

AGENDA SUMMARY

RE: DRAFT MODIFICATIONS TO THE MEDICAL CANNABIS ORDINANCE (EMC CHAPTER 158)	FOR AGENDA DATE: MARCH 17, 2011 AGENDA ITEM NO.:
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RECOMMENDATION:

1. Review and revise, if necessary, the draft modifications to the Medical Cannabis Ordinance;
2. Direct the Community Development Department to send the modified Medical Cannabis Ordinance to the Planning Commission for action as required by EMC §155.352.

SUMMARY:
 On March 15, 2011, the City Council requested that Staff prepare modifications to the adopted Medical Cannabis Ordinance to:

- Reduce the number of distribution sites allowed for a cultivation/ processing/ distribution facility to one, which may be located either at or separate from the cultivation and processing site.
- Make clear that a Collective/Cooperative must be invited by the City Council to submit a Conditional Use Permit, and that the City Council may invite fewer than six Collectives/Cooperatives.
- Prohibit facilities in a structure that fronts on or only has access from Broadway, 4th or 5th Streets.
- Prohibit the exterior display of live plants or graphic representations of the cannabis plant.
- Limit the size, number and content of exterior signage to two square feet.

Attached hereto is a draft of the Medical Cannabis Ordinance with the modifications that address the items above, and other concerns expressed by the City Council at the March 15, 2011, meeting.

Continued page 2

FISCAL IMPACT: None with this action.

DEPARTMENT HEAD SIGNATURE:	CITY MANAGER SIGNATURE:
<i>Sidnie L. Olson</i> Director of Community Development	<i>David W. Tyson</i> City Manager

REVIEWED BY: Assistant City Manager	DATE:	INITIALS:
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Council Action:

Ordinance No. _____ Resolution No. _____

SUMMARY (continued):

Below is a summary of the draft modifications to the Medical Cannabis Ordinance. The page numbers reference the draft attached modified Ordinance.

§158.004

Provides greater explanation of what constitutes the size of the cultivation area. *(page 3)*

Provides greater explanation of what constitutes the size of the processing area. *(page 4)*

Includes definition of “Primary Caregiver” *(page 4)*

§158.010 and §158.011

Clarifies the maximum area allowed for personal cultivation and processing is the cumulative total of all cultivation and processing areas in the residence. *(pages 4-6)*

§158.021(A)

Reduces the number of distribution sites for a cultivation/processing facility to one, which may be located either at or separate from the cultivation/processing site. *(page 7)*

§158.021(C)

Makes clear that a Collective/Cooperative must be invited by the City Council to submit a Conditional Use Permit, and that the City Council may invite fewer than six to apply. *(page 7)*

§158.022(A)

Removes from Chapter 158 the specified zoning districts in which cultivation and processing is conditionally permitted. These have been replaced by the draft amendments to the specified zoning district regulations (see pages 17-19). *(page 8)*

Prohibits cultivation or processing facilities in a structure that fronts on or only has access from Broadway, 4th or 5th Streets. *(page 8)*

§158.022(B)

Specifies that the City Council is the decision making authority for conditional use permits for medical cannabis facilities - not the Planning Commission. *(page 8)*

§158.022(F)(4)

Prohibits the exterior display of live plants or graphic representations of the cannabis plant. *(page 9)*

Limits the size, number and content of exterior signage. *(page 9)*

§158.022(F)(11)

Specifies that the processing of medical cannabis into foodstuffs and other edibles must comply with laws regulating the commercial preparation of food. *(page 10)*

§158.022(F)(12)

Prohibits the packaging of foodstuffs and other edibles that would mimic candy or cookies or other items that would attract children. *(page 10)*

§158.023(A)

Removes from Chapter 158 the specified zoning districts in which distribution is conditionally permitted. These have been replaced by the draft amendments to the specified zoning district regulations (see pages 17-19). *(page 10)*

Prohibits distribution facilities in a structure that fronts on or only has access from Broadway, 4th or 5th Streets. *(page 10)*

§158.023(B)

Specifies that the City Council is the decision making authority for conditional use permits for medical cannabis facilities - not the Planning Commission. *(page 11)*

§158.023(E)(9)

Prohibits the exterior display of live plants or graphic representations of the cannabis plant. *(page 13)*

Limits the size, number and content of exterior signage, unless excepted under the Conditional Use Permit. *(page 13)*

§158.023(E)(17)

For security purposes, prohibits cash transactions and specifies only credit or debit cards, or checks may be used. *(page 14)*

§158.025

Adds a section on monitoring and oversight. *(page 15)*

§155.051, §155.055, §155.078, §155.099, §156.068, §156.074, §156.077, and §156.078

Includes Medical Cannabis facilities as conditionally permitted uses in specified zoning districts as approved under the adopted Medical Cannabis Ordinance - these amendments replace §158.022(A) and 158.023(A). *(pages 17-19)*

EUREKA MUNICIPAL CODE

CHAPTER 158: MEDICAL CANNABIS: CULTIVATION, PROCESSING AND DISTRIBUTION

Section

General Provisions

- 158.001 Findings and purpose
- 158.002 Interpretation and applicability
- 158.003 Release of liability and hold harmless
- 158.004 Definitions
- 158.005 Severability

Personal Use - Requirements & Regulations

- 158.010 Cultivation
- 158.011 Processing
- 158.012 Distributing

Cooperatives & Collectives - Requirements & Regulations

- 158.020 Offices and Labs
- 158.021 Number of Facilities
- 158.022 Cultivation or processing
- 158.023 Distributing
- 158.024 Delivery Services
- 158.025 Monitoring and Oversight

Permits

- 158.030 Fees and taxes
- 158.031 Enforcement

Non-medical Marijuana Use – Requirements & Regulations

- 158.040 Personal Use Cultivation, Processing, and Distributing

GENERAL PROVISIONS

§ 158.001 FINDINGS AND PURPOSE.

