

## **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 111-1 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 an 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 (CO<sub>2</sub>, 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 or 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.