

**HUMBOLDT COUNTY GROWERS ASSOCIATION (HGA)
REVIEW OF HUMBOLDT COUNTY 314-55.1
MEDICAL MARIJUANA LAND USES**

**Humboldt Growers Association (HGA) Review of Humboldt County 314-55.1
Medical Marijuana Land Uses
March 23, 2011**

Humboldt County Draft Ordinance 314-55.1 is intended to set guidelines for the operation of a cooperative, collective, or delivery service, and the cultivation of indoor medical marijuana for personal use throughout the unincorporated areas of Humboldt County. The Planning Commission is receiving public comment on this draft with the intention of rewriting and finalizing the ordinance in time for the May 12, 2011 special Planning Commission meeting.

The purpose of this paper is to provide insight, comparisons, and recommendations on the draft ordinance. Because the draft is organized into two main sections (the cultivation of medical cannabis for personal use, and the guidelines for the operation of a cooperative, collective or delivery service), the Humboldt Growers Association (HGA) has organized this review in the same way. Please note that in the second section of this paper the word “dispensary” refers to a cooperative, collective, or delivery service.

The HGA has attached city and county ordinances to this paper for comparison to the draft. Below is a key to how these documents are referenced throughout the body of this paper:

Arcata: Arcata Municipal Code 9.42.105, Medical Marijuana: Cultivation and Dispensing

Eureka: Eureka Municipal Code, Chapter 158: Medical Cannabis: Cultivation, Processing and Distribution

Humboldt County: Humboldt County 314-55.1 Medical Marijuana Land Uses

PC Staff Report: Community Development Services Staff Report to the Humboldt County Planning Commission December 23, 2010

San Francisco: City and County of San Francisco Health Code, Article 33: Medical Cannabis Act

SF – Edibles: City and County of San Francisco Department of Public Health – Medical Cannabis Dispensary (MCD) Regulations for Preparation of Edible Cannabis Products

HGA's Proposed Changes to the Draft Ordinance

1. Definitions

HGA Recommendations

It is important that all words defined in this section be described in such a way as to maintain a consistent definition in all areas of medical cannabis regulation

Batch: the draft ordinance should define this to add clarity to the lab testing portions of the proposal

Indoor(s): Add specific wording to this definition that recognizes greenhouses as outdoor cultivation sites

Outdoor(s): This should be changed to clarify that greenhouses, which do not exceed the outdoor ordinance lighting maximum wattage/square foot, are considered to be outdoor cultivation sites.

Qualified Patient: Can patients with verifiable medical cannabis recommendations from states other than California qualify as members and receive medical cannabis from permitted dispensaries?

Residential Cultivation: Strike the word greenhouse from this. Greenhouse production will be covered under the outdoor medical cannabis ordinance.

Residential Zone: What about parcels zoned TPZ, FR, AE, and AG? All of these parcels may have permitted residences on them as well.

2. Landlord – Tenant Rights

HGA Recommendations

- Because this ordinance applies only to indoor cultivation, it should read that landlords shall be able to prohibit all *indoor* cultivation on their properties
 - Insert the word “indoor” prior to cultivation
- Because the wording “... or other related activities by tenants” is extremely vague and potentially allows landlords the right to evict/log complaints about a tenant for anything, HGA recommends removing this phrase from the Ordinance.

Draft Proposal Summary

- Allows landlord to “limit or prohibit marijuana cultivation, smoking or other related activities by tenants.” (Humboldt County p. 5, § 55.1.4.5)

3. Residential Cultivation for Personal Use (50 square feet)

HGA Recommendations

- It should be clear in the ordinance that it is the responsibility of the tenant to inform the land-owner of ANY indoor cultivation, no matter the size, and that the land-owner has the right to deny permission for *any* indoor cannabis cultivation on their property.

Draft Proposal Summary

- Cultivation must occur indoors (p. 8, § 55.1.9)
- Primary caregiver shall only cultivate medical marijuana at the residence of a qualified patient (p. 8, § 55.1.9)
- Cultivation and processing for personal use shall be in conformance with the following:
 - Grow lights for 50 square feet of personal cultivation shall not exceed 1200 watts total (p. 8, § 55.1.9.3)
 - Prohibits the use of gas products (CO₂, butane, etc.) for medical marijuana cultivation or processing (p. 8, § 55.1.9.5)
 - No odor of growing marijuana shall be allowed to escape from the cultivation site, which shall be mechanically ventilated with a carbon filter or something better (p. 9, § 55.1.9.6)
 - No sale trade or dispensing of medicine is allowed at the residence/cultivation site (p. 9, § 55.1.9.10)
 - Qualified patient shall reside in the residence where the cultivation occurs (p. 9, § 55.1.9.11)
 - Patient shall not cultivate for personal use in any other location within Humboldt County (p. 9, § 55.1.9.12)
 - Cultivation site is prohibited from discharging waste products, chemical fertilizers or pesticides into drains, septic systems, community sewer systems, water systems or other drainage systems including those that lead to rivers, streams and bays (p. 9, § 55.1.9.15)
 - Cultivation shall not adversely affect the health or safety of nearby residents or businesses by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, and must not be hazardous due to use or storage of materials, processes, products or wastes associated with the cultivation of medical marijuana (pp. 9 & 10, § 55.1.9.17)

Comparisons:

Arcata

- Qualified patient shall be allowed to cultivate for personal use in his/her private residence (p. 4-20, § D)
- Primary caregiver shall only cultivate at the residence of a qualified patient for whom he/she is the primary caregiver (p. 4-20, § D)
- Cultivation area shall not exceed 50 square feet and 10 feet in height (p. 4-20, § D.1)
- Cultivation lighting shall not exceed 1200 watts (p. 4-20, § D.1.a)
- Prohibits use of gas products (CO₂, butane, etc.) for cultivation or processing (p. 4-20, § D.1.b)
- Prohibits the sale or dispensing of medical marijuana (p. 4-20, § D, 1, c)
- Shall be no exterior evidence of cultivation either within or outside residence (p. 4-21, § D.1.d)
- Cultivation area shall utilize either natural or mechanical ventilation (p. 4-21, § D.1.h)
- Cultivation shall not adversely affect health or safety of nearby residents by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes (p. 4-21, § D.1.i)

Eureka

- Allows for 50 square feet of personal cultivation space (§ 158.010.A)
- The residence shall remain at all times a residence (§ 158.010.A.1)
- The qualified patient shall reside in the residence (§ 158.010.A.2)
- Cultivation must occur within the residence occupied by the qualified patient or in a self-contained accessory building that is secured, locked and fully enclosed and for the exclusive use of the qualified patient (§ 158.010.A.3)
- Allows for Building or Fire Code to mandate the wall(s) adjacent to the cultivation to be constructed with 5/8" Type X moisture resistant drywall (§ 158.010.A.5)
- Requires the use of natural ventilation or mechanical ventilation (§ 158.010.A.6)
- Cultivation shall not adversely affect the health or safety of nearby residents or businesses by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, and must not be hazardous due to use or storage of materials, processes, products or wastes associated with the cultivation of medical marijuana (§ 158.010.A.7)
- Cultivation lighting shall not exceed 1200 watts (§ 158.010.A.8)
- All electrical equipment used in the cultivation shall be plugged directly into a wall outlet or otherwise hardwired; extension cords are prohibited (§ 158.010.A.9)
- Electrical wiring/rewiring requires an electrical permit from the Building Department (§ 158.010.A.10)
- Prohibits the use of gas products (CO2, butane, etc.) for cultivation unless an exception request is obtained per section 158.010 (B) (§ 158.010.A.11)
- Shall be no exterior evidence of cultivation occurring at the property (§ 158.010.A.12)

San Francisco

- No personal cultivation guidelines

4. Residential Cultivation for Personal Use Exemption (100 sq. ft. maximum)

HGA Recommendations

- Allow for the use of 1000 watt bulbs not to exceed 4000 watts total for lighting
- Do not allow for an exemption for the use of gas products (CO2, butane, etc.) for the cultivation and/or processing of cannabis
 - The use of gas products is not necessary for the cultivation or processing of medical cannabis
 - The use of gas products increases the risk and danger of fire
 - Allow patients to sell their excess medicine to dispensaries
- Planning Commission could get bogged down issuing these exemptions if people comply
- Health and Human Services should issue these exemptions
- The County should allow Health and Human Services to provide for an annual renewal process of the Special Permit upon receiving documentation of a renewed recommendation for the medical use of cannabis and an inspection that verifies that no changes have been made to the cultivation site

Draft Proposal Summary

- Any qualified patient or their caregiver may apply for a special permit to expand the cultivation area to 100 square feet (p. 10, § 55.1.10.1)
- Planning Director or his/her designee shall handle the applications for special permits (p. 10, § 55.1.10.2)
- Information required to apply for 100 square feet of cultivation (p. 10, § 55.1.10.3.a-k):
 - Affidavit that the qualified patient or caregiver is in compliance with this code
 - Copy of the applicants current medical marijuana recommendation and/or state-issued medical marijuana ID card
 - Documentation of why the cultivation area needs to be expanded
 - Written approval from the property owner
 - Evidence that the cultivation area is indoors and secured
 - Evidence that the cultivation area is constructed with a one hour fire wall assembly of green board
 - Evidence that the electrical system is of sufficient capacity to handle the additional electrical load and was installed properly
 - Evidence that the increased area will not adversely affect the health/safety of residents of the subject home, nearby residences, or businesses and shall not constitute a nuisance
 - Hazardous materials storage, handling, and disposal plan
 - Application fee to be set by the Board of Supervisors
- Special permit shall only be approved for legal parcels (p. 11, § 55.1.10.5)
- Special permit is not transferable to another individual or to another residence or accessory structure and is valid for one year (p. 11, § 55.1.10.6)