(A) The City Council of the City of Eureka, based on evidence presented to it in the proceedings leading to the adoption of this ordinance hereby finds that the cultivation, processing and distribution of medical cannabis in the City of Eureka has caused and is causing ongoing impacts to the community. These impacts include damage to buildings containing indoor grows, including improper and dangerous electrical alterations and use, inadequate ventilation leading to

EUREKA MUNICIPAL CODE

mold and mildew, increased frequency of home-invasion robberies and similar crimes, and that many of these impacts have fallen disproportionately on residential neighborhoods. These impacts have also created an increase in response costs, including code enforcement, building, land use, fire, and police staff time and expenses.

(B) The City Council of the City of Eureka also acknowledges that the voters of the State of California have provided a criminal defense to the cultivation, possession and use of cannabis for medical purposes under the Compassionate Use Act, but that the Compassionate Use Act does not address land use or building code impacts or issues arising from the resulting increase in cannabis cultivation within the City.

(C) The purpose and intent of this chapter is to regulate the cultivation, processing and distribution of medical cannabis in a manner that protects the public health, safety and welfare of the community and mitigates for the costs to the community of the oversight of these activities.

§ 158.002 INTERPRETATION AND APPLICABILITY.

(A) No part of this ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. section 800 et seq., nor to otherwise permit any activity that is prohibited under that Act or any other local, state or federal law, statute, rule or regulation. The cultivation, processing and distribution of medical cannabis in the City of Eureka is controlled by the provisions of this chapter of the Eureka Municipal Code. Accessory uses and home occupations, where medical cannabis is involved shall be governed by the provisions of this chapter.

(B) Nothing in this ordinance is intended, nor shall it be construed, to burden any defense to criminal prosecution otherwise afforded by California law.

(C) Nothing in this ordinance is intended, nor shall it be construed, to preclude a landlord from limiting or prohibiting cannabis cultivation, smoking or other related activities by tenants.

(D) Nothing in this ordinance is intended, nor shall it be construed, to exempt any cannabis related activity from any and all applicable local and state construction, electrical, plumbing, land use, or any other building or land use standards or permitting requirements.

(E) Nothing in this ordinance is intended, nor shall it be construed, to make legal any cultivation, transportation, sale, or other use of cannabis that is otherwise prohibited under California law.

(F) All cultivation, processing and distribution of medical cannabis within city limits shall be subject to the provisions of this chapter, regardless if the cultivation, processing or distribution existed or occurred prior to adoption of this chapter.

§ 158.003 RELEASE OF LIABILITY AND HOLD HARMLESS.

As a condition of approval of any conditional use permit approved for a medical cannabis cultivation, processing, and/or distribution facility, the owner or permittee of each medical

EUREKA MUNICIPAL CODE

cannabis collective, cooperative, cultivation, processing or distribution facility shall indemnify and hold harmless the City of Eureka and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by adjacent or nearby property owners or other third parties due to the operations at the collective, cooperative, cultivation, processing or distribution 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 cannabis.

§ 158.004 DEFINITIONS.

DWELLING UNIT. A room or group of rooms (including sleeping, eating, cooking, and sanitation facilities, but not more than one kitchen), which constitutes an independent housekeeping unit, occupied or intended for occupancy by one household on a long-term basis.

MEDICAL CANNABIS. (also known as *medical marijuana*) Cannabis, including constituents of cannabis, THC and other cannabinoids, used as a physician-recommended form of medicine or herbal therapy.

MEDICAL CANNABIS COOPERATIVE OR COLLECTIVE. Any person, association, cooperative, affiliation, or collective of persons who provide education, referral, or network services, and/or facilitation or assistance in the cultivation, processing or distribution of medical cannabis.

MEDICAL CANNABIS CULTIVATION FACILITY. A facility at which medical cannabis is grown and harvested for supply to a **MEDICAL CANNABIS PROCESSING FACILITY** and/or a **MEDICAL CANNABIS DISTRIBUTION FACILITY**.

MEDICAL CANNABIS CULTIVATION AREA. The maximum dimensions ~~allowed~~ used for the growing ~~and processing~~ of medical cannabis. For the purpose of this chapter, the allowable cultivation ~~area~~ shall ~~apply to be~~ the cumulative gross area used for cultivation of medical cannabis and shall be calculated using the outward edge of the trays, pots or other containers used for cultivation or the vegetative canopy, whichever is greater.

MEDICAL CANNABIS DISTRIBUTION. The supply to a qualified patient by any person, including a primary caregiver, cooperative or collective, of medical cannabis that is not grown in the qualified patient's residence.

