



AGENDA ITEM NO.

L-4

## COUNTY OF HUMBOLDT

Hearing Date: July 28, 2015

To: Board of Supervisors

From: Kevin R. Hamblin, Director of Planning and Building *KEH*

Subject: **Medical Marijuana Land Use Ordinance (MMLUO) – Phase III**  
**Collective or Cooperative Dispensing Facilities (CCDF)**  
Case Number OR-15-01 Applies Countywide

### RECOMMENDATION(S):

That the Board of Supervisors:

1. Introduce the Ordinance No. \_\_\_\_ by title and waive further reading [Attachment A]
2. Open the public hearing, receive and consider the staff report and proposed determination of exempt status under CEQA, and accept public comment.
3. Deliberate on the Ordinance.
4. Adopt Resolution No. \_\_\_\_ [Attachment B] approving the proposed Zoning Ordinance changes. Approval of the proposed amendments to Chapter 4 of the Zoning Regulations (Outside the Coastal Zone) will become effective 30 days from the date of its passage. Approval of the proposed amendments to Chapter 3 (Inside the Coastal Zone) will become effective upon certification by the California Coastal Commission.

(Recommendations continued next page)

Prepared by *St. Lazar*  
Steven Lazar, Senior Planner

CAO Approval *Amy Orsen*

#### REVIEW:

Auditor \_\_\_\_\_ County Counsel *DS* Personnel \_\_\_\_\_ Risk Manager \_\_\_\_\_ Other \_\_\_\_\_

#### TYPE OF ITEM:

☐ Consent  
☐ Departmental  
☒ Public Hearing  
☐ Other \_\_\_\_\_

#### PREVIOUS ACTION/REFERRAL:

Agenda Order No. \_\_\_\_\_ M-1 \_\_\_\_\_

Meeting of: June 23, 2015

Agenda Order No. \_\_\_\_\_ L-1 \_\_\_\_\_

Meeting of: November 15, 2011

#### BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT

Upon motion of Supervisor  
Seconded by Supervisor

Ayes  
Nays  
Abstain  
Absent

**SEE ACTION SUMMARY**

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: \_\_\_\_\_  
By: \_\_\_\_\_

**Kathy Hayes, Clerk of the Board**

### *Recommendations (continued)*

5. Adopt Ordinance No.\_\_\_\_ adding sections 313-55.3 and 314-55.3, authorizing the establishment of storefront-based medical marijuana collective or cooperative dispensing facilities in specific zones with a Conditional Use Permit (and Coastal Development Permit, where applicable).
6. Direct the Planning & Building Department – Current Planning Division to transmit the Local Coastal Program Amendment to the California Coastal Commission for certification in accordance with the Coastal Act.
7. Direct the Clerk of the Board to publish a Summary of the Ordinance within 15-days after adoption of the ordinance by the Board, along with the names of those Supervisors voting for and against the ordinance [Attachment E] and to post in the Office of the Clerk of the Board of Supervisors a certified copy of the full text of the adopted ordinance along with the names of those Supervisors voting for and against the ordinance.
8. Direct the Clerk of the Board to record in the action summary of the Board meeting that the ordinance has been duly published and posted, and to give notice of the decision to any interested parties.
9. Direct the Planning & Building Department – Current Planning Division, to bring before the Planning Commission for consideration and recommendation a separate ordinance rescinding Ordinance No. 2511, removing Sections 313-56 and 314-56 of the Humboldt County Zoning Regulations (Chapter 3 and Chapter 4 of Division 1 of Title III of the Humboldt County Code), and
10. Close the Public Hearing.

### **SOURCE OF FUNDING:**

General Fund contribution to the Current Planning Division.

### **DISCUSSION:**

This item involves amendments to the Zoning Regulations and Local Coastal Program (LCP), which would establish rules governing the permitting and operation of storefront-based Medical Marijuana Collective or Cooperative Dispensing Facilities (CCDF).

If adopted, these amendments to the Zoning Regulations would create new Humboldt County Code Sections 313-55.3 and 314-55.3 in the Coastal and Inland Zoning Regulations, governing the permitting of CCDF. The draft text of these proposed changes is included as [Attachment A] to this staff report. Because the Coastal Zoning Regulations are an implementation of the Local Coastal Program (LCP), these additions to the Coastal Zoning Regulations (313-55.3) constitute an amendment to the LCP requiring certification by the California Coastal Commission before they may become effective.

