the business plan, community relations plan, community benefits plan and neighborhood responsibilities plan submitted to the Town with the application pursuant to Section 9.30.050. The cannabis retail business may submit a request, in writing, to the Town Manager to amend such plans.
- L. The cannabis retail business shall comply with all conditions placed on the use permit issued for the property.
- M. The Town Manager may adopt regulations imposing additional requirements on cannabis retail businesses, including the maximum amount of cannabis and cannabis products allowed on the site, the number and type of equipment allowed, and security measures.

9.30.100 Security measures.

- A. A cannabis retail business shall implement security measures to:
 - 1. Deter and prevent unauthorized entrance into areas containing cannabis or cannabis products and theft of cannabis or cannabis products.
 - 2. Protect customers and the public from potential harms associated with the cannabis retail business.

- B. The Town Manager may adopt regulations specifying security measures to implement the requirements of Section 9.30.100(A).
- C. A cannabis retail business shall notify the Town Manager within 24 hours of discovering any of the following:
 - 1. Significant discrepancies in quantity, type, composition, or other characteristics of cannabis or cannabis products identified during inventory.
 - 2. Diversion, theft, loss, or any other criminal activity involving the cannabis retail business or any agent or employee of the cannabis retail business.
 - 3. The loss or unauthorized alteration of records related to cannabis or cannabis products, or employees or agents, of the cannabis retail business.
 - 4. Any breach of security.
- D. The Town Manager and any other Town employee charged with enforcing provisions of this code, may enter the location of a cannabis retail business at any time during regular hours of operation without notice and inspect the location as well as recordings and records maintained pursuant to this chapter or State law. No person shall refuse to allow, impede, obstruct, or interfere with an inspection or the review of records, including, but not limited to, the concealment, destruction, or falsification of any recordings or records.

9.30.110 Onsite consumption.

- A. Consumption of cannabis on the premises of the cannabis retail business is permitted only if authorized by a use permit issued pursuant to Chapter 17.62 and:
 - 1. Access to the area where cannabis consumption is proposed is restricted to persons 21 years or older and can only be accessed by persons who have made an appointment with the cannabis retail business at least 24 hours in advance;
 - 2. Cannabis consumption is not visible from any public place or nonage-restricted area; and
 - 3. Sale or consumption of alcohol or tobacco is prohibited on the premises.
- B. Cannabis retail businesses shall create an appointment system for customers to schedule a time period for onsite consumption. Customers must make an appointment with the cannabis retail business prior to onsite consumption of cannabis or cannabis products. Such appointments shall be no longer than 60 minutes and customers may attend no more than one appointment per day.

9.30.120 Records and reporting.

- A. Cannabis retail businesses shall maintain the following records in physical format for at least three years on the business site, and shall produce them to the Town within 24 hours of receipt of a request from the Town:
 - 1. The name, address, and telephone numbers of the owner and landlord of the property.

2. The name, date of birth, address, and telephone number of each manager and staff of the cannabis retail business; the date each was hired; and the nature of each manager's and staff's participation in the cannabis retail business.
 3. A written accounting of all income and expenditures of the cannabis retail business, including, but not limited to, cash and in-kind transactions.
 4. A copy of the cannabis retail business's commercial general liability insurance policy and all other insurance policies related to the business.
 5. A copy of the cannabis retail business's most recent year's financial statement and tax return.
 6. An inventory record documenting the dates and amounts of cannabis and cannabis products received at the business site, the daily amounts of cannabis and cannabis products stored on the site, and the daily amounts of cannabis and cannabis products sold from the site.
- B. The cannabis retail business shall report any loss, damage, or destruction of these records to the Town Manager within twenty-four hours of the loss, damage, or destruction.

9.30.130 Regulations and fees.

The Town Council or designee may establish all regulations necessary or convenient to implement the requirements and fulfill the policies of this chapter and to expand upon the same.

- A. Regulations shall be published on the Town's website.
- B. Regulations established by the Town Council or designee shall have the same force and effect of law and become effective upon the date of approval.

The Town Council may, by resolution, adopt such fees to implement this chapter with respect to the application and qualification for, and the selection, future selection, investigation, process, issuance, renewal, and revocation and suspension of, commercial cannabis permits.