Comparisons

Arcata

- Requires a Zoning Administrator Interpretation of the need for additional cultivation area and must include the following information during the exemption process (p. 4-21, § 2)
 - Physician's recommendation or verification of more than one qualified patient living in the residence
 - Written statement explaining why the standard space (50 square feet) is not feasible
 - Written permission from the land owner
- Cultivation area shall be constructed with a 1-hour firewall assembly of green board (p. 4-21, § 2.c)
- Cultivation area is limited to detached single-family residential properties, a garage or a self-contained outside accessory building that is secured, locked, and fully enclosed (p. 4-21, § 2.d)

Eureka

- Qualified patients and care givers may apply for an exemption to cultivate up to 100 square feet for personal use (§ 158.010.B)
 - May also apply for the use of 1000 watt bulbs
 - May also apply for the use of gas (CO₂, butane, etc.) for the purpose of cultivation and processing
- Must receive written permission from the property owner (§ 158.010.B.1.a)
- Must show documentation that more than one qualified patient is living in the residence (§ 158.010.B.1.b)

- Cultivation area shall not exceed 100 square feet and 10 feet in height (§ 158.010.B.1.d)
- Must have a materials storage, handling and disposal plan (§ 158.010.B.1.e)
- The Director of Community Development will consult with the Chief Building Official and Fire Marshal during the review of the submitted application to determine the allowance of the Exception Request (§ 158.010.B.3)
- Exception Request remains valid for one year and must be renewed prior to expiration (§ 158.010.B.4)
- Prohibits the distribution and sales of cannabis cultivated for personal use (§ 158.010.C)

San Francisco

- No guidelines for personal cultivation

5. Unincorporated Mapping (Planning Comm. Staff Report – Attachment 4 shows mapping)

HGA Recommendations

- All setbacks, with the exception of a K-12 school, remain subject to the discretion of the Reviewing Authority
- Recommend reducing the 500' residential setback to 300'
- The Reviewing Authority air on the side of leniency for setbacks for the reason that the mapping shown in PC Staff Report Attachment 4 eliminates the majority, if not all, of downtown Garberville, Redway, and McKinleyville
- Adopt Mixed Use Projects wording for the unincorporated areas

Draft Ordinance Summary (PC Staff Report Attachment 2)

- 500' from any residential zoning district (discretion of the Reviewing Authority)
- 500' from the nearest collective or distribution facility (discretion of the Reviewing Authority)
- 500' from any public park, playground, licensed day care, or school (discretion of the Reviewing Authority)
- 600' from the property line of a K-12 school (Health and Safety Code 11362.768, hard limit)
- Approximately 1,071 parcels contain the correct zoning for use by a dispensary (PC Staff Report p. 6 Mapping)
- Only 155 parcels could conform to these recommended separation distances (PC Staff Report p. 6 Mapping)

Comparisons

Arcata (PC Staff Report Attachment 2)

- 300' from any residential zoning district (discretion of the Reviewing Authority)
- 500' from the nearest collective or distribution facility (discretion of the Reviewing Authority)
- 500' from any public park, playground, licensed day care, or school (discretion of the Reviewing Authority)
- 600' from the property line of a K-12 school (Health and Safety Code 11362.768, hard limit)
- Mixed Use Projects combine residential and nonresidential uses on the same site (p. 4-27, § 9.42.110)
 - Vertical mixed use with the residential units located above the nonresidential

- Horizontal mixed use with the residential units allowed at ground level behind street-fronting nonresidential

Eureka (PC Staff Report Attachment 2)

- 300' from any residential zoning district (discretion of the Reviewing Authority)
- 1000' from the nearest collective or distribution facility (discretion of the Reviewing Authority)
- 1000' from any public park, playground, licensed day care, or school (hard limit)

6. Number of Dispensaries

HGA Recommendations

- The County has no research to support its 12 dispensary “placeholder” number (Humboldt County - p. 11, § 2)
- Based on the population numbers described below 18-20 dispensaries should be allowed in the unincorporated area of Humboldt County
- 9-10 of these dispensaries should be allowed to have indoor cultivation operations
- Cultivation shall be proportionate to 25% of the member base

Draft Ordinance Summary

- 12 dispensaries proposed – number inserted as a “place holder”

County Demographics

- Humboldt County population total as of 2010 about 131,600 (Humboldt County website <http://co.humboldt.ca.us/portal/about.asp>)
- Roughly 51% of Humboldt County’s residents (approx. 66,120 people) live in the Unincorporated Areas (Humboldt County web site <http://co.humboldt.ca.us/portal/about.asp>)

Garberville area had 12,402 residents in 2007

- 9% of the county’s total population
- 19% of the county’s total unincorporated population
- No dispensaries available in this area (City-Data.com website <http://www.city-data.com/city/Garberville-California.html>)

McKinleyville had 13,831 resident in 2007

- 11% of the county’s total population
- 21% of the county’s total unincorporated population
- No dispensaries available in this area (City-Data.com website <http://www.city-data.com/city/McKinleyville-California.html>)

Fortuna, Blue Lake, Rio Dell and Ferndale

- Have bans on dispensaries
- 18,000 people live in these areas or about 13% of the counties population (<http://co.humboldt.ca.us/portal/about.asp>)

- Any dispensary that opens with the intention of serving this population will need to be in the unincorporated areas around these cities

Comparisons

Arcata

- 18,800 residents as of 2010 (<http://co.humboldt.ca.us/portal/about.asp>)
- 13% of county's total population
- Has 4 legal dispensaries, all of which have indoor cultivation operations

Eureka

- 28,870 residents as of 2010 (<http://co.humboldt.ca.us/portal/about.asp>)
- 22% of county's population
- Will likely approve 3 dispensaries in city limits, all will have indoor cultivation operations
- Has 2 additional dispensaries in the unincorporated area of Myrtle town

7. Lab Testing

HGA Recommendations

- Remove the requirement for lab testing
 - Currently, there are no labs located within the County that can do this testing
 - Those responsible for the cost of testing will accrue additional expenses transporting samples to the Oakland area
 - The cost of testing is not affordable for the farmer, dispensary owner, or the patient
 - Pesticide usage should be the responsibility of the grower to disclose.
 - Yeast, Mold and Bacteria are sometimes visible to the naked eye
 - Testing for yeast, mold, and bacteria is about \$100 per sample
 - Testing a sample from each "batch" of medical cannabis does not insure patient safety
 - Mold, yeast, mildews are often not be present on a plant wide basis
 - The "batch" may contain flowers from numerous plants, some of which may have been sprayed with pesticide and some may not
 - Different plants of the same strain may test with different THC, CBD, CBN levels
- Do not require dispensaries to determine the strength and dosage of medical cannabis
 - Dosage is discussed and determined between the patient and the doctor issuing the recommendation
 - Bulk herbs at the Coop or Humboldt Herbals don't have dosage labels, and the clerks in these establishments are not required to discuss, determine, or label the proper dosage of herbs to be taken by the patient/customer
- The County should use a portion of the revenue from medical cannabis permits to fund a lab through Health and Human Services
 - Random samples can be collected as part of the dispensary's annual "health inspection"
 - The county can process the samples at their own expense as part of the inspection

- report
- If contamination is found during the testing process then Health and Human Services will work with the dispensary to determine the appropriate course of action
- If more testing is necessary than the dispensary will bear the cost of these tests
- Health and Human Services will be able to track the contamination back to the permitted farmer through their permit number tracking system (see section on **Inspections**)

Cost of Lab Testing

Collective Wellness of Oakland

Cannabinoids	\$105
Pesticides	\$105
Yeast and Mold	\$ 45
Bacteria	\$ 45
Subtotal	\$300
Discount per sample for all 4 tests is \$25 per sample	
Total after discount \$275	

Steep Hill Labs of Oakland

Cannabinoids	\$120
Mold and Bacteria	\$100
Pesticides	\$300
Total	\$520

Safe Cannabis (Bulk pricing)

- Samples are taken from each pound then the pound is packaged and labeled
- The samples are tested for cannabinoids, molds, bacteria and pesticides
 - 2 lbs. = \$247/lb
 - 4lbs or more = \$200/lb
- Additional Costs -Transportation of samples to the Oakland area

Unanswered Questions

- Who will pay for the cost of testing?
 - Producer?
 - Dispensary?
 - Patient?
 - County?
- How often will testing be done?
- What will be tested? What is a batch?
 - Every pound?
 - Every plant?
 - Every strain?
- Can the county utilize cultivation permit revenues to fund a lab through Health and Human Services?