The proposed changes to the Zoning Ordinance would authorize, as a conditionally permitted use, the establishment of CCDF in the following Inland and Coastal Commercial and Industrial zones (C-1, C-2, C-3, CN, CG, MB, ML, MH, and MG). These regulations would establish permit-specific application requirements to address the unique range of concerns which surround storefront-based distribution of medical marijuana to qualified patients, including: preparation of a detailed plan of operations, integration and implementation of measures to insure compliance with specific Operating Standards, consenting to periodic inspection by county staff, and submittal of annual performance review reports detailing compliance with operational commitments and permit conditions.



This ordinance is being brought forward in response to recent direction from the Board made during the June 23<sup>rd</sup>, 2015 meeting, where the Board received a report from members of the Medical Marijuana subcommittee and directed staff to bring back CCDF regulations drafted in 2011 but never adopted by the Board.

The CCDF provisions currently being presented for consideration and adoption were developed in 2010 and 2011 by county staff, under the direction of the initial members of the Medical Marijuana subcommittee. They were initially part of a more comprehensive Draft Medical Marijuana Ordinance, which included rules addressing indoor cultivation within a residence and small scale outdoor cultivation. The Draft Ordinance was first presented to the Planning Commission for consideration at a public hearing during their meeting on January 6, 2011. It appeared before the Commission at three subsequent meetings held on 2/3/11, 5/12/11, and 8/18/11. In response to public comments received and under the direction of the Commission and Board of Supervisors, the ordinance underwent several rounds of revisions. At the request of the Board of Supervisors, the Commission was asked to complete their review of the Ordinance at their 8/18/11 meeting, and make a recommendation to the Board concerning its possible adoption. This direction requested limiting the scope of the ordinance to regulations for indoor cultivation within a residence and CCDF. At the meeting, citing a number of concerns, the Commission voted 5-1 to "not recommend" adoption of the Draft Ordinance. Stated concerns included several related directly to CCDF:

1. Viewing regulation of dispensaries as inappropriate without more comprehensive regulation of their suppliers;
2. Debate over whether it might not be appropriate to allow cultivation by dispensaries in the interim period between the first phase of the ordinance and future phases;
3. Interest in increasing "soft" buffers from 500 feet to 600 feet to be consistent with Section 11362.768 (b) of the Health & Safety Code, and recommending that the ordinance include language directed to protecting children;
4. Interest in removing Neighborhood Commercial (CN / C-1) and Business Park (MB) from the list of zones where CCDF would be conditionally permitted;
5. Requiring that CCDF implement records retention consistent with industry standards for medical records.

The draft ordinance was brought before the Board of Supervisors for consideration on November 15, 2011. Between the 8/18/11 Planning Commission meeting and the 11/15/11 Board of Supervisors meeting, an Appellate Court decision (*Pack v. City of Long Beach*) was published on 10/4/11 which held that a CCDF Ordinance adopted by the City of Long Beach was pre-empted by federal law because a local jurisdiction could not permit activities that were illegal under federal law. Due to the uncertainty created by this court decision, at their 11/15/11 meeting, on the advice of County Counsel the Board directed staff to remove all CCDF provisions from the draft regulations and to bring back the portion of the ordinance regulating indoor cultivation within a residence for adoption. The Ordinance was amended and brought back before the Board and adopted on December 13, 2011 (Ordinance #2468). As a result of the amendments made at the Board's request, the regulations for CCDF were considered but never acted upon. At the 12/13/11 meeting, the Board on the advice of County Counsel also chose to adopt a moratorium prohibiting the acceptance of new applications, or processing of existing permit applications, for CCDF. This moratorium was extended, and lapsed shortly after the adoption by the Board of the Prohibition Ordinance (Ord. #2511), adopted in January of last year. The *Pack* case has since been taken up by the California Supreme Court, which resulted in the decision being de-published. Consequently, the uncertainty surrounding this case has now passed.

Because these CCDF regulations were originally part of a much larger Medical Marijuana Ordinance, subsequently adopted in separate parts, staff has had to make a number of technical and textual changes to present the CCDF regulations as a cohesive standalone



ordinance for individual consideration and adoption. While no substantive changes have been made, the ordinance language has been added to and amended to provide internal consistency as well as consistency and harmony with the other phases of the Medical Marijuana Land Use Ordinance (MMLUO), which regulate cultivation within a residence (Phase I) and on parcels 5-acres or smaller in size (Phase II). The Draft CCDF Ordinance is included under Attachment A to this report. Deleted or amended text has been shown in ~~strike through~~ font and new non-grammatical changes have been shown in **bold italics**.