MEDICAL CANNABIS DISTRIBUTION FACILITY. Any facility or location where the primary purpose is to distribute medical cannabis as a medication upon recommendation by a physician and where medical cannabis is made available to or distributed by or to a primary caregiver or a qualified patient in strict accordance with the Compassionate Use Act of 1996 (California Health and Safety Code Section 11362.5 et seq.).

MEDICAL CANNABIS PROCESSING. Medical cannabis processing includes, but is not limited to: manicuring, drying, curing, pressing, cooking, baking, infusing, grinding, bagging, packaging, rolling.

EUREKA MUNICIPAL CODE

MEDICAL CANNABIS PROCESSING AREA. The maximum dimensions used for the processing of medical cannabis. For the purpose of this chapter, the allowable processing area shall be the cumulative gross floor area used for processing medical cannabis. Where the processing area occupies the majority of a room or rooms, the processing area shall be calculated as the total gross floor area of the room or rooms used for processing medical cannabis.

MEDICAL CANNABIS PROCESSING FACILITY. A facility at which medical cannabis is processed for supply to a ***MEDICAL CANNABIS DISTRIBUTION FACILITY.***

PRIMARY CAREGIVER. As defined in California Health and Safety Code Section 11362.7 et seq., and as it may be amended from time to time.

QUALIFIED PATIENT. As defined in California Health and Safety Code Section 11362.7 et seq., and as it may be amended from time to time.

RESIDENCE. A legal dwelling unit.

§ 158.005 SEVERABILITY

If any part of this ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

PERSONAL USE - REQUIREMENTS & REGULATIONS

§ 158.010 CULTIVATION.

(A) A qualified patient shall be allowed to cultivate medical cannabis for their own personal use. ~~The medical cannabis cultivation and processing in an~~ area shall not ~~to~~ cumulatively exceed 50 square feet per residence. Cultivation of medical cannabis for personal use shall be in conformance with the following standards:

(1) The residence shall remain at all times a residence with legal and functioning cooking, sleeping and sanitation facilities. Medical cannabis cultivation shall remain at all times secondary to the residential use of the property;

(2) The qualified patient shall reside in the residence where the medical cannabis cultivation occurs;

(3) Cultivation of medical cannabis for personal use shall occur only on the parcel either within the residence occupied by the qualified patient, or in a self-contained accessory building that is secured, locked, and fully enclosed and which is for the exclusive use of the qualified patient. Cultivation of medical cannabis for personal use shall not displace required off-street parking;

(4) The medical cannabis cultivation area shall not exceed 50 square feet and shall not exceed 10 feet in height per residence, regardless if cultivated within the residence or in an accessory building unless an exception request is obtained per section 158.010(B);

EUREKA MUNICIPAL CODE

(5) If required by Building or Fire Code, the wall(s) adjacent to the cultivation area shall be constructed with 5/8" Type X moisture resistant drywall;

(6) The medical cannabis cultivation area shall be in compliance with the current adopted edition of the California Building Code section 1203.4 Natural Ventilation or section 402.3 Mechanical Ventilation (or its equivalent(s));

(7) The cultivation of medical cannabis shall not adversely affect the health or safety of the residents, the residence or accessory building in which it is cultivated, or nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, surface runoff, or other impacts, or be hazardous because of the use or storage of materials, processes, products or wastes;

(8) Medical cannabis cultivation lighting shall not cumulatively exceed 1200 watts unless an exception request is obtained per section 158.010(B);

(9) All electrical equipment used in the cultivation of medical cannabis, (e.g., lighting and ventilation) 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 cannabis is prohibited;

(10) Any electrical wiring/rewiring shall first require an electrical permit from the Building Department;

(11) The use of gas products (e.g., CO₂, butane, etc.) for medical cannabis cultivation is prohibited unless an exception request is obtained per section 158.010(B); and

(12) From a public right of way, there shall be no exterior evidence of medical cannabis cultivation occurring at the property.

(B) The medical cannabis cultivation and processing area may exceed the 50 square foot maximum per residence, up to a total of 100 square feet of cultivation and processing area, or the standards in section 158.010(A)(4)(8) or (11) above may be modified, upon approval of an Exception Request issued by the Director of Community Development. An Exception Request shall not allow more than a total of 100 square feet per residence regardless if cultivated and processed within the residence or an accessory building.

(1) An application for an Exception Request shall include the following information

(a) Written permission from the property owner;

(b) An application fee set by resolution of the City Council;

(c) Adequate information and documentation, such as a physician's recommendation, or verification of more than one qualified patient living in the residence, to demonstrate why the cultivation and processing area should be allowed to exceed 50 square feet;

EUREKA MUNICIPAL CODE

(d) The specified location and size of the requested cannabis cultivation and processing area not to exceed 100 square feet and not to exceed 10 feet in height;

(e) A materials storage, handling and disposal plan; and

(f) If the Exception Request includes a request to modify the standards prescribed in section 158.010(A)(4)(8) or (11), documentation and information shall be provided identifying which standards are proposed to be modified and why such modification would not detrimentally affect the use of the dwelling unit for its intended residential occupancy.

(2) If required by Building or Fire Code, the applicant shall make specified improvements to the residence with a Building Permit, if one is needed. Such improvements may include, but are not limited to, electrical system upgrades.