Draft Ordinance Summary

- Medical marijuana must be tested for bacteria, mold, pesticides and other contaminants (Humboldt County, p. 13, § 55.1.11.5.5.k)
- Medical marijuana must be tested for cannabinoids tetrahydrocannabinol (THC), Cannabidiol (CBD), and Cannabinol (CBN) for the purpose of determining patient dosage (Humboldt County, p. 13, § 55.1.11.5.5.l)
- Medical marijuana shall be labeled with its strength, and dosage, cost to member, and a statement that the marijuana has been tested for safety and quality and that the testing results are available for inspection (Humboldt County, pg.14, § 55.1.11.5.5.k)

Comparisons

Arcata

- No requirements for lab testing

Eureka

- Requires testing for bacteria, mold, pesticides and other contaminants as well as THC, CBD and CBN (§ 158.023.D.10.b.c)

San Francisco

- No requirements for lab testing

8. Third Party Certification

HGA Recommendations

- There should be contracts between the dispensary and the cultivator that allow the dispensary to set cultivation guidelines.
- If the dispensaries are required to set cultivation guidelines, they can mandate the use of organic and/or non-synthetic fertilizers, growing mediums, amendments, pesticides, fungicides, etc.
- These cultivation guidelines will be made available for patient review as part of the services of the dispensary
- The dispensary that has an approved cultivation site as part of its CUP must maintain and be able to show detailed records listing the application date and rate of all grow mediums, amendments, teas, compost, fertilizer, fungicide, pesticide, foliar sprays, etc. unless currently participating in a Third Party Certification program that has been approved by the County

County Summary

- The Humboldt County Planning Commission has expressed desire for the implementation of Third Party Certification
- Cannabis is not eligible for organic certification due to its federal status (see attached “Organic Research”)
- Third party certification is largely supported as a means to insure patient safety
- Third Party Certification may not meet the same criteria of “organic” as recognized by the USDA

- Third Party Certifiers can set their own list of approved inputs and choose to name that certification-process whatever they like as long as they don't use federally owned words such as "organic"
- Some Third Party Certification allows for the use of synthetic inputs during cannabis production

9. Dispensary/Farmer Contracts

HGA Recommendations

- Dispensaries must obtain their medical cannabis supply from permitted farmers. This is an excerpt of an email distributed on Jan. 9, 2011 by Julia Carrera (3rd party inspector for Mendocino County Sheriff Dept.) "Sergeant Randy Johnson, Sheriff Tom Allman and Supervisor John McCowan have met with Humboldt County, Lake County, and Butte County, all asking how we are making 9.31 work in Mendocino County. Randy just finished up some training in Butte County and met with attorneys and dispensaries who traveled from southern California already this week. The sheriff is recommending only permitted medical marijuana as the choice for collectives and dispensaries here and throughout the state to disperse to their patients." "In the collective realm, there are collectives that are taking on farmers, new collectives being formed, and farmers who are gathering various professional people to offer education on how to form collectives."
- The County must implement an ordinance permitting outdoor medical cannabis
- A minimum of 50% of the medical cannabis available for dispensing by a cooperative, collective, or a delivery service shall be grown outdoors
- Mandating the County's dispensaries provide permitted outdoor medicine encourages farmers to participate in a outdoor medical cannabis permit program

Draft Ordinance Summary

- Requires that dispensaries provide invoices to vendors to ensure vendor's tax liability responsibility (Humboldt County, p. 14, § 55.1.11.5.6.o)

10. Background Checks

HGA Recommendations

- Requirement should be changed to persons convicted of a **violent** crime shall be prohibited from:
 - Applying for a CUP for cooperative, collective or delivery service
 - Managing a cooperative collective, or delivery service
- Remove the limitation that anyone with a prior felony cannot work in a dispensary
- Marijuana cultivation convictions are felonies
- Adopt San Francisco's screening process (San Francisco, p. 5, § 3304.a.5 and p. 6, § 3304.g)
- Include a "Sunset Clause" (San Francisco, p. 7, § 3307.c.4)

~~* add "serious crime/felony"?~~

Draft Ordinance Summary

- Prohibits medical dispensaries from hiring employees who have been convicted of a felony or are currently on probation (Humboldt County, p. 13, § 55.1.11.5.6.a)

Comparisons

Arcata

- Requires the dispensary's Operations Manual to include a description of the staff screening process including appropriate background checks (p. 4-23, § d.2 and p. 4-26, § k.2)

Eureka

- No background checks are required

San Francisco

- Permit applicants and management must disclose felony convictions (p. 5, § 3304.a.5)
- DOJ certified fingerprinting must be submitted with application for all applicants and management (p. 6, § 3304.g)
- Cost to be assumed by persons listed
- Persons convicted of a violent crime are not eligible for a permit and may not be part of the management of a dispensary
- "Sunset Clause" allows the Director to issue a medical cannabis dispensary provisional permit to an applicant or any other person who will be engaged in the management that has been convicted of a violent felony (p. 7, § 3307.c.4)

11. Limitations on Patient Visits Per Day

HGA Recommendations

- Allow for the dispensing of medical marijuana to an individual patient 2 times a day
 - Creates continuity throughout the county
 - Reduce confusion for law enforcement
 - With only 1 visit/day, patients cannot return with questions or return a product, if necessary, until 24 hours has lapsed
 - If a patient obtains medicine that does not ease the patients symptoms than he/she will be forced to wait 24 hours until he/she can return to the dispensary for a more affective medicine
- No limit on the amount of medicine distributed per visit
 - Creates continuity throughout the county
 - Reduce confusion for law enforcement
 - Patients form the rural areas of the county will be served by these dispensaries and may need to obtain a weeks worth of medicine or more at one time

Draft Ordinance Summary

- Patients can obtain medicine from a dispensary service no more than once a day (Humboldt County, p. 13, § 55.1.11.5.6.b)
- No limits on the amount of medicine distributed per visit

Comparisons

Arcata

- Allows for the dispensing of medical marijuana to an individual patient 2 times a day (p. 4-23, 9.42.1052.E.2.a)
- No limits on the amount of medicine distributed per visit

Eureka

- Allows for the dispensing of medical marijuana to an individual patient 2 times a day (§158.023.E.7)
- No limits on the amount of medicine distributed per visit

San Francisco

- No limits on the number of patient visits per day
- Limits dispensaries to dispensing 1 ounce of dried cannabis per qualified patient or qualified primary caregiver per visit to (p. 9, § 3308.f)

12. Medical Marijuana Edibles

HGA Recommendations

- Allow Medical Cannabis Edibles
- For many patients this is the only way to get their medicine.
- Adopt San Francisco's edible standards
- The "home kitchen" guidelines are important because it may be difficult to rent a commercial kitchen for the purpose of producing medical marijuana edibles

Draft Ordinance Summary

- Private kitchens and/or commercial facilities that produce and distribute edibles are not inspected for safe food handling practices, cleanliness or sanitation under current state or local law. (Humboldt County, Findings, p. 3, § 55.1.3.14)
- Marijuana edibles are often labeled to appeal to children, lack the proper ingredient lists/allergen warnings and often fail to clearly state that the edible contains medical marijuana. (Humboldt County, Findings, p. 3, § 55.1.3.14)
- Prohibits medical marijuana cultivation, processing, or transfers as a Cottage Industry, or a Home Occupation. (Humboldt County, p. 9, § 55.1.9.8)
- Prohibits the creation or fabrication of edibles in a place of residence for the purpose of dispensing by a cooperative, collective or delivery service (Humboldt County, p. 9, § 55.1.9.9)
- Prohibits the sale, trade or exchange of edibles (Humboldt County, p. 14, § 55.1.11.5.6.i)

Comparisons

Arcata

- Not mentioned

Eureka

- Prohibits the processing of medical cannabis as a Home Occupation (§ 158.011.B)
- There is no language in the Municipal Code that bans the sale of medical cannabis edibles

SF Edibles (Outlines the proper production, labeling, packaging, handling, and storage of edible medical cannabis products)

- Item 1 and Item 2 – Specifies that only products not requiring refrigeration or hot-holding shall be manufactured for sale or distribution
- Item 3 - Protocol for the production of edibles in a “home-type kitchen”
 - Must have a sink available for hand washing (may be the dishwashing sink) with liquid soap, and paper towels
 - No other food preparation may take place during the production of edibles to avoid cross contamination
 - No children or pets allowed in the kitchen during edible preparation
 - Utensils, equipment, and food contact surfaces must be sanitized before and after preparation
 - Equipment and food contact surfaces should be in good, cleanable condition
 - Ingredient storage areas should be kept clean and vermin-free
- Item 4 and Item 5 - Labeling and Packaging
 - Items must be individually wrapped at the original point of preparation
 - Must include a warning if nuts or other known allergens are used
 - Must include the total weight (in ounces or grams) of cannabis in the package
 - Must have a clear warning that the product is medicine and must be kept out of the reach of children
 - Prohibits labeling that makes the product attractive to children or imitates candy
 - Food items such as cookies, cakes, brownies, etc. be packaged in an opaque, non see-thru, package before it is dispensed to the patient

13. Source(s) of Medical Marijuana (Cultivation Guidelines for Dispensary Services)

HGA Recommendations

- Humboldt County Draft Ordinance shall include a section that outlines the specific guidelines for these approved cultivation sites
- These shall include:
 - One-hour firewall assembly made of green board
 - Ventilation with odor control
 - Shall not create a mold or humidity issue
 - All electrical shall be up to code and approved by a certified electrician
 - The cultivation or processing of medical cannabis shall not adversely affect the health or safety of the employees, or the facility, or nearby properties through the creation of mold, mildew, dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or be hazardous because of the use or storage of materials, processes, products or wastes
 - Measures taken to minimize or offset energy use
 - The equipment and methods employed in the cultivation or processing
 - Must be permitted in conjunction with a cooperative or collective
- Dispensaries may purchase or obtain cannabis from members of the cooperative or collective
- Size and scale of the cultivation shall be proportional to 25% of the qualified patient load



Draft Proposal Summary

- Section 55.1.8, Definitions, pp. 6 & 7 includes the descriptions for a medical marijuana collective, cooperative, or delivery service

Medical Marijuana Collective:

- Jointly owned and operated by its members
- Members collaborate in order to facilitate and coordinate the **cultivation** and distribution of medical marijuana to the member base

Medical Marijuana Cooperative:

- Shall be democratically controlled and properly organized under the law of the State of California
- Must file for articles of incorporation with the State
- Shall **cultivate** and distribute medical marijuana to its members as a collaborative effort

Medical Marijuana Delivery Services:

- A medical marijuana collective or cooperative that does not have a main facility for members to come to for the purpose of obtaining their medicine
- Has a warehouse or storage facility for the maintenance of records and the processing, packaging and storage of medical marijuana
- Medical marijuana is brought to the homes of their members as requested

Please note: all three of these definitions include **cultivation** as part of the description of operations

- Section 55.1.11 Medical Marijuana Cooperatives, Collectives, Delivery Services or Dispensaries includes wording that could be applied to cultivation sites
- Preparation of a materials storage, handling and disposal plan approved by the Division of Environmental Health (p.11, § 55.1.11.1)
- Must keep an up-to-date inventory of hazardous materials stored and used onsite with a copy to be provided to the Humboldt County Division of Environmental Health (p. 14, § 55.1.11.5.6.i)
- No specific guidelines for these cultivation sites are part of this draft

Comparisons

Arcata

- A medical marijuana cooperative or collective shall only dispense marijuana from the following sources (p. 4-22, § 9.42.105.E.1, 2, & 3)

Permitted Cooperative or Collective

- Use Permit may specifically authorize limited, onsite cultivation
- Cultivation area shall not exceed 25% of the total floor area
- Cultivation area shall not exceed 1500 sq. ft.