By language inserted into the Ordinance by the Board, it is clear that the CCDF prohibition regulations found under 313-56 & 314-56 of County Code were intended to provide the county additional time while the Pack decision was being appealed to craft specific regulations governing CCDF, and to insure that whatever regulations the County developed would be consistent with whatever the outcome of Pack would be. . This was memorialized within the accompanying resolution to the Prohibition Ordinance, as follows:

***WHEREAS**, the County's zoning ordinance does not currently contain regulations specific to the establishment of a medical marijuana collective or cooperative dispensing facilities; and*

***WHEREAS**, because there is high interest in establishing these facilities in the unincorporated areas of Humboldt county and the County currently lacks specific regulations that would establish uniform standards under which such facilities might operate, the County is in the process of reviewing and drafting zoning regulations that would regulate the operation and establishment of medical marijuana collective or cooperative dispensing facilities; and*

***WHEREAS**, a prohibition on the establishment of medical marijuana collective or cooperative dispensing facilities while the County develops and adopts an ordinance regulating the establishment of medical marijuana collective and cooperative dispensing facilities will allow the County to regulate these facilities in a manner that will lessen the adverse impacts on neighborhoods, allow the future operators of these facilities to have some degree of certainty about where and how they operate, and be consistent with the requirements of State law.*

While staff and County Counsel believe the new Zoning Ordinance sections being presented for consideration (313-55.3 & 314-55.3) supercede the code language found under 313-56 and 314-56 et seq. of the Zoning Regulations (Ordinance #2511), it is recommended as a housekeeping matter and to prevent possible confusion, that removal of sections 313-56 and 314-56 et seq. from the Zoning Regulations be pursued as a separate subsequent action. . Pursuant to the legislative procedures outlined under section 65857 of the Government Code, to include the rescinding amendment with the CCDF regulations at this time would necessitate referral of this change back to the Planning Commission for report and recommendation. A 40 day period is provided for this review/report by statute. The Board would then be able to vote on the proposed CCDF regulations.

### **CEQA Compliance**

The primary purpose of this Phase III ordinance is to help regulate the siting and processing of permits for CCDF, which are a use that is not currently enumerated within the Zoning Regulations. The ordinance places limits on the zoning districts where CCDF may be permitted, requires CCDF to secure discretionary land use permits, and requires compliance with operational standards and requirements designed to help prevent nuisance impacts and potentially significant environmental impacts. Since compliance with the ordinance will protect the environment staff believes the activity covered by the ordinance is not subject to CEQA.

Pursuant to section 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines, an activity is not subject to CEQA, when it will not result in a physical change to the environment either directly or indirectly. Furthermore, staff believes the activity covered by the ordinance does not constitute a "project" as defined under section 15378 of the CEQA Guidelines, in that the adoption of the



ordinance will not result in a reasonably foreseeable direct or indirect physical change in the environment.

Staff believes that even if the activity governed by the ordinance is a project under CEQA the ordinance may be found to be exempt from CEQA under the following sections: § 15061(b)(3) 'General Rule': ' a project is exempt from CEQA where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment', § 15308 'Class 8: Actions taken by a regulatory agency to assure protection of the environment where the regulatory process involves procedures for protection of the environment', and § 15321 'Class 21: Enforcement Actions by Regulatory Agencies'. Lastly, the LCP Amendments are statutorily exempt from environmental review per Section 15265 of the CEQA Guidelines. The Coastal Commission's review and development process for LCP's and LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of environmental review required by CEQA. This staff report has considered the relevant coastal resources issues with the proposed ordinance, and has concluded that the proposed LCP amendment is not expected to result in any significant adverse impact on the environment. It should be noted that similar efforts undertaken by neighboring cities and counties have occurred under many of the same CEQA exemptions cited above.

For the above-stated reasons, staff believes the proposed amendment is exempt from environmental review under CEQA.

#### **Staff Recommendation**

Staff recommends that your Board adopt the ordinance as presented [Attachment A].



**FINANCIAL IMPACT:**

The cost of preparing the proposed ordinance is being paid by the General Fund contribution to the Current Planning Division and County Counsel. If these regulations are adopted, future applicants seeking permits to operate CCDF will be responsible for the costs of permit processing.