9.30.140 Limitations on Town liability.

The Town shall not be liable for issuing, or failing to issue, suspending, revoking or failing to renew, a commercial cannabis permit pursuant to this chapter or otherwise approving or disapproving the operation of any cannabis retail business pursuant to this chapter.

9.30.150 Assignment prohibited.

- A. No person shall operate a cannabis retail business under a commercial cannabis permit issued pursuant to this chapter at any place or location other than that identified on the permit.
- B. No person shall transfer ownership or control of a commercial cannabis permit issued pursuant to this chapter, and/or a cannabis retail business licensed under this chapter, unless and until that person first obtains the consent of the Town Manager and the proposed transferee submits all required application materials, pays all applicable fees and charges, and independently meets the requirements of this chapter such that the transferee would be entitled to the issuance of an original commercial cannabis permit.

- C. Any attempt to transfer or any transfer of a commercial cannabis permit in violation of this section is hereby declared void and the commercial cannabis permit deemed immediately forfeited and no longer of any force or effect.

9.30.170 Violations.

- A. A violation of any provision of this chapter shall be subject to administrative enforcement under Chapter 8.05 of this code in addition to any other enforcement remedies available under law and this code.
- B. A violation of any provision of this chapter shall constitute a public nuisance which may be abated and/or enjoined pursuant to law and this code.
- C. Each responsible party as to a cannabis retail business shall be jointly and severally liable for all violations of State laws or of regulations and ordinances of the Town, whether committed by the permittee or an employee or agent of the permittee.
- D. Notwithstanding any other provision of this code, no conduct which is protected from criminal liability pursuant to State or Federal law shall be made criminal by this code.

SECTION 2. CODE AMENDMENT: Chapter 17.62 of Title 16 of the Yountville Municipal Code is hereby added to read as follows:

17.62.010 Purpose and application.

17.62.020 Supplemental definitions.

17.62.030 Requirements.

17.62.040 Uses requiring a use permit.

17.62.050 General conditions.

17.62.060 Criteria for a use permit.

17.62.010 Purpose and application.

The purpose of this section is to protect the public health, safety, and welfare, enact strong and effective regulatory and enforcement controls in compliance with State law, protect neighborhood character, and minimize potential for negative impacts on people, communities, and the environment within the Town by establishing land use requirements and development standards for cannabis retail businesses. Cannabis retail businesses, as defined in chapter 9.30, include locations where adult use cannabis and/or adult use cannabis products are offered for sale, onsite consumption, and/or delivery and which are licensed pursuant to the provisions of State law and chapter 9.30. Therefore, this section recognizes that cannabis retail businesses require land use controls due to State legal constraints on commercial cannabis activity, and the potential environmental and social impacts associated with cannabis retail businesses. Nothing in this section is intended to affect or alter federal law, which identifies marijuana (cannabis) as a Schedule I controlled substance.

17.62.020 Supplemental definitions.

In addition to the definitions provided in Section 17.08.010, the definitions provided in Section 9.30.020 shall apply to this chapter unless the context clearly indicates a contrary intent.

17.62.030 Requirements.

- A. No person or entity shall operate or conduct a cannabis retail business without first obtaining both a commercial cannabis permit from the Town pursuant to Chapter 9.30 and a use permit from the Town pursuant to this chapter. Any use permit authorizing a cannabis retail business pursuant to this chapter shall be conditioned on the holder obtaining and maintaining a commercial cannabis permit pursuant to Chapter 9.30 and an appropriate license issued by the State for its operation.
- B. No person shall have any entitlement or vested right to operate a cannabis retail business solely by virtue of issuance of a use permit under this chapter. Operation of a cannabis retail business requires both the approval of a use permit under this chapter and issuance of a commercial cannabis permit under Chapter 9.30, which is a revocable privilege and not a right in the Town. The applicant bears the burden of proving that all qualifications for both permits have been satisfied and continuously maintained prior to operating or conducting a cannabis retail business in the Town.
- C. A use permit application shall include all information required for a commercial cannabis permit application pursuant to Section 9.30.050.
- D. Notwithstanding any other provision of this chapter or this code, or any regulations adopted thereunder, a cannabis retail business shall not operate in the following land use designations: RS, Single-family residential; RM, Mixed residential; MPR, Master planned residential; OTH, Old town historic; and MHP, Mobile home park residential.