Off-site Permitted Cultivation

- Zoning compliance documentation must be updated annually

Qualified Patients

- Patient may not receive monetary remittance but may be credited by the cooperative or collective
- Patient must be a member of the cooperative or collective
- Operations manual must outline the measures taken to minimize or offset energy use from the cultivation (p. 4-23, § 9.42.105.E.1.d.9)
- Cultivation shall be within a self-contained structure (p. 4-25, § 9.42.105.F.1.b)
 - 1-hour firewall assembly made of green board
 - Ventilated with odor control
 - Shall not create a humidity or mold problem
- Cultivation must not adversely affect the health or safety of the nearby resident or businesses (p. 4-25, § 9.42.105.F.1.c)
 - By creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration or other impacts
 - Must not be hazardous due to use or storage of materials, processes, products or wastes
- Must be permitted in conjunction with a cooperative or collective (p. 4-25, § 9.42.105.F.d.)
- Must comply with storm water, wastewater and applicable greenhouse gas reduction requirements (p. 4-25, § 9.42.105.F.e.)
- Size and scale of the cultivation shall be proportional to the qualified patient load (p. 4-25, § 9.42.105.F.f.)

Eureka

- Allows up to 4 cultivation sites by the granting of a conditional use permit (§ 158.022.B)
- Research testing or other similar facilities that cultivate cannabis shall be considered (§ 158.22.C)
- Operations manual must describe
 - The equipment and methods employed in the cultivation or processing (§ 158.022.E.3)
 - How the cultivated and/or processed cannabis will be transported to the dispensary (§ 158.022.E.4)
 - Measures taken to minimize or offset energy use (§ 158.022.E.8)
 - Type and quantity of all effluent discharged into the City's wastewater and/or storm water system (§ 158.022.E.10)
 - Name, location and operator of the distribution facility(ies) the cannabis is being cultivated and/or processed for (§ 158.022.E.10.11)
- Conditional use permit for cultivation or processing facility is not transferrable to another permittee or to another location (§ 158.022.H)
- Cultivation or processing facilities must adhere to the following regulations (§ 158.022.F)
 - Cultivation shall occur only within a self-contained structure that is in compliance with California Building Code section 1203.4 Natural Ventilation or section 402.3 Mechanical Ventilation (1)
 - The cultivation or processing of medical cannabis shall not adversely affect the health or safety of the employees, or the facility, or nearby properties through the creation of mold, mildew, dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or be hazardous because of the use or storage of materials, processes, products or wastes (9)

San Francisco

- Application for the dispensary must state whether cultivation of medical cannabis shall occur

- on the premises (p. 5, § 3304.c.7)
- Cultivation of medical cannabis on the premises of a dispensary must be conducted indoors (p. 10, § 3308.h)
- Dispensaries may purchase or obtain cannabis only from members of the cooperative or collective (p. 11, § 3308.q)
- The Director shall refer all permit applications to the City's Planning Department, Department of Building Inspection, Mayor's Office on Disability, and Fire Department (p. 6, § 3305)

14. Record Identifying the Source(s) of Medical Marijuana

HGA Recommendations

- Medical marijuana dispensaries shall receive medicine from permitted providers
- All aspects of the medical cannabis permitting system to be run by Health and Human Services
 - Permitted sources of medical cannabis will be issued a permit number as part of their application and approval process
 - Dispensaries can utilize the farm or growers name and his/her permit numbers as a means for a secure tracking system
- If the Sheriff's Office, the Code Compliance Division of Community Development Services, or the Code Enforcement Unit have a legitimate need for the identities of permitted cultivation sites, that information will be accessible through Health and Human Resources
- Requiring the dispensary to keep such detailed records on site could jeopardize the safety and privacy rights of patient/members

Draft Proposal Summary

- Record identifying the source(s) of all medical marijuana received (Humboldt County, p. 14, j.)
- Records shall be maintained, going back 2 years from current date
- Records shall be made available at all times for inspection by the Sheriff's Office, the Code Compliance Division of Community Development Services, or the Code Enforcement Unit
- Records shall state the grower and the address and location of the cultivation of the identified marijuana

Comparisons

Arcata

- Operations manual shall outline the process for tracking medicine quantities and inventory controls (p. 4-23, § 9.42.105.E.d.8)

Eureka

- Name, location, and operator of the cultivation or processing facility(ies) supplying the medical cannabis to the dispensary must be included in the application for the Conditional Use Permit (§ 158.023.D.8)
- The Operations Manual must outline the process for tracking medical cannabis quantities and inventory controls (§ 158.023.D.9.b)

- The Operations Manual must outline the process for tracking medical cannabis quantities and inventory controls including medical cannabis products received from outside sources (§ 158.023.D.9.e)

San Francisco

- May have onsite cultivation approved through Use Permit (pp. 5, 7 & 10, § 3308.h)
- Dispensaries may purchase or obtain cannabis from members of the dispensary's cooperative or collective (p. 11, § 3308.q)

15. Dispensary Inspections

HGA Recommendations

- Reduce the amount of law enforcement involvement in the dispensary program allowing them to focus on more important issues
- Run all of the medical cannabis permit programs out of Health and Human Resources
 - Once the CUP has been approved by the planning commission all files will then be directed to Health and Human Resources
 - All annual permit fees shall be paid at these offices
 - All inspections and inspection reports shall be run by these offices
 - Annual dispensary inspections should be focused on patient safety, overall cleanliness of the business, community review, and integrity of the relationship developed between the dispensary and its members
 - Annual cultivation site inspections should be focused on electrical and building code compliance
 - Shall be conducted by a County Building Inspector
 - The inspector shall provide a written report of the inspection with one copy to go to the operator of the cultivation site and the other to be forwarded to Health and Human Resources

Draft Proposal Summary

- Dispensary services must submit an annual "Performance Review Report" to the Planning Commission for review and approval (Humboldt County, p. 15, § 55.1.11.7.a)
- Inspections will be annual, or more frequently as requested by the Planning Commission (Humboldt County, p. 15, § 55.1.11.7.b)
 - Determine compliance with dispensary's conditional use permit and Operations Manual
 - The dispensary shall be responsible for the cost of the inspection
 - Inspections are to be conducted by the Humboldt County Sheriff or his/her designee and either members of the Code Compliance Division of Community Development Services or the Code Enforcement Investigator
 - Inspections will be written up, with their results given to the dispensary to include in their "Performance Review Report" to the Planning Commission

Comparisons

Arcata

- Dispensaries shall submit an “Annual Performance Review Report” for review and approval by the Community Development Director (p. 4-24, § 9.42.105.E.2.1)
 - Intended to identify effectiveness of the approved Use Permit, Operations Manual and Conditions of Approval
 - Identify and implement any additional procedures deemed necessary
 - Community Development Director may review and approve amendments to the “Operations Manual” and the frequency of the “Annual Performance Review Report”
 - Dispensary shall be responsible for the payment of Planning and Zoning Fee Resolution (for cultivation sites) that will accompany the “Annual Performance Review Report”

Eureka

- No review process mentioned for dispensaries or cultivation sites

San Francisco

- Director shall inspect the dispensary 2 times annually (p. 14, § 3313.a)
 - Director may inspect the dispensary more based on complaints
 - Inspections are for the purpose of determining compliance with the rules and regulations adopted by the ordinance
- Director may not suspend or revoke a permit issued or impose an administrative penalty until the director has issued a notice of violation and provided the operator an opportunity to be heard and respond (p. 15, § 3313.b)

HGA’s Proposed Additions to the Draft Ordinance

1. Exemptions

The HGA recommends adding the following 2 exemptions for indoor medical marijuana cultivation. Please note that the recommendation is to allow for an individual to apply for and be permitted for ONE of the following exemptions not both.