**OTHER AGENCY INVOLVEMENT:**

Consultation with a number of agencies occurred during the initial public review of the Ordinance during 2011. In response to the most recent request of the Board, the draft ordinance has been rapidly amended to allow presentation in its standalone form. As such, minimal additional involvement with other agencies has occurred.

**ALTERNATIVES TO STAFF RECOMMENDATIONS:****Alternative 1: Modify**

Your Board may choose amend or modify the draft ordinance. If substantial revisions are suggested or contemplated, staff requests that this matter be continued to a future meeting to provide sufficient time to make the suggested changes. This will also most likely require that the change be referred to the Planning Commission for report and recommendation prior to ordinance adoption, pursuant to section 65857 of the Government Code. If this occurs, staff recommends that the Board also bundle the rescission of Ordinance #2511 with the remand of the revised Ordinance to the Planning Commission.

**Alternative 2: Not adopt**

Your Board may choose not to adopt the proposed ordinance. In this event, the prohibition of new CCDF will remain in place.

**Alternative 3: Continue**

Your Board may also choose to continue this matter to a future meeting to provide for the receipt of additional public comment. You may also wish to direct staff to respond to public comments received.

**ATTACHMENTS:**

Attachment A: Ordinance No. \_\_\_\_; rescinding Ordinance No. 2511, removing Sections 313-56.1 and 314-56.1 of the Humboldt County Zoning Regulations (Chapter 3 and Chapter 4 of Division 1 of Title III of the Humboldt County Code), and adding Sections 313-55.3 and 314-55.3.

Attachment B: Resolution No. \_\_\_\_

Attachment C: Post-Adoption Summary of Ordinance

Attachment D: Findings for Adoption of Zoning Text Amendments



## **ATTACHMENT A**

Ordinance No. \_\_\_\_

**Adding sections 313-55.3 and 314-55.3 to the Humboldt County Zoning Regulations**  
(Chapter 3 and Chapter 4 of Division 1 of Title III of the Humboldt County Code)



**BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE COUNTY OF HUMBOLDT ADDING SECTIONS 313-55.3 AND 314-55.3 RELATING TO THE REGULATION OF STOREFRONT-BASED MEDICAL MARIJUANA COLLECTIVE OR COOPERATIVE DISPENSING FACILITIES.**

The Board of Supervisors of the County of Humboldt do ordain as follows:

SECTION 1. Section 313-55.3 of Chapter 3 of Division 1 of Title III is hereby added as shown on the attached pages.

SECTION 2. Section 314-55.3 of Chapter 4 of Division 1 of Title III is hereby added as shown on the attached pages.

SECTION 3. Amendments to 314-55.3 (Regulations Outside the Coastal Zone) shall take effect and be in force thirty (30) days from the date of its passage. Amendments to 313-55.3 (Regulations Inside the Coastal Zone) shall take effect immediately upon certification of the proposed amendments to the local coastal program by the California Coastal Commission. A summary shall be published at least five (5) days before the date set for adoption and again fifteen (15) days after passage of this ordinance. It shall be published at least once with the names of the Board of Supervisors voting for and against the ordinance in a newspaper of general circulation published in the County of Humboldt, State of California.

PASSED, APPROVED, AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

AYES: Supervisors –  
NOES: Supervisors –  
ABSENT: Supervisors –

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Chair of the Board of Supervisors of the  
County of Humboldt, State of California

(SEAL)

ATTEST:  
Kathy Hayes  
Clerk of the Board of Supervisors  
County of Humboldt, State of California

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Kathy Hayes



**SECTION 1. Section 313-55.3 of Chapter 3 of Division 1 of Title III is hereby added as follows:**

**313-55.3 Medical Marijuana Cooperative or Collective Dispensing Facilities (CCDF)**

**55.3.1 Authority and Title**

This section applies to all Medical Marijuana Cooperative or Collective Dispensing Facilities (CCDF), as defined in this Code, that are located in the coastal zone.

**55.3.2 Purpose and Intent**

The purpose of this Section is to minimize the negative land use impacts that can be associated with patient to patient transfers of medical marijuana through CCDF, as defined herein.

**55.3.3 Applicability and Interpretation**

**55.3.3.1 *These regulations shall apply to the locating and permitting of CCDF in zoning districts which authorize this use, as specified under Section 55.3.8.2 of this Code.***

**55.3.3.2** The distribution of medical marijuana by CCDF within the jurisdiction of the County of Humboldt shall be controlled by the provisions of this Code, regardless of whether the distribution existed or occurred prior to the adoption of this Code.