17.62.040 Uses requiring a use permit.

Cannabis retail businesses shall be allowed in areas demarcated with CAN, Cannabis overlay zoning subject to a use permit as provided in Chapter 17.156 and this chapter.

17.62.050 General conditions.

The following general conditions shall be required for all use permits issued for a cannabis retail business on land designated as CAN, Cannabis:

- A. Obtaining and maintaining a commercial cannabis permit under chapter 9.30 and an appropriate license issued by the State for its operations.
- B. Operating in substantial compliance with the application materials submitted pursuant to section 9.30.050.
- C. No cannabis retail business may be located on a property that directly abuts a residential zoning district, except that a cannabis retail business may be located on a property directly abutting the rear yard of a private residence.
- D. No cannabis retail business may be within 300 feet of Yountville Community Park, Yountville Community Church, St. Joan of Arc Church, or any school providing instruction in kindergarten or grades 1 through 12, day care center or youth center that is in existence at the time the commercial cannabis permit application is submitted, measured in a straight line from the closest property line of the school, day care center or youth center to the closest point of the premises where the cannabis retail business is proposed.

- E. Payment of applicable current and future State and local taxes and all applicable commercial cannabis fees and related penalties established by the Town.
- F. Prohibition of the possession, storage, sale, distribution or consumption of alcoholic beverages on the premises, or the holding of license from the State Division of Alcoholic Beverage Control for the sale of alcoholic beverages, or operating a business that sells alcoholic beverages on or adjacent to the cannabis retail business.
- G. No cannabis, cannabis products, or cannabis accessories may be displayed in windows or visible from the public right-of-way or from places accessible to the general public.
- H. Prohibition of minors and persons under the age of twenty-one on the premises, even if accompanied by a parent or guardian.
- I. Prohibition on outdoor storage of cannabis or cannabis products.
- J. Any other development and operational standards as the Town Council deems necessary or appropriate for the cannabis retail business under consideration, provided that such conditions do not conflict with operational requirements applicable pursuant to other provisions of this code. The Town Council may, regardless of what commercial cannabis activity is permitted by a commercial cannabis permit under Chapter 9.30, limit a cannabis retail business to one or more of the following activities: sale, on-site consumption, or delivery of cannabis in any form.

17.62.060 Criteria for a use permit.

In addition to the findings listed in Section 17.156.020, the Town Council, after a public hearing, shall make the following findings before granting a use permit for a proposed use in the overlay designation CAN, Cannabis:

- A. The proposed use provides benefit to residents;
- B. The proposed use will not be environmentally detrimental to existing or potential commercial and residential uses in the surrounding area;
- C. The street network is suitable and adequate to carry projected traffic that is generated by the proposed use;
- D. The design of the structure or structures is compatible with the character of the Town; and
- E. The existing or proposed utility, police and fire services are adequate to serve the proposed use.

SECTION 3. CODE AMENDMENT: Article 8 of Chapter 5.04 of Title 5 of the Yountville Municipal Code is hereby added to read as follows:

Article 8. Cannabis Business License Tax

5.04.310 Purpose.

- A. This ordinance is intended to achieve the following purposes, among others, and shall be interpreted to accomplish such purposes:

1. Impose a tax on the privilege of conducting commercial cannabis activity in the Town to the extent authorized by and in accordance with law.
 2. Impose a general tax that generates revenue that may be used by the Town for any lawful purpose including, but not limited to, general Town services, public safety, road and transportation purposes, and parks and recreation.
 3. Specify the type of tax and rate of tax applicable to commercial cannabis activity in the Town.
- B. This Article is enacted solely to raise revenue and not for regulation. It is not a sales and use tax, a tax on income, a transient occupancy tax, utility user tax, or a tax on real property, and does not change any obligations under those taxes. It shall apply to all persons engaged in commercial cannabis activity in the Town. The tax imposed by this article is a general tax under Articles XIII A and XIII C of the California Constitution.
- C. No payment of any tax required under this section shall be construed as authorizing the conduct or continuance of any illegal business or of a legal business in an illegal manner. Nothing in this section implies or authorizes that any activity connected with the cultivation, possession or provision of cannabis is legal unless otherwise authorized and allowed by the State and permitted by the Town. This Article is in addition to any other requirements set forth in this code and is not intended to exempt, substitute, or replace any other requirements necessary for a cannabis retail business to legally operate in the Town.