(3) The Director of Community Development in consultation with the Chief Building Official and Fire Marshal shall review the submitted application and determine if the specific circumstances warrant granting an Exception Request.

(4) The Exception Request shall become void, and the cannabis cultivation and processing area in excess of 50 square feet shall be removed one year following the date on which the Exception Request was issued unless the Exception Request is renewed prior to expiration.

(C) Medical cannabis cultivation is prohibited as a Home Occupation. Medical cannabis cultivation shall not be considered a residential accessory use. No distribution of medical cannabis cultivated for personal use shall be allowed.

§ 158.011 PROCESSING.

(A) A qualified patient shall be allowed to process medical cannabis cultivated within his/her private residence. The medical cannabis cultivation and processing area shall not cumulatively exceed 50 square feet per residence. Processing of medical cannabis cultivated at the residence shall be in conformance with the following standards:

(1) Only medical cannabis cultivated at the residence in conformance with this chapter shall be allowed to be processed at the residence;

(2) The residence shall remain at all times a residence with legal and functioning cooking, sleeping and sanitation facilities. Medical cannabis processing shall remain at all times secondary to the residential use of the property;

(3) The medical cannabis processing shall be in compliance with the current adopted edition of the California Building Code section 1203.4 Natural Ventilation or section 402.3 Mechanical Ventilation (or its equivalent(s));

(4) The use of gas products (e.g., CO₂, butane, etc.) for medical cannabis processing is prohibited; and

EUREKA MUNICIPAL CODE

(5) The processing of medical cannabis shall not adversely affect the health or safety of the residents, the residence or accessory building in which it is processed, or nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, surface runoff, or other impacts, or be hazardous because of the use or storage of materials, processes, products or wastes.

(B) Medical cannabis processing is prohibited as a Home Occupation. Medical cannabis processing shall not be considered a residential accessory use. No sale or distributing of medical cannabis processed for personal use shall be allowed.

§ 158.012 DISTRIBUTING.

Medical cannabis cultivated or processed for personal use as provided for in this chapter shall not be distributed to any person, cooperative or collective unless specifically allowed under this chapter.

COOPERATIVES & COLLECTIVES - REQUIREMENTS & REGULATIONS

§ 158.020 OFFICES AND LABS

(A) *Offices.* Offices for a cooperative or collective at which no cultivation, processing, storage, handling or distributing of cannabis, in any form, occurs shall be allowed in any zoning district in which offices are allowed. Such offices shall be subject to all regulations and standards applicable to offices as prescribed in the Zoning Regulations of the Eureka Municipal Code.

(B) *Medical Research Labs and Testing Facilities.* Medical cannabis research labs or medical cannabis testing facilities at which no cultivation, processing, or distribution of medical cannabis occurs shall be allowed in any zoning district in which laboratories or medical laboratories are permitted. Such facilities shall be subject to all regulations and standards applicable to labs or medical labs as prescribed in the Zoning Regulations of the Eureka Municipal Code.

§ 158.021 NUMBER OF FACILITIES.

(A) There shall be a maximum of four (4) cultivation/processing facilities permitted within city limits. ~~E;~~ each of the cultivation/processing facilities shall be allowed ~~a maximum of one two~~ distribution ~~facilities-facility~~ located within city limits ~~which- may be located separate from or at the same site where the cultivation and processing occurs. The cultivation/processing facilities may each have one off-site distribution facility. If the cultivation/processing facility has two distribution facilities, one must be located on-site with the cultivation/processing facility.~~

(B) A maximum of two distribution facilities not associated with any of the four permitted cultivation/processing facilities shall be allowed within city limits.

(C) Only those Collectives or Cooperatives invited by the City Council may submit an application for a conditional use permit. The City Council shall establish the process for the selection of the Collectives or Cooperatives to be invited to submit an application for a conditional use permit. The City Council may elect to invite fewer than the number described in

EUREKA MUNICIPAL CODE

~~section 158.021(A) and (B). The selection process for the cultivation/processing and distribution facilities shall be established by the City Council.~~

§ 158.022 CULTIVATION OR PROCESSING.

~~(A) Cultivation or processing facilities for distribution shall be allowed only in the Agriculture (A), Coastal Agriculture (AC), Service Commercial (CS), Limited Industrial (ML) or General Industrial (MG) zone districts. Cultivation or processing facilities shall not be permitted in a building where the storefront faces and/or the facility is entered from Broadway, Fourth or Fifth Streets.~~

(B) Cultivation or processing facilities shall only be allowed upon the granting of a conditional use permit ~~as in accordance with the procedures~~ prescribed in ~~the~~ Eureka Municipal Code section 155.280, et. seq., except that the conditional use permit shall only be granted, or denied, by the City Council, not by the Planning Commission. The fact that an applicant possesses other types of state or City permits or licenses does not exempt the applicant from the requirement of obtaining a conditional use permit to operate a cultivation or processing facility for distribution.

(C) Research, testing, or other similar facilities that cultivate cannabis shall be considered, for the purpose of this chapter, a cultivation or processing facility and shall be subject to all applicable regulations and limitations for a cultivation or processing facility.

(D) In addition to the conditional use permit required under section 158.022(B), a cultivation or processing facility located in the coastal zone shall only be allowed upon the granting of a coastal development permit as prescribed in the Eureka Municipal Code.

(E) In addition to the application requirements specified for a conditional use permit, an application for a conditional use permit for a cultivation or processing facility shall include the following information:

(1) Authorization for the City, its agents and employees, to seek verification of the information contained within the application;

(2) Text and graphic materials showing the site and floor plan for the medical cannabis cultivation or processing facility including the use of each room or building on the premises. The material shall also describe or illustrate the location and uses of adjacent structures and properties;

(3) The equipment and methods employed in the cultivation or processing of the medical cannabis;

(4) How the cultivated and/or processed medical cannabis will be transported to the distribution facility and/or to qualified patients;

(5) The hours and days of the week the medical cannabis cultivation or processing facility will be open;

EUREKA MUNICIPAL CODE

(6) The number of persons, per shift, who will be working at the cultivation or processing facility;

(7) The security measures that will be employed at the premises, including but not limited to: lighting, alarms, and automatic law enforcement notification;

(8) The measures taken to minimize or offset energy use from the cultivation or processing of medical cannabis;

(9) The chemicals stored or used at the premises;

(10) The type and quantity of all effluent discharged into the City's wastewater and/or stormwater system;

(11) The name, location and operator of the distribution facility(ies) for which the medical cannabis is being cultivated or processed; and

(12) Any other information required by the Director of Community Development relevant to the ordinance.

(F) Cultivation or processing facilities shall be subject to the following specific regulations:

(1) The cultivation area 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 (or its equivalent(s));

(2) The cultivation or processing facility shall comply with stormwater, wastewater, and other applicable requirements of the City;

(3) The required number of off-street parking spaces shall be determined by the ~~Planning Commission~~ City Council. The location of off-street parking shall be in compliance with the parking regulations prescribed in the Eureka Municipal Code;

(4) The on-site display of cannabis plants visible from the outside shall be prohibited, including live plants or graphic representations of the cannabis plant; only one non-illuminated sign not over two square feet displaying the name of the Collective or Cooperative and/or the address shall be permitted~~except for signs approved in compliance with the sign regulations prescribed in the Eureka Municipal Code, shall not be allowed~~ at the cultivation or processing facility;

(5) The display or sale of paraphernalia employed in the use or consumption of medical cannabis shall not be allowed at the cultivation or processing facility;

(6) Cultivation or processing facilities shall maintain all necessary permits, and pay all appropriate taxes;

EUREKA MUNICIPAL CODE

(7) Cultivation or processing facilities shall provide invoices to vendors to ensure vendor's tax liability responsibility;

(8) A cultivation or processing facility located off-site from the associated medical cannabis distribution facility shall not distribute medical cannabis from the cultivation or processing site unless permitted in the conditional use permit;

(9) The cultivation or processing of medical cannabis shall not adversely affect the health or safety of the employees, or the facility in which it is cultivated or processed, or nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or be hazardous because of the use or storage of materials, processes, products or wastes;

(10) There shall be no on-site use or consumption of medical cannabis unless specifically authorized in the conditional use permit; ~~and~~

(11) The processing of medical cannabis into foodstuffs and other edibles by cooking, baking, infusing, grinding, etc., shall comply with the provisions of all relevant local and State laws for the commercial preparation of food.

~~(10)~~(12) The packaging of edibles and other similar products shall be nondescript and shall not mimic, resemble or be representational of candy, cookies or other food products that might attract or entice children; and

~~(11)~~(13) Medical cannabis cultivation or processing facilities shall comply with other conditions prescribed in the approved conditional use permit.

(G) The conditional use permit ~~approved-granted~~ for a cultivation or processing facility may be suspended or revoked by the City Council as prescribed for all other conditional use permits in the Eureka Municipal Code.

(H) The rights of an approved conditional use permit for a cultivation or processing facility shall be granted to the permittee at the specified location described in the conditional use permit. The conditional use permit for a cultivation or processing facility shall not be transferred to another permittee or to another location.

(I) The conditional use permit shall remain in effect as long as the specified cultivation or processing facility is in operation. A facility that ceases operation for one month or more shall be deemed abandoned and the conditional use permit shall terminate.

§ 158.023 DISTRIBUTING.

~~(A) Medical cannabis distributing facilities shall be allowed only in the Service Commercial (CS), Hospital Medical (HM), Limited Industrial (ML) or General Industrial (MG) zoning districts. Medical cannabis distribution facilities shall not be permitted in a building where the storefront faces and/or the facility is entered from Broadway, Fourth or Fifth Streets.~~ Mobile distribution of medical cannabis, other than delivery services described and regulated by section 158.024, is prohibited within city limits.

EUREKA MUNICIPAL CODE

(B) Medical cannabis distribution facilities shall only be allowed upon the granting of a conditional use permit in accordance with the procedures prescribed in Eureka Municipal Code section 155.280, et. seq., except that the conditional use permit shall only be granted, or denied, by the City Council, not by the Planning Commission.~~as prescribed in the Eureka Municipal Code.~~ The fact that an applicant possesses other types of state or City permits or licenses does not exempt the applicant from the requirement of obtaining a conditional use permit to operate a medical cannabis distribution facility.

(C) In addition to the conditional use permit required under section 158.023(B), a distribution facility located in the coastal zone shall only be allowed upon the granting of a coastal development permit as prescribed in of the Eureka Municipal Code.

(D) In addition to the application requirements specified for a conditional use permit, an application for a conditional use permit for a distribution facility shall include the following information:

(1) Authorization for the City, its agents and employees, to seek verification of the information contained within the application;

(2) Text and graphic materials showing the site and floor plan for the distribution facility including the use of each room or building on the premises. The material shall also describe or illustrate the location and uses of adjacent structures and properties;

(3) The hours and days of the week the distribution facility will be open;

(4) The number of persons, per shift, who will be working at the distribution facility;

(5) The security measures that will be employed at the premises, including but not limited to: lighting, alarms, and automatic law enforcement notification;

(6) The chemicals stored or used at the premises;

(7) The type and quantity of all effluent discharged into the City's wastewater and/or stormwater system;

(8) The name, location and operator of the cultivation or processing facility(ies) supplying the medical cannabis to the distribution facility;

(9) A detailed Operations Manual containing, at a minimum,

(a) The staff screening process including appropriate background checks;

(b) The process for tracking medical cannabis quantities and inventory controls;

EUREKA MUNICIPAL CODE

(c) A description of the screening, registration and validation process for qualified patients;

(d) A description of qualified patient records acquisition and retention procedures; and

(e) The process for tracking medical cannabis quantities and inventory controls including on-site cultivation, processing, and/or medical cannabis products received from outside sources;

(10) A detailed Cannabis Safety Program, which includes at a minimum, the following,

(a) The process for documenting the chain of custody of all cannabis and cannabis products from farm to patient;

(b) The procedure and documentation process for assuring the safety and quality of all medical cannabis and medical cannabis products effective January 1, 2011, (including, but not limited to, testing for bacteria, mold, pesticides and other contaminants); and

(c) The procedure and documentation process for determining patient dosage including testing for the major active agents in the medical cannabis effective January 1, 2011 (e.g., cannabinoids THC, CBD and CBN).

(11) Any other information required by the Director of Community Development that is relevant to the ordinance.

(E) Distribution facilities shall be subject to the following specific regulations:

(1) No distribution facility shall be located within 1000 feet from any existing park, playground, day care facility, school or similar facility, either inside or outside the city limits;

(2) The distribution facility shall consist of a business form that satisfies state law to act cooperatively or collectively in the acquisition and distribution of medical cannabis;

(3) The distribution facility shall display the client rules and/or regulations in a conspicuous place that is readily seen by all persons entering the distribution facility;

(4) Each building entrance to the distribution facility shall be clearly and legibly posted with a notice indicating that smoking, ingesting or consuming medical cannabis on the premises or in the vicinity of the distribution facility is prohibited unless specifically authorized under the conditional use permit;

(5) Each building entrance to the distribution facility 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 a qualified patient and/or they are under the supervision of their parent or legal guardian;

EUREKA MUNICIPAL CODE

(6) The distribution facility shall only distribute medical cannabis to a qualified patient who has a valid, verified physician's recommendation, or the patient's primary caregiver. The distribution facility shall verify that the physician's recommendation is current and valid;

(7) The distribution facility shall not distribute medical cannabis to a qualified patient or primary caregiver more than twice a day;

(8) The distribution facility shall only permit the distribution of live plants, starts and clones as allowed by the approved conditional use permit. Such distribution shall be limited to qualified patients or primary caregivers;

(9) The on-site display of cannabis plants visible from the outside shall be prohibited, including live plants or graphic representations of the cannabis plant; only one non-illuminated sign not over two square feet displaying the name of the Collective or Cooperative and/or the address shall be permitted; except for signs approved in compliance with the sign regulations prescribed in the Eureka Municipal Code, shall not be allowed at the distribution facility unless an exception is granted specifically prescribed in the approved conditional use permit;

(10) The display or sale of paraphernalia employed in the use or consumption of medical cannabis shall not be allowed at the distribution facility unless specifically prescribed in the approved conditional use permit;

(11) The required number of off-street parking spaces shall be determined by the Planning Commission ~~City Council~~. The location of off-street parking shall be in compliance with the parking regulations prescribed in the Eureka Municipal Code;

(12) Distribution facilities shall maintain all necessary permits, and pay all appropriate taxes;

(13) Distribution facilities shall provide invoices to vendors to ensure vendor's tax liability responsibility;

(14) The distribution of medical cannabis shall not adversely affect the health or safety of the employees or the facility in which it is distributed, or nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or be hazardous because of the use or storage of materials, processes, products or wastes;

(15) Each and every package or unit of medical cannabis, or medical cannabis product, distributed shall have a label or labels that state the following:

- (a) The name of the patient;
- (b) The name and contact information of the distributor;

EUREKA MUNICIPAL CODE

- (c) An identification and tracking number for the specific package or unit of medical cannabis, or medical cannabis product;
- (d) The species or strain of the medical cannabis;
- (e) Identification of the strength and dosage of the medical cannabis;
- (f) A statement that the medical cannabis or medical cannabis product has been tested for safety and quality assurance and that the testing results, and chain of custody information is available by contacting the distributor;

(16) There shall be no on-site use or consumption of medial cannabis unless specifically authorized in the conditional use permit; and

~~(16)~~(17) To increase security and reduce the threat of theft, there shall be no cash transactions, only credit or debit card, or payment by check shall be allowed; and

~~(17)~~(18) Distribution facilities shall comply with other conditions prescribed in the approved conditional use permit.

(F) In addition to the findings specified for a conditional use permit, the ~~Planning Commission~~City Council shall consider the following when deciding to approve a conditional use permit for a distribution facility:

(1) If the proposed distribution facility is within a 300 feet of a residential zoning district either inside or outside the city limits, the potential impacts of the distribution facility on the residents and infrastructure of that district; and

(2) If the proposed distribution facility is within 1000 feet of any other distribution facility, either inside or outside the city limits, the cumulative impacts of the proposed distribution facility on the residents, businesses and infrastructure in the vicinity of the proposed distribution facility.

(G) The conditional use permit ~~approved-granted~~ for a distribution facility may be suspended or revoked by the City Council based on a finding that the facility has a history of multiple or any serious violations of this ordinance, or as otherwise prescribed for all other conditional use permits in the Eureka Municipal Code.

(H) The rights of an approved conditional use permit for a distribution facility shall be granted to the permittee at the specified location described in the conditional use permit. The conditional use permit for a distribution facility shall not be transferred to another permittee or to another location.

(I) The conditional use permit shall remain in effect as long as the specified distribution facility is in operation. A facility that ceases operation for one month or more shall be deemed abandoned and the conditional use permit shall terminate.

EUREKA MUNICIPAL CODE

§ 158.024 DELIVERY SERVICES

(A) A medical cannabis delivery or transportation service that is associated with a permitted distribution facility located within city limits and for which delivery originates from the distribution facility shall only be allowed when the delivery service is described and included in the conditional use permit for the distribution facility.

(B) Delivery or transportation services originating from outside city limits and delivering medical cannabis within city limits shall only be allowed upon the granting of a Mobile Business License.

(C) Delivery or transportation services originating from within city limits, but not from a permitted distribution facility are prohibited.

(D) No part of this section shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. section 800 et seq., nor to otherwise permit any activity that is prohibited under that Act or any other local, state or federal law, statute, rule or regulation.

§ 158.025 MONITORING AND OVERSIGHT

(A) Each permittee granted a conditional use permit for a medical cannabis facility shall, on or before January 31st of each calendar year, or at the close of any shorter reporting period which may be established by the Director of Community Development, make a report to the Director of Community Development containing at a minimum the following information:

(1) The number of members of the Collective or Cooperative;

(2) The amount of sales tax paid

(3) The amount of medical cannabis cultivated

(4) The amount of medical cannabis obtained from outside sources, if any

(5) The amount of medical cannabis supplied to members

(6) Any other information required by the City Council in the approved Conditional Use Permit.

(B) The report shall be accompanied by a review fee established by Resolution of the City Council.

(C) Any permittee granted a conditional use permit who fails to submit the report and review fee on or before January 31st of each calendar year, or at the close of any shorter reporting period established by the Director of Community Development, shall be considered delinquent and shall be subject to a delinquency penalty in the amount of 10% of the review fee in addition to the amount of the review fee.

(D) Any permittee who fails to submit the report and the review fee on or before a period of 30 days following the date when the report first became delinquent shall pay a second

EUREKA MUNICIPAL CODE

delinquency penalty in the amount of 20% of the review fee in addition to the amount of the review fee and the 10% penalty first imposed.

(E) If the report and review fee is not submitted on or before a period of 30 days following the date when the report first became delinquent, the conditional use permit shall be subject to revocation by the City Council pursuant to the provisions of section 155.294.

PERMITS

§ 158.030 FEES AND TAXES

The costs to the City arising from the processing and oversight of Exception Requests under section 158.010, subdivision (B) and permits for Cooperatives and Collectives and Distribution Facilities under sections 158.022 and 158.023, and the costs of monitoring and ensuring compliance with this Ordinance, will be offset through application fees and annual renewal fees, to be adopted by the City Council by Resolution and updated as necessary from time-to-time. In the administration of the permitting requirements under this Ordinance, the City Manager, or his designee, may require as a condition to granting and renewal of the permits any information reasonably necessary to implement the intent of this Ordinance, to ensure that the cannabis handled under the permit is grown, processed or distributed in a manner not in conflict with this Ordinance, and to ensure that any and all related sales taxes are being properly reported and paid.

§ 158.031 ENFORCEMENT

Any violation of this Ordinance is subject to administrative, civil, or criminal penalties, as set out in Eureka Municipal Code section 10.99, in addition to being subject to other remedies provided by law, including but not limited to, injunctive relief, nuisance abatement action, summary abatement of immediately hazardous conditions, and all other applicable fines, penalties and remedies. This is an Ordinance adopted to address public health and safety issues, and as such, carries with it an express legislative intent to be interpreted strictly, enforced with an emphasis on public and community safety, and enforced rigorously in a manner such as to deter further violations.

NON-MEDICAL USE – REQUIREMENTS & REGULATIONS

§ 158.040 PERSONAL USE CULTIVATION, PROCESSING, AND DISTRIBUTING

The personal cultivation, processing and distributing of cannabis or marijuana for non-medical purposes, to the extent provided by law, shall comply with the Use Requirements and Regulations prescribed in section 158.010 Cultivation, section 158.011 Processing, and section 158.012 Distributing contained in this chapter.

EUREKA MUNICIPAL CODE
 Modifications for Medical Cannabis Ordinance, Chapter 158

§ 155.051 A AGRICULTURAL DISTRICTS.

(D) *Conditional uses.* The following uses shall be permitted upon the granting of a use permit in accord with the provisions of §§ 155.280 through 155.299 of this chapter:

- (25) Accessory structures and uses located on the same site as a conditional use; ~~and~~
- (26) Wireless telecommunication facilities subject to the provisions of Chapter 159-; ~~and~~
- (27) Medical cannabis cultivation and processing facilities subject to the provisions of Chapter 158.

§ 155.055 HM HOSPITAL-MEDICAL DISTRICTS.

(D) *Conditional uses.* The following conditional uses shall be permitted upon the granting of a use permit in accord with the provisions of §§ 155.280 through 155.299 of this chapter:

- (7) Timber harvest of less than three acres; ~~and~~
- (8) Wireless telecommunication facilities located within 150 feet of an R District subject to the provisions of Chapter 159-; ~~and~~
- (9) Medical cannabis distribution facilities subject to the provisions of Chapter 158.

§ 155.078 PERMITTED AND CONDITIONAL USES.

(A) The following uses shall be permitted uses or conditional uses in a C District provided the symbol P, for permitted uses, or C, for conditional uses which appears in the column beneath of C District:

USES	CN	CP	CC	CS
Medical and orthopedic appliance stores	P	P	P	P
<u>Medical cannabis cultivation, processing and/or distribution facilities subject to the provisions of Chapter 158</u>				<u>C</u>
Meeting halls		P	P	P

§ 155.099 CONDITIONAL USES.

The following conditional uses shall be permitted upon the granting of a use permit in accord with the provisions of §§ 155.280 through 155.299 of this chapter, and the Planning Commission may require the submission of reports by technical consultants or other evidence in addition to the data prescribed in § 155.281 of this chapter:

EUREKA MUNICIPAL CODE

Modifications for Medical Cannabis Ordinance, Chapter 158

(A) *ML Limited Industrial Districts.*

(8) Live-work uses, only where the combining zone, LW has been applied to the Limited Industrial Zoning District; ~~and~~

(9) Wireless telecommunication facilities located within 100 feet of an R District subject to a wireless telecommunication facility permit issued pursuant to Chapter 159; ~~and~~

(10) Medical cannabis cultivation, processing and/or distribution facilities subject to the provisions of Chapter 158.

(B) *MG General Industrial Districts.*

(2) Accessory structures and uses located on the same site as a conditional use; ~~and~~

(3) Wireless telecommunication facilities located within 100 feet of an R District subject to a wireless telecommunication facility permit issued pursuant to Chapter 159; ~~and~~

(4) Medical cannabis cultivation, processing and/or distribution facilities subject to the provisions of Chapter 158

§ 156.068 AC — COASTAL AGRICULTURAL DISTRICT.

(D) *Conditional uses.* The following uses shall be permitted upon the granting of a use permit in accord with the provisions of §§ 155.280 through 155.299 of this title:

(6) Wireless telecommunication facilities subject to the provisions of Chapter 159; ~~and~~

(7) Medical cannabis cultivation and processing facilities subject to the provisions of Chapter 158

§ 156.074 CS — SERVICE COMMERCIAL DISTRICT.

(D) *Conditional uses.* The following conditional uses shall be permitted upon the granting of a use permit in accord with the provisions of §§ 155.280 through 155.299 of this title:

(20) Veterinarians' offices and small animal hospitals, including operations not conducted within a completely enclosed building, not less than 300 feet from an R or OD District; ~~and~~

(21) Wireless telecommunication facilities located within 100 feet of an R District subject to the provisions of Chapter 159; ~~and~~

(22) Medical cannabis cultivation, processing and/or distribution facilities subject to the provisions of Chapter 158

EUREKA MUNICIPAL CODE

Modifications for Medical Cannabis Ordinance, Chapter 158

§ 156.077 ML — LIMITED INDUSTRIAL DISTRICTS.

(D) *Conditional uses.*

(1) The following conditional uses shall be permitted upon the granting of a use permit in accord with the provisions of §§ 155.280 through 155.299 of this title:

(g) Gymnastics schools and health clubs; ~~and~~

(h) Wireless telecommunication facilities located within 100 feet of an R District subject to the provisions of Chapter 159-; ~~and~~

(i) Medical cannabis cultivation, processing and/or distribution facilities subject to the provisions of Chapter 158.

§ 156.078 MG — GENERAL INDUSTRIAL DISTRICTS.

(D) *Conditional uses.* The following conditional uses shall be permitted upon the granting of a use permit in accord with the provisions of §§ 155.280 through 155.299 of this title:

(44) Accessory structures and uses located on the same site as a conditional use; ~~and~~

(45) Wireless telecommunication facilities located within 100 feet of an R District subject to the provisions of Chapter 159-; ~~and~~

(46) Medical cannabis cultivation, processing and/or distribution facilities subject to the provisions of Chapter 158.