**55.3.3.3** All distribution of medical marijuana by CCDF, as defined herein, 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 *these regulations* within one (1) year of the *adoption of the* ordinance establishing this Code.

**55.3.3.4** Nothing in this Code is intended, nor shall it be construed, to exempt ~~any~~ *the* distribution of medical marijuana by a collective, cooperative, or delivery service, as defined herein, from compliance with the Humboldt County zoning and land use regulations, as well as other applicable provisions of the County Code, or compliance with any applicable state laws.

**55.3.3.5** Nothing in this Code is intended, nor shall it be construed, to exempt CCDF as defined herein, or other marijuana-related activities *governed by these regulated* regulations from any and all applicable local and state construction, electrical, plumbing, land use, or any other building or land use standards or permitting requirements.

**55.3.3.6** Nothing in this Code is intended, nor shall it be construed, to preclude a landlord from limiting or prohibiting *CCDF*.

55.3.3.7 The definitions in this Code are intended to apply solely to the ***regulations herein***. Applicable definitions in Humboldt County Code section 313-135 et seq. and section 111-1 et seq. may also apply to this Code.

#### 55.3.4 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.

#### 55.3.5 Release of Liability and Hold Harmless

As a condition of approval for any conditional use permit and coastal development permit approved for medical marijuana CCDF, as defined herein, 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 of medical marijuana CCDF 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 handling or distribution of medical marijuana.

#### 55.3.6 Penalties

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

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.

#### 55.3.7 Definitions

Except as otherwise provided, when used in this Code, the following terms shall have the following meanings:

*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.

*Collective or Cooperative Dispensing Facilities (“CCDF”)*: a medical marijuana collective, cooperative or delivery service, as defined herein, operating in compliance with all applicable state and local laws. This does not include Medical Marijuana Research Laboratories and Testing Facilities, and Medical Marijuana Business Offices, as described under 55.3.15 and 55.3.16 of this code.



*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 processing and distribution of medical marijuana to its members from a “store-front” as a collaborative effort.

*Medical Marijuana Cooperative*: A democratically-controlled entity organized under the laws of the State of California, which includes filing articles of incorporation with the State and conducting its business, the distribution of medical marijuana to its members, as a collaborative effort for the benefit of its members from a “store-front”.

*Medical Marijuana Delivery Service*: A medical marijuana collective or cooperative, as defined herein, that delivers medical marijuana to its members from a “store-front” base of operations located in a commercial or industrial zone within the unincorporated area of Humboldt County. A medical marijuana delivery service shall not be operated from a residential-zoned parcel and is not eligible for an address of convenience.

*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.

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

*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.

#### 55.3.8 General Provisions

This section applies to all medical marijuana Collective or Cooperative Dispensing Facilities (CCDF), as defined in this Code.

55.3.8.1 All CCDF shall operate in compliance with this Code, as well as all applicable state and local laws.

55.3.8.2 CCDF shall only be allowed in specifically enumerated zones with a valid business license, and a conditional use permit and coastal development permit, ***issued pursuant to Section 312-3.1 of the code***. Zoning districts where a CCDF may be located are CN, CG, MB, ML, and MG.

55.3.8.3 The fact that an applicant possesses other types of state or county or city permits, licenses or other entitlements does not exempt the applicant from the requirement of obtaining a coastal development permit and a conditional use permit from the County of Humboldt to operate CCDF within the jurisdiction of the County.

55.3.8.4 CCDF shall at all times be operated in such a way as to ensure the safety of patients and staff; to ensure the security of the medical marijuana; and to 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 CCDF.

#### 55.3.9 CCDF Requirements

In addition to all other requirements for a conditional use permit and coastal development permit, all of the following ***terms and provisions*** ~~specific requirements~~ must be met in order for the Planning Commission to consider granting ***or renewing*** a conditional use permit or coastal development permit ***to operate*** CCDF:

55.3.9.1 Preparation of a hazardous materials storage, handling, and disposal plan approved by the Division of Environmental Health, if applicable.