A. 200 Square Foot Mature Canopy Permit

- Any qualified patient, who is under contract with a cooperative, collective, or delivery service as a medical cannabis provider may apply for a special use permit to expand indoor cultivation area to 200 square feet
- Applicant must be a member of the cooperative, collective, or delivery service that he/she is in contract with
- Health and Human Services shall handle the application processing
- 200 square foot exemptions will be permitted only on legal parcels of ½ acre or more in size
- Applicant must reside on the same parcel that the 200 square foot exemption is approved for
- It is prohibited for an applicant to apply for and obtain multiple indoor cultivation exemptions
- Applicant shall have a business license and register with the Board of Equalization
- The cultivation must occur in a detached, non-residential structure that is in compliance with the following set backs:
 - Cultivation site must be at least 75 feet from any residence on a neighboring parcel

- No cultivation site shall be permitted within 600 feet of a K-12 school
- No cultivation site shall be permitted within 500 feet of a church, school, playground, public park, library, or licensed day care facility
- Total wattage for lighting shall not exceed 10,000 watts
- If diesel generators are proposed to be used on site, a detailed description of the proposed methods of storage, delivery and containment of the diesel fuel must be included. This statement shall be referred to the Department of Environmental Health and the Air Quality Management District for a determination if additional conditions, permits, or inspections shall be required
- The use of gas products (CO₂, butane, etc.) for medical marijuana cultivation or processing shall be prohibited
- No odor of growing marijuana shall be allowed to escape from the cultivation site, which shall be mechanically ventilated with a carbon filter or something better
- Cultivation site is prohibited from discharging waste products, chemical fertilizers or pesticides into drains, septic systems, community sewer systems, water systems or other drainage systems including those that lead to rivers, streams and bays
- Cultivation shall not adversely affect the health or safety of nearby residents or businesses by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, and must not be hazardous due to use or storage of materials, processes, products or wastes associated with the cultivation of medical marijuana

The following information shall be required to apply for 200 square feet of cultivation:

- Affidavit that the qualified patient or caregiver is in compliance with this code
- Copy of the applicants current medical marijuana recommendation and/or state-issued medical marijuana ID card
- Documentation showing that the qualified patient is under contract by a cooperative, collective or delivery service as a provider of medical cannabis
- Written approval from the property owner
- Evidence that the cultivation area is indoors, secured, and not attached to any building used as a residence
- Evidence that the cultivation area is constructed with a one hour fire wall assembly of green board
- Evidence that the electrical system is of sufficient capacity to handle the additional electrical load and was installed properly
- Evidence that the increased area will not adversely affect the health/safety of residents of the subject home, nearby residences, or businesses and shall not constitute a nuisance
- Hazardous materials storage, handling, and disposal plan
- Application fee to be set by the Board of Supervisors (HGA recommends \$1,000 application fee with all required inspections to be paid for by the applicant)

B. 200 Square Foot Nursery/Clone Permit

- Any qualified patient, who is under contract with a cooperative, collective, or delivery service as a medical cannabis provider, or has a current and valid outdoor cultivation permit; may apply for a special use permit for 200 square feet of indoor nursery/clone space

- Applicant must be a member of the cooperative, collective, or delivery service that he/she is in contract with
- Health and Human Services shall handle the application processing
- 200 square foot exemptions will be permitted only on legal parcels of ½ acre or more in size
- Applicant must reside on the same parcel that the 200 square foot exemption is approved for
- It is prohibited for an applicant to apply for and obtain multiple indoor cultivation exemptions
- Applicant shall have a business license and register with the Board of Equalization
- The cultivation must occur in a detached, non-residential structure that is in compliance with the following set backs
 - Cultivation site must be at least 75 feet from any residence on a neighboring parcel
 - No cultivation site shall be permitted within 600 feet of a K-12 school
 - No cultivation site shall be permitted within 500 feet of a church, school, playground, public park, library, or licensed day care facility
- Total wattage for lighting shall not exceed 10,000 watts
- If diesel generators are proposed to be used on site, a detailed description of the proposed methods of storage, delivery and containment of the diesel fuel must be included. This statement shall be referred to the Department of Environmental Health and the Air Quality Management District for a determination if additional conditions, permits, or inspections shall be required
- The use of gas products (CO2, butane, etc.) for medical marijuana cultivation or processing shall be prohibited
- No odor of growing marijuana shall be allowed to escape from the cultivation site, which shall be mechanically ventilated with a carbon filter or something better
- Cultivation site is prohibited from discharging waste products, chemical fertilizers or pesticides into drains, septic systems, community sewer systems, water systems or other drainage systems including those that lead to rivers, streams and bays
- Cultivation shall not adversely affect the health or safety of nearby residents or businesses by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, and must not be hazardous due to use or storage of materials, processes, products or wastes associated with the cultivation of medical marijuana

The following information shall be required to apply for 200 square feet of cultivation:

- Affidavit that the qualified patient or caregiver is in compliance with this code
- Copy of the applicants current medical marijuana recommendation and/or state-issued medical marijuana ID card
- Documentation showing that the qualified patient is under contract by a cooperative, collective or delivery service as a provider of medical cannabis in one of the following ways
 - Qualified patient may be contracted as a provider of clones or seedlings
 - Qualified patient may be contracted as a provider of outdoor medical cannabis and shall utilize this exemption to produce the clones/seedlings that he/she needs for the planting of the permitted outdoor medical cannabis
- Written approval from the property owner
- Evidence that the cultivation area is indoors, secured, and not attached to any building used as a residence

- Evidence that the cultivation area is constructed with a one hour fire wall assembly of green board
- Evidence that the electrical system is of sufficient capacity to handle the additional electrical load and was installed properly
- Evidence that the increased area will not adversely affect the health/safety of residents in the subject home, nearby residences, or businesses and shall not constitute a nuisance
- Hazardous materials storage, handling, and disposal plan
- Application fee to be set by the Board of Supervisors (HGA recommends \$1,000 application fee with all required inspections to be paid for by the applicant)

2. Localism

- 2 yr residency clause for all cooperative, collective, or dispensary applicants
- 2 yr residency clause for permit applicants of medical marijuana cultivation sites
- Mendocino has no residency clause written in to its “zip tie” program for outdoor medical cannabis cultivation
- The Mendocino sheriffs department has received numerous inquiries from outside investors who would like to capitalize on California’s medical cannabis laws
- A 2-year residency clause would discourage outside investment
- Colorado has a 2-year residency clause for all dispensary applicants

3. Transportation Documents

- The HGA has included sample transportation documents that are currently utilized throughout the state of California
- All law enforcement working within the County shall be made aware of the necessity for the transportation of medical cannabis and shall be expected to honor all transportation guidelines and documents

**HUMBOLDT COUNTY 314-55.1 MEDICAL MARIJUANA
LAND USES DRAFT**

314-55.1 MEDICAL MARIJUANA LAND USES

General Provisions

55.1.1 Authority and Title

Pursuant to the authority granted by Article XI, section 7 of the California Constitution, California Government Code section 25845 and California Health and Safety sections 11362.83, and 11362.768 (f) the Board of Supervisors does hereby enact this Code, which shall be known and may be cited as the "Medical Marijuana Land Use Code".

55.1.2 Purpose and Intent

The purpose and intent of this Code is to regulate the land use aspects of medical marijuana in a manner that is consistent with State law and which promotes the health, safety, comfort, convenience, and general welfare of the residents and businesses within the unincorporated area of Humboldt County by balancing three primary needs: the needs of patients and their caregivers to have access to medical marijuana; the needs of residents, businesses, and communities to be protected from public health, safety, and nuisance impacts that may often accompany the cultivation and transfer of medical marijuana; and the need to eliminate, or at least limit to the extent possible, the harmful environmental impacts that can accompany marijuana cultivation.

Despite the three needs identified above, nothing in this Code shall be construed to: allow persons to engage in conduct that endangers themselves or others, or causes a public nuisance as defined herein; allow the use or diversion of medical marijuana for non-medical purposes; or allow any activity relating to the cultivation, distribution or consumption of marijuana that is otherwise illegal under the law of the State of California. This Code is not intended to criminalize any activity which is otherwise permitted under state law and it is not intended to authorize conduct that is otherwise prohibited by state law.

55.1.3 Findings

The Board of Supervisors of the County of Humboldt hereby finds and declares the following:

1. In 1996, California voters approved Proposition 215 (codified as Health and Safety Code section 11362.5, and entitled "The Compassionate Use Act of 1996").
2. The intent of the Compassionate Use Act is to permit the cultivation and possession of medical marijuana for the personal use of a seriously ill patient without fear of criminal prosecution against the patient, the patient's caregiver or the physician who recommended medical marijuana for the patient. The Act further provides that "nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes."

3. In 2004, Senate Bill 420 (codified as Health and Safety Code sections 11362.7 et seq. and known as the “Medical Marijuana Program Act”) was enacted to clarify the scope of the Compassionate Use Act. It also specifically permits patients and their primary caregivers to associate in order collectively or cooperatively to cultivate marijuana and provides these individuals with a limited defense to certain specified California criminal statutes (codified at Health and Safety Code section 11362.775).
4. Neither the Compassionate Use Act nor the Medical Marijuana Program Act address land use or building code issues that may arise from the cultivation, processing, or distribution of medical marijuana within the County. A provision of the Medical Marijuana Program Act (codified as Health and Safety Code section 11362.83) expressly allows cities and counties to adopt and enforce ordinances that are consistent with Senate Bill 420
5. The California State Board of Equalization, in February 2007, issued a special notice confirming its policy of taxing medical marijuana transactions, as well as its requirement that businesses engaging in such transactions hold a Seller’s Permit issued by the Board of Equalization.
6. In August 2008, the California Attorney General issued *Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use* that were intended to further clarify California laws governing medical marijuana, and provide guidelines for patients and law enforcement to ensure that medical marijuana is not diverted for non-medical purposes.
7. The federal Controlled Substances Act (codified as 21 U.S.C. sections 801 et seq.) is a regulatory system designed to combat recreational drug abuse by making it unlawful to manufacture, distribute, dispense, or possess any controlled substance. The federal Act lists marijuana as a controlled substance, classifying it as a Schedule I Drug, which is defined as a drug or other substance that has a high potential for abuse, which has no currently accepted medical use in treatment and has not been accepted as safe for use under medical treatment.
8. The United States Congress has provided that states are free to regulate in the areas of controlled substances, including marijuana, provided that state law does not positively conflict with the federal Controlled Substances Act (see 21 U.S.C. 903). The California Attorney General, citing to California cases, has opined that neither the Compassionate Use Act nor the Medical Marijuana Program Act conflict with the Controlled Substances Act because, in adopting these laws, California did not legalize medical marijuana, but instead exercised the state’s reserved powers to not punish certain marijuana offenses under state law.
9. The County’s unique geographical and climatic conditions, which include dense forested areas receiving substantial precipitation, along with the sparse population in many areas of the County, provide conditions that are favorable to marijuana cultivation. Law enforcement agencies report that depending upon the marijuana strain and whether it is grown indoors or outdoors, one plant may yield averages of roughly one-quarter to one

and a half pounds of usable marijuana per plant. Marijuana growers may achieve a high per-plant yield in the County because of the favorable growing conditions. As of 2010, Law Enforcement indicates the value of illegal marijuana grown in the County to be roughly \$1,500 to \$4,000 per pound.