5.04.320 Cannabis business license tax.

- A. There is hereby imposed at a rate to be established from time to time by resolution of the Town Council an annual tax on all commercial cannabis activity permitted under chapter 9.30. The tax for commercial cannabis activity under this section shall be imposed with respect to the gross receipts of any such business engaging in such up to a maximum of three percent (3%) of the business' gross receipts.
- B. The tax imposed by this article is intended to and shall apply only to those portions of the gross receipts which are attributable to the business activity carried on within the Town. In any case where business activities are conducted both inside and outside the Town, the business may upon written application to the Tax Collector request the apportionment of those gross receipts which are attributable to business activity within the Town and those portions of those gross receipts which are wholly, or partially, exempt from taxation as not being attributable to business activity carried on within the Town. In making such application, the Tax Collector may require, and the business shall be responsible for providing, any business records necessary to determine a fair and equitable apportionment. Any apportionment established shall be reviewed annually by the Tax Collector before the renewal of such license.
- C. The Town Council may by resolution, in its discretion, implement a tax rate lower than the maximum rate established in subsection (a) of this section for all persons engaged in a cannabis retail business, or establish differing tax rates for each of different categories of cannabis retail business activity. The Town Council may, by resolution, also decrease or increase any such tax rate from time to time, provided that the tax rate shall not, at any time, be above the maximum tax rate established in subsection (a) of this section.

D. For purposes of this section, the following terms have the following meanings:

1. "Gross receipts" has the same meaning as the meaning ascribed to it in Revenue and Taxation Code section 6012, as that statute may be amended or renumbered from time to time.
2. "Cannabis retail business" has the same meaning as the meaning ascribed to it in Section 9.30.020 of this code.
3. "Commercial cannabis activity" has the same meaning as the meaning ascribed to it in Business and Professions Code section 26001, as that statute may be amended or renumbered from time to time.
4. "Reporting period" means a year, quarter or calendar month, as determined by the Tax Collector.

E. The cannabis business license tax is subject to all provisions of Chapter 5.04, including, but not limited to, the process for collection of business license tax described in Article 6 and enforcement and penalties under Article 7, to the extent not inconsistent with the provisions herein.

SECTION 4. AMENDMENT: This Ordinance may be amended from time to time by the Town Council without a vote of the People. Notwithstanding the foregoing, voter approval is required for any amendment that would increase, within the meaning of Government Code section 53750(h), the tax rate beyond the maximum rates authorized by this Ordinance.

SECTION 5. CEQA: The Town Council has considered all of the evidence in the record, including the staff reports, the testimony received during the meeting on the matter held by the Town Council, and hereby determines that this Ordinance is exempt from review under the California Environmental Quality Act (CEQA). Pursuant to section 15061(b)(3) of the CEQA Guidelines, CEQA applies only to projects which have the potential for causing a significant effect on the environment. This Ordinance will not result in a significant foreseeable environmental impact. Further, a portion of this measure adopts a general tax on cannabis retail businesses. Under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant impact on the environment. Prior to commencement of any project that may result from the expenditure of revenues from this Ordinance, any necessary environmental review required by CEQA shall be completed.

SECTION 6. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town Council declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases or portions might be declared invalid or unconstitutional.

SECTION 7. EFFECTIVE DATE: This ordinance shall not take effect until ten days after the certification of its approval by a majority vote (50% + 1) of the electorate voting at the general election to be held on November 3, 2020 under Elections Code sections 9217 and 9222.

SECTION 8. CERTIFICATION: The Mayor shall sign and the Town Clerk shall attest to the passage of this Ordinance upon certification by the Town Council of the results of the election approving this Ordinance.

I hereby certify that the foregoing ordinance was duly adopted by a majority of the voters of the Town of Yountville casting votes on the question in the election held on November 3, 2020:

John F. Dunbar, Mayor

ATTEST:

Michelle Dahme, CMC
Town Clerk