55.3.9.2 The Planning Commission shall specifically regulate the location of CCDF by considering the potential impacts and cumulative impacts of proposed medical marijuana CCDF to the community area as a whole and specifically on the following existing uses located within a 500 foot radius of proposed CCDF, regardless of whether those existing uses are located within the jurisdiction of the County. The Planning Commission shall have the discretion to deny a conditional use permit or a coastal development permit for any proposed medical marijuana CCDF within 500 feet of the following uses if the Commission determines that the impacts of proposed CCDF have the potential to be significant on the following uses:



- 55.3.9.2.1 Residential neighborhoods and their inhabitants;
- 55.3.9.2.2 Church, as defined herein;
- 55.3.9.2.3 Playgrounds, public parks, libraries, licensed day care facilities, and places where children congregate, as defined herein;
- 55.3.9.2.4 Residential treatment facilities, as defined herein; and
- 55.3.9.2.5 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.

55.3.9.3 No medical marijuana CCDF, operators, establishments, or providers who possess, cultivate, or distribute medical marijuana shall be located within a 600-foot radius of a school [Health & Safety Code section 11362.768 (b)]. This distance shall be measured in a straight line from the property line of the school to the property line of the medical marijuana dispensing facility, operator, establishment, or provider.

55.3.8.6 Submission of an Operations Manual and compliance with the Operating Standards, ~~as presented below~~ *pursuant to sections 55.3.10 and 55.3.11 of this Code.*

#### 55.3.10 Operations Manual

Notwithstanding any other regulations or requirements for submitting an application for a conditional use permit or a coastal development permit, medical marijuana CCDF shall submit to the Planning Commission an Operations Manual which provides for the following:

- 55.3.10.1 Authorization for the County, its agents, and employees, to seek verification of the information contained within the conditional use permit and coastal development permit applications, the Operations Manual, and the Operating Standards at any time before or after the conditional use permit and coastal development permit are issued; and
- 55.3.10.2 A description of the staff screening processes, which shall include a requirement for criminal background checks; and
- 55.3.10.3 The hours and days of the week ~~the medical marijuana CCDF~~ *when the CCDF* will be open; and
- 55.3.10.4 Text and graphic materials showing the site, floor plan and facilities ~~of the medical marijuana CCDF~~. The material shall also show structures and land uses within a 500 foot radius; and
- 55.3.10.5 A description of the security measures located on the premises, including but not limited to, lighting, alarms, and automatic law enforcement notification, and how these will assure the safety of staff and members and secure the medical marijuana against diversion for non-medical purposes; and

- 55.3.10.6 A description of the screening, registration and validation process and procedures for qualified patients and caregivers; and
- 55.3.10.7 A description of qualified patient records acquisition and retention procedures and policies; and
- 55.3.10.8 A description of the processes, procedures and inventory controls for tracking the disparate strains, who they were grown by, and amounts of medical marijuana that come in and go out of the CCDF; and
- 55.3.10.9 Description of measures taken to minimize or offset the carbon footprint from ~~the~~ *operational* activities of the CCDF; and
- 55.3.10.10 Description of chemicals stored, used and any effluent discharged as a result of ~~the~~ *operational* activities of the CCDF; and
- 55.3.10.11 The procedure, documentation, and notice process for assuring the quality and safety of all medical marijuana distributed by CCDF; and
- 55.3.10.12 The procedure and documentation process for determining patient dosage, including any testing for the major active agents in medical marijuana offered to members, such as cannabinoids tetrahydrocannabinol (THC), Cannabidiol (CBD), and Cannabinol (CBN); and
- 55.3.6.13 Any other information as may be requested by the County, its employees, and/or by the Planning Commission; and
- 55.3.6.14 CCDF shall implement their policies and procedures as outlined in their Operations Manual as approved by the Planning Commission. Any deviations from or changes in the Operations Manual must be conveyed to ~~Community Development Services~~ *the Humboldt County Planning and Building Department* in writing within 30 days of the change.

#### 55.3.11 Operating Standards

Notwithstanding any other regulations or requirements, medical marijuana CCDF shall comply with all of the following operating standards:

- 55.3.11.1 CCDF that function as medical marijuana delivery services shall not operate from an address of convenience located in a residential zone, as this category of business is not eligible for an address of convenience. Medical marijuana delivery services shall only operate from a “store-front” facility in a commercial or industrial zone with an approved conditional use permit and coastal development permit; and
- 55.3.11.2 Medical marijuana CCDF may not be operated by or employ any persons who have been convicted of a felony or who are currently on probation; and



- 55.3.11.3 No dispensing of medical marijuana to an