10. Due to the high monetary value placed upon marijuana, the County has experienced a number of home invasion robberies, thefts, and murders related to marijuana cultivation. To defend against theft and armed robbery, some growers of marijuana have taken to arming themselves, which creates the potential for gunfire in the residential areas where indoor cultivation of marijuana has occurred. The County has also experienced a number of residential fires from overloaded or improperly modified electrical systems used to power grow lights and exhaust fans for the cultivation of marijuana. Additionally, the County has experienced soil and water contamination due to leaks and improperly stored fuels and supplies for generators used to power grow lights and fans for off-the-grid marijuana grows.
11. Cultivation of marijuana can also result in private or public nuisances. Whether grown indoors or outdoors, marijuana plants, particularly as they mature, produce a distinctive odor that is often detectable far beyond property boundaries. This strong, distinctive odor can interfere with neighboring owners' use and enjoyment of their property. In addition, this odor of growing or "green" marijuana may alert malefactors to the location where marijuana is grown and creating the risk of burglary and robbery at that location.
12. Marijuana that is grown indoors can lead to mold, mildew and moisture damage to the building in which it is grown. Growing marijuana is susceptible to plant diseases, mold, mildew, and insect damage and may be treated with insecticides and herbicides that may have health consequences for the individual who consumes the marijuana. Marijuana that is improperly stored may develop mold and likewise be a potential health risk to the individual who consumes it.
13. Distribution or transfer of medical marijuana through collectives, cooperatives and delivery services may create negative impacts to the surrounding community such as traffic problems, neighborhood compatibility issues, lighting, aesthetics, public health and safety and security issues and other nuisance-related problems.
14. Private kitchens or commercial facilities that produce and distribute food and beverages containing marijuana, also known as marijuana edibles, are not inspected for safe food handling practices, cleanliness or sanitation under current state or local law. Many marijuana edibles are packaged in such a way as to appeal to children or imitate a particular food item, such as brownies or cookies. Additionally, the packaging of marijuana edibles often fails to disclose the amount of marijuana in the edible, reveal when the edible was made, state if any known allergens are present in the edible, and often fails to clearly state that the edible contains medical marijuana.
15. The rights of qualified patients and their primary caregivers under state law to cultivate marijuana plants for personal medical purposes does not confer upon them a right to

create or maintain a nuisance. By adopting this Code, regulating the land use aspects of medical marijuana cultivation and distribution, the County anticipates a significant reduction in complaints regarding medical marijuana-related odors and residential mold and moisture issues, as well as a decrease in crime and fires related to the indoor cultivation and distribution of medical marijuana.

16. Growing marijuana may also adversely affect the environment. Indoor grows require extensive use of electricity for grow lights and ventilation fans. An analysis reported in the Northcoast Journal on March 11, 2010 from engineers involved in energy research at Humboldt State University found that the average household in Humboldt County used 145 kilowatt-hours of electricity per month. In contrast, an indoor residential marijuana grow at the center of a recent prosecution by the Humboldt County District Attorney used almost 10,000 kilowatt-hours each month. To supply this elevated demand for electricity for indoor marijuana grows throughout the County puts an estimated 20,000 metric tons of carbon dioxide into our atmosphere. Off-grid medical marijuana grows have similar adverse affects on the environment. The grow lights and ventilation fans for these grows are powered by diesel generators, which according to numbers provided by the Humboldt County Drug Task Force and calculated by the energy researchers, emit an estimated 20,000 metric tons of carbon dioxide each year throughout the County. Diesel generators powering marijuana grows have also resulted in a number of fuel and waste oil spills that have impacted local streams and wildlife habitat.
17. The cultivation of marijuana in areas not served by public water systems may result in large, unregulated withdrawals of water from creeks, streams, and rivers. Diminishing the amount of water available in the water systems harms animal and plant species, as well as people with legitimate rights to use a portion of the water.
18. The County finds that while the need for qualified patients and/or their caregivers to use and cultivate marijuana is authorized by State law, the potential land use impacts to the environment and to public health, safety and welfare as identified above, necessitates that the County create regulations to govern medical marijuana uses, including residential uses, collectives, cooperatives and delivery services in the County of Humboldt.
19. The County finds that the cultivation of more than fifty (50) square feet of medical marijuana per residence within the unincorporated area of the County will result in an unreasonable risk of crime and fire and will likely create odors offensive to people living nearby, as well as resulting in excessive energy consumption and carbon dioxide emissions, along with the potential for diesel fuel and oil pollution.
20. The County finds that qualified patients or their primary caregivers may be granted a special permit to cultivate medical marijuana for personal use in excess of fifty (50) square feet, but not more than one hundred (100) square feet, provided that the patient or caregiver applies for and obtains a special permit as provided herein, and operates in compliance with this Code.

21. The County finds that collectives, cooperatives and delivery services may be permitted or allowed with a conditional use permit in certain specified zones where the potential impacts of the proposed land use on the surrounding community, including issues such as traffic, lighting, aesthetics, security, and neighborhood compatibility are evaluated by the permitting authority.

55.1.4 Applicability and Interpretation

1. The cultivation, processing, and distribution of medical marijuana within the jurisdiction of the County of Humboldt shall be controlled by the provisions of this Code, regardless of whether the cultivation, processing, or distribution existed or occurred prior to the adoption of this Code.
2. All medical marijuana cultivation, processing, and distribution, regardless of whether the use was previously approved by the Humboldt County Planning Commission or the Humboldt County Board of Supervisors, shall come into full compliance with this Code within one (1) year of the ordinance establishing this Code.
3. Nothing in this Code is intended, nor shall it be construed, to exempt any medical marijuana use from compliance with the Humboldt County zoning and land use regulations, as well as other applicable provisions of the County Code, or compliance with the Coastal Act and other applicable state laws.
4. Nothing in this Code is intended, nor shall it be construed, to exempt any marijuana cultivation, processing or distribution, or other marijuana related activities from any and all applicable local and state construction, electrical, plumbing, land use, or any other building or land use standards or permitting requirements.
5. Nothing in this Code is intended, nor shall it be construed, to preclude a landlord from limiting or prohibiting marijuana cultivation, smoking, or other related activities by tenants.
6. The definitions in this Code are intended to apply to this Code. Definitions in Humboldt County Code section 314-135 et seq. and section 11-1 et seq. may also apply to this Code.

55.1.5 Severability

If any provision of this Code, or the application thereof, is held invalid, that invalidity shall not affect any other provision or application of this Code that can be given effect without the invalid provisions or application; and to this end, the provisions or application of this Code are severable.

55.1.6 Release of Liability and Hold Harmless

As a condition of approval of any conditional use permit approved for a medical marijuana collective, cooperative, delivery service, or other distribution or processing facility, or as a condition for a special permit for a residential medical marijuana cultivation area of more than fifty feet, but less than 100 feet, the owner or permittee shall indemnify and hold harmless the County of Humboldt and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by affected property owners or other third parties due to the

operations at the site of the expansion of the residential cultivation area or at the site for the collective, cooperative or other distribution or processing facility, and for any claims brought by any of their clients for problems, injuries, damages, or liabilities of any kind that may arise out of the cultivation, processing, or distribution of medical marijuana.

55.1.7 Penalties

All of the remedies provided for in this section shall be cumulative and not exclusive for violations of this Code.

1. Any violation of this Code shall be, and the same hereby is declared to be, a public nuisance and unlawful and shall be subject to injunction, abatement or any other administrative, civil, or criminal remedy available to the County under the applicable state and county laws, including Humboldt County Code section 351-1 et seq. and section 112-5 of the County Code.

55.1.8 Definitions

Church: a non-profit organization that operates exclusively for religious purposes and is an organization as described in section 501(c) (3) of the Internal Revenue Tax Code, as amended. For purposes of this Code, "church" includes a church, synagogue, temple, mosque, or other place of worship and related church property, such as a school or a youth camp.

Medical Marijuana Dispensary: a provider of medical marijuana that operates as a collective, cooperative or delivery service, or other distribution or transfer facility.

Indoor(s): within a fully enclosed and secure structure that was permitted and complied with the California Building Code in effect at the time it was constructed, as adopted by the County of Humboldt, that has a roof supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached.

Legal Parcel: Either of the following: 1) a parcel of contiguous real property shown as a delineated parcel of land with a number or other designation on a map of subdivision recorded in the Humboldt County Recorder's office; or 2) a parcel of real property, not described in (1) above, that qualifies for a certificate of subdivision compliance pursuant to Government Code section 66499.35 as determined by the Humboldt County Community Development Services Department.

Medical Marijuana: marijuana, including concentrated cannabis or hashish, that has been recommended to an individual by a licensed physician for the treatment of an illness or disease pursuant to California Health & Safety 11362.5 et seq.

Medical Marijuana Collective: An organization that is jointly owned and operated by its members in order to facilitate and coordinate the cultivation and distribution of medical marijuana to its members as a collaborative effort. The collective shall be operated in such a way as to ensure the security of the medical marijuana and safeguard against the diversion of

medical marijuana for non-medical purposes. Pursuant to Health & Safety Code Section 11362.765, no profit may be made by a medical marijuana collective, group or individual.

Medical Marijuana Cooperative: A medical marijuana cooperative shall be democratically controlled and properly organized under the laws of the State of California, which includes filing articles of incorporation with the State and conducting its business, the cultivation and distribution of medical marijuana to its members, as a collaborative effort for the benefit of its members. The cooperative shall be operated in such a way as to ensure the security of the medical marijuana and safeguard against the diversion of medical marijuana for non-medical purposes. Pursuant to Health & Safety Code Section 11362.765, no profit may be made by a medical marijuana cooperative, group or individual.

Medical Marijuana Delivery Service: A medical marijuana cooperative or collective that does not have a main facility that members come to in order to receive their medical marijuana. Instead, the medical marijuana delivery service has a warehouse or storage facility for the maintenance of records and the processing, packaging and storage of medical marijuana, which they bring to the homes of their members as requested. The delivery service shall be operated in such a way as to ensure the security of the medical marijuana and safeguard against the diversion of medical marijuana for non-medical purposes. Pursuant to Health & Safety Code Section 11362.765, no profit may be made by a medical collective, cooperative, group or individual.

Medical Marijuana Edible: A product intended to be eaten or drunk that contains medical marijuana.

Outdoor(s): any location that is not indoors, as defined herein.

Personal Medical Marijuana: medical marijuana that is cultivated, processed, or stored for a single qualified patient's use.

Place Where Children Congregate: may include, but is not limited to, a school bus stop, park, playground, a school as defined herein, tutoring facility, or any establishment that either advertises in a manner that identifies it as providing services primarily intended for minors or the individuals who regularly patronize, congregate, or assemble at the establishment are primarily minors.

Primary Caregiver: an individual designated by the qualified patient who has consistently assumed responsibility for the housing, health, or safety of that patient pursuant to statutory and case law.

Qualified Patient: a person who has a recommendation for medical marijuana by a licensed physician and is entitled to the protections offered by California Health & Safety Code Section 11362.5, and who may or may not have an identification card issued by the State Department of Public Health identifying the individual as a person authorized to engage in the use of medical marijuana.

Residence: any structure designed or used for residential occupancy.

Residential Cultivation: the growing of medical marijuana indoors within a residence, as defined herein, or the growing of medical marijuana indoors, as defined herein, within a secured garage, outbuilding, greenhouse, or other accessory structure associated with a residence and situated on the same parcel as the residence.

Residential Treatment Facility: a facility, whether residential or non-residential, providing treatment for drug or alcohol dependency.

Residential Zone: Zones classified as residential by Humboldt County Coastal and Inland Zoning regulations, including RS, RM, R-1, R-2, R-3, R-4, and RA.

School: public or private institution of learning for minors offering a regular course of instruction as required by the California Education Code, or any child or day care facility licensed by the State of California. This includes a nursery school, kindergarten, Head Start program, elementary school, middle school, high school, continuation or vocational school for minors, or any special institute of education, but it does not include a vocational or professional institution of higher education primarily intended for students over eighteen (18), such as a community or junior college, college, or university.

Specified Land Uses

55.1.9 Residential Cultivation for Personal Use

An individual qualified patient shall be allowed to engage in residential cultivation of medical marijuana for the patient's personal use, as long as the cultivation occurs indoors as defined herein. A primary caregiver shall only cultivate medical marijuana at the residence of a qualified patient for whom he/she is the primary caregiver.

Residential medical marijuana cultivation and processing for personal use shall be in conformance with the following standards:

1. The medical marijuana cultivation area shall not exceed 50 square feet or exceed 10 feet in height, unless a special permit is granted to allow an expanded cultivation area for personal use as described in this Code;
2. The medical marijuana cultivation and processing area shall be indoors, as defined herein, secured and for the exclusive use of the qualified patient;
3. Grow lights for medical marijuana cultivation for personal use shall not exceed 1200 watts total, unless a special permit is granted pursuant to the requirements for an expanded cultivation area as described in this Code;
4. All electrical equipment used in the cultivation of medical marijuana shall be plugged directly into a wall outlet or otherwise hardwired; the use of extension cords to supply power to electrical equipment used in the cultivation of medical marijuana is prohibited;
5. The use of gas products (CO₂, butane, etc.) for medical marijuana cultivation or processing is

prohibited;

6. No odor of growing marijuana shall be allowed to escape from the indoor cultivation area. At a minimum, the medical marijuana cultivation area shall be mechanically ventilated with a carbon filter or other superior method to prevent the odor of marijuana from escaping the indoor cultivation area;
7. From a public right of way, neighboring properties, or neighboring housing units there shall be no visual, auditory or olfactory evidence of medical marijuana cultivation at the residence or other structure accessory to the residence where medical marijuana is cultivated for personal use;
8. Medical marijuana cultivation, processing, or transfers are prohibited as a Cottage Industry, or a Home Occupation and are not considered an accessory use;
9. The creation or fabrication of medical marijuana edibles for sale or trade, whether to an individual or to a medical marijuana cooperative, collective, or delivery service, are prohibited at the residence;
10. No sale, trading, or dispensing of medical marijuana is allowed at the residence or other structure accessory to the residence where medical marijuana is cultivated for personal use;
11. The qualified patient shall reside in the residence where the medical marijuana cultivation occurs;
12. The qualified patient shall not cultivate medical marijuana for his or her personal use in any other residential location within the jurisdiction of the County of Humboldt;
13. The residence shall maintain a kitchen and bathrooms for their intended use, with at least one bedroom for every two occupants of the residence. The kitchen, bathroom, and bedrooms shall not be used primarily for medical marijuana cultivation;
14. In no event may medical marijuana cultivation increase the residence's take of water from any impaired water body, as identified and listed by the State Water Resources Control Board, pursuant to section 303(d) of the federal Clean Water Act;
15. No effluent, including but not limited to waste products, chemical fertilizers or pesticides shall be discharged into drains, septic systems, community sewer systems, water systems or other drainage systems including those that lead to rivers, streams and bays.
16. The structure containing the medical marijuana cultivation area shall have been built with the required permits at the time of construction; and
17. The residential medical marijuana cultivation for personal use shall not adversely affect the health or safety of nearby residents or businesses by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage

of materials, processes, products or wastes associated with the cultivation of medical marijuana.

55.1.10 Special Permit to Expand Residential Cultivation Area

1. Any qualified patient or their caregiver may apply for a special permit to expand the medical marijuana cultivation area beyond the limitation of fifty (50) square feet and/or ten (10) feet in height in a residence or accessory structure pursuant to the special permit process in Humboldt County Code Section 312-3.1.1. However, under no circumstances will a special permit be granted for more than one hundred (100) square feet total of medical marijuana cultivation area per residence or accessory structure.
2. Applications for special permits shall be made to the Planning Director or his or her designee pursuant to Humboldt County Code section 312-9 et seq.
3. An application for a special permit to expand the personal medical marijuana cultivation area to an area between fifty (50) and one hundred (100) square feet shall include all information required under the special permit provisions at section 312-17 et seq., as well as the following information:
 - a. An affidavit that the qualified patient or the caregiver is in compliance with this Code;
 - b. A copy of the qualified patient's current medical marijuana recommendation and/or state-issued medical marijuana identification card;
 - c. The square footage of the desired medical marijuana cultivation area, which in no circumstances shall exceed one hundred (100) square feet;
 - d. Adequate documentation on why the cultivation area needs to be expanded beyond fifty (50) square feet;
 - e. Written approval of the requested increased cultivation area from the property owner;
 - f. Evidence that the cultivation area is indoors, as defined in this Code, and secured;
 - g. Evidence that the cultivation area is constructed with a one hour firewall assembly of green board;
 - h. Evidence that the electrical system of the expanded cultivation area is of sufficient capacity to handle the anticipated additional electrical load and was installed pursuant to a validly issued permit;
 - i. Information tending to show that the increased cultivation area shall not adversely affect the health or safety of residents of the subject home or nearby residences or businesses and shall not constitute a nuisance;
 - j. A hazardous materials storage, handling, and disposal plan, if appropriate, and;
 - k. An application fee as set by the Board of Supervisors
4. The Planning Director may request additional information from the qualified patient or their caregiver to assist in making a determination as to the requested expansion. The Planning Director may also impose additional conditions in order to approve the special permit, such

as, but not limited to, specific conditions to insure that the cultivation area meets the California Building Code and Fire Code, and that the expanded cultivation area does not adversely affect members of the public or nearby residences or businesses.

5. A special permit to allow increased cultivation area shall only be approved for legal parcels.
6. A special permit shall not be transferable to another individual or to another residence or accessory structure and shall only be effective for a period of one (1) year.
7. Any individual aggrieved by the decision of the Planning Director to grant or deny a special permit for increased residential medical marijuana cultivation may appeal the action to the Board of Supervisors pursuant to Humboldt County Code § 312-13.

55.1.11 Medical Marijuana Cooperatives, Collectives, Delivery Services or Dispensaries

This section applies to all medical marijuana distribution or transfer facilities including cooperatives, collectives, delivery services or dispensaries.

1. Medical marijuana cooperatives and collectives shall only be allowed in specifically enumerated zones with an approved conditional use permit, and a valid business license. Medical marijuana delivery services shall only be allowed in specifically enumerated zones with conditional use permits and a valid mobile business license. Zoning districts where a medical marijuana cooperative, collective or delivery service may be located are C-1, C-2, C-3, CG, CH, CN, MB, ML, MH, and MG.
2. The total number of medical marijuana collectives, cooperatives, and delivery services within the County shall be limited to twelve (12).
3. The fact that an applicant possesses other types of state or County permits or licenses does not exempt the applicant from the requirement of obtaining a Conditional Use Permit from the County of Humboldt to operate a medical marijuana cooperative, collective, or delivery service within the jurisdiction of the County.
4. Notwithstanding any other provision of the County code, an existing cooperative, collective or delivery service operating with a conditional use permit and a business license approved by the County as of the effective date of this ordinance shall be brought into full compliance with the provisions of this Code within one (1) year of the effective date of the ordinance establishing this Code.
5. All of the following specific requirements must be met in order for a conditional use permit for a medical marijuana cooperative, collective or delivery service to be considered by the Planning Commission:
 - (1) Preparation of a hazardous materials storage, handling, and disposal plan approved by the Division of Environmental Health.
 - (2) A proposed medical marijuana collective, cooperative, or delivery service located in the coastal zone must also apply for and receive a coastal development permit as set forth in the Humboldt County Code and state law.

(3) The Planning Commission shall consider the potential impacts and cumulative impacts of the proposed medical marijuana collective, cooperative, or delivery service to the community area as a whole and specifically on the following existing uses located within a 500 foot radius, regardless of whether those existing uses are within the jurisdiction of the County:

- a. Residential neighborhoods and their inhabitants;
- b. Churches, as defined herein;
- c. Schools, playgrounds, public parks, libraries, licensed day care facilities, and places where children congregate, as defined herein;
- d. Residential treatment facilities, as defined herein; and
- e. The cumulative impacts resulting from the addition of another marijuana collective, cooperative, delivery service or other distribution or transfer facility when there are others within a 500 foot radius of the proposed new facility.

(4) The facility must be secured against unauthorized entry.

(5) No medical marijuana cooperative, collective, dispensary, operator, establishment, or provider who possesses, cultivates, or distributes medical marijuana shall be located within a 600-foot radius of a school [Health & Safety Code section 11362.768 (b)].

(5) Operations Manual

Notwithstanding any other regulations or requirements for submitting an application for a conditional use permit, a medical marijuana cooperative, collective, or delivery service shall submit to the Planning Commission an operations manual which provides for the following:

- a. Authorization for the County, its agents, and employees, to seek verification of the information contained within the application and the operations manual;
- b. A description of the staff screening process including appropriate background checks;
- c. The hours and days of the week the medical marijuana cooperative, collective, or delivery service will be open;
- d. Text and graphic materials showing the site, floor plan and facilities of the medical marijuana cooperative or collective. The material shall also show structures and land uses within a 500 foot radius;
- e. A description of the security measures located on the premises, including but not limited to, lighting, alarms, and automatic law enforcement notification;
- f. A description of the screening, registration and validation process and procedures for qualified patients and caregivers;
- g. A description of qualified patient records acquisition and retention procedures and policies;

- h. The processes, procedures and inventory controls for tracking the medical marijuana that comes in and goes out of the collective, cooperative or delivery service;
- i. Description of measures taken to minimize or offset energy use from the activities of the cooperative, collective or delivery service;
- j. Description of chemicals stored, used and any effluent discharged as a result of the activities of the cooperative, collective or delivery service;
- k. The procedure, documentation, and notice process for assuring the safety and quality of all medical marijuana, including but not limited to, testing for bacteria, mold, pesticides and other contaminants.
- l. The procedure and documentation process for determining patient dosage, including testing for the major active agents in medical marijuana, such as cannabinoids tetrahydrocannabinol (THC), Cannabidiol (CBD), and Cannabinol (CBN);
- m. Any other information as may be requested by the County, its employees, and/or by the Planning Commission.

(6) Operating Standards

Notwithstanding any other regulations or requirements, medical marijuana cooperatives, collectives or delivery services shall comply with all of the following operating standards:

- a. Medical marijuana cooperatives, collectives and delivery services may not employ any persons who have been convicted of a felony or who are currently on probation;
- b. No dispensing of medical marijuana to an individual qualified patient shall be permitted more than once a day;
- c. The hours of operation of a medical marijuana cooperatives, collectives and delivery services shall be no earlier than 10 a.m. and no later than 7 p.m.
- d. Medical marijuana cooperatives, collectives, and delivery services shall only provide medical marijuana to an individual qualified patient who has a valid, verified physician's recommendation. The medical marijuana cooperative, collective, or delivery service shall verify that the physician's recommendations of their members are current and valid on a regular basis;
- e. Medical cooperatives or collectives shall display their client rules and/or regulations in a conspicuous place that is readily seen by all persons entering the cooperative or collective. A copy of the client rules and/or regulations shall be provided to the qualified patient by the medical marijuana delivery service;
- f. Each building entrance to a medical marijuana cooperative or collective shall be clearly and legibly posted with a notice indicating that smoking, ingesting or consuming medical marijuana or medical marijuana edibles on the premises or in

the vicinity of the cooperative or collective is prohibited unless specifically authorized by the Conditional Use Permit.

- g. Each building entrance to a medical marijuana cooperative or collective shall be clearly and legibly posted with a notice indicating that persons under the age of eighteen (18) are precluded from entering the premises unless they are qualified patients and they are accompanied by their parent or legal guardian;
- h. No medical marijuana delivery service shall provide medical marijuana to any qualified patient or holder of a medical marijuana recommendation who is under 18 unless their parent or guardian has previously given written permission that is on file with the delivery service and that parent or guardian is present to accept the delivery of medical marijuana;
- i. The sale, trade or exchange of medical marijuana edibles is not permitted;
- j. A record identifying the source or sources of all marijuana currently on the premises of the medical marijuana cooperative, collective, or delivery service or that has been on the premises during the two year period prior to the current date, shall be maintained and made available at all times for inspection by the Sheriff's Office, the Code Compliance Division of Community Development Services or the Code Enforcement Unit. This record shall state the grower and the address and location of the cultivation of the identified marijuana;
- k. All marijuana at the medical marijuana cooperative, collective, or delivery service shall be physically labeled with the species or strain of the marijuana, the strength and dosage of the marijuana, the monetary amount to be charged to a member of the cooperative, collective, or delivery service for the medical marijuana as reimbursement for the costs of cultivation, overhead, and operating expenses, as well as a statement that the marijuana has been tested for safety and quality and that the testing results are available for inspection;
- l. All signs for medical marijuana cooperatives, collectives, and delivery services must comply with sections 313-87.3 and 314-87.2 of the County Zoning Regulations;
- m. Medical marijuana cooperatives, collectives, and delivery services shall permit the distribution to their members of live plants, starts and clones only if allowed by an approved Conditional Use Permit;
- n. An up-to-date inventory of all hazardous materials stored and used onsite shall be maintained on the premises of the medical marijuana cooperative, collective, and delivery service, with a copy of this inventory provided to the Humboldt County Division of Environmental Health;
- o. Medical marijuana cooperatives, collectives, and delivery services shall maintain all necessary permits, and pay all required taxes and fees. Medical marijuana cooperatives, collectives and delivery services shall also provide invoices to vendors to ensure vendor's tax liability responsibility;

- p. Medical marijuana cooperatives, collectives and delivery services shall implement the policies and procedures as outlined in their Operations Manual as approved by the Planning Commission, and;
 - q. Medical marijuana cooperatives, collectives and delivery services shall comply with any and all conditions of their Conditional Use Permit;
- (7) Performance Review Reports
- a. Medical marijuana cooperatives, collectives, and delivery services shall submit a "Performance Review Report" on an annual basis for review and approval by the Planning Commission. This annual "Performance Review Report" is intended to identify the effectiveness of the approved Conditional Use Permit, Operations Manual, and Conditions of Approval, as well as the identification and implementation of additional procedures as deemed necessary. In the event the Planning Commission identifies problems with the medical marijuana collective, cooperative, or delivery service that could potentially lead to revocation of the conditional use permit pursuant to section 312-14 of the Humboldt County Code, the Planning Commission may require the submittal of more frequent "Performance Review Reports".
 - b. The medical marijuana cooperative, collective or delivery service shall be inspected by the Humboldt County Sheriff or his/her designee and either members of the Code Compliance Division of Community Development Services or the Code Enforcement Investigator on an annual basis, or more frequently as requested by the Planning Commission, to determine if the cooperative, collective or delivery service is in compliance with its conditional use permit and Operations Manual. After payment of the inspection fees as indicated in the following section, a copy of the results from this inspection shall be given to the medical marijuana collective, cooperative or delivery service for inclusion in their "Performance Review Report" to the Planning Commission.
 - c. Inspection and review fees pursuant to the County's adopted schedule of fees and charges, as amended from time to time by the Board of Supervisors, shall be paid by the medical marijuana collective, cooperative, or delivery service and accompany the "Performance Review Report" for costs associated with the inspection and review of the report by County staff and the Planning Commission.
 - d. Non-compliance by the medical marijuana collective, cooperative or delivery service in allowing the inspection by the above-mentioned County personnel, or refusal to pay the required inspection and review fees, or non-compliance in submitting the annual "Performance Review Report" for review by the Planning Commission shall be deemed grounds for a revocation of the conditional use permit and/ or subject the holder of the conditional use permit to the penalties outlined in this Code, above.
- (8) A conditional use permit shall be revoked or modified according to Humboldt County Code Section 312-14 (Revocation Procedures). Permit revocation or modification shall be sought for non-compliance with one or more of the requirements listed in this Code,

for failure to comply with the requirements of the Humboldt County Certified Unified Program Agency (CUPA), or for the grounds listed in Section 312-14.1.

- (9) The rights of an approved Conditional Use Permit to operate a medical marijuana cooperative, collective or delivery service may be transferred to another upon approval by the Planning Commission after a noticed public hearing.

55.1.12 Medical Marijuana Research Laboratories and Testing Facilities

1. Research laboratories and testing facilities at which no cultivation, processing, or distribution of medical marijuana occurs shall be allowed in any zone in which medical laboratories and medical testing facilities are permitted. Medical marijuana laboratories and medical marijuana testing facilities shall be subject to all the regulations and standards applicable to medical laboratories and medical testing facilities in the Humboldt County Code.

55.1.13 Medical Marijuana Business Offices

1. Business offices for a medical marijuana collective, cooperative, or delivery service at which no cultivation, processing, storage, handling, or distribution of marijuana in any form occurs shall be allowed in any zone in which business offices are allowed. Medical marijuana business offices shall be subject to all the regulations and standards applicable to business offices in the Humboldt County Code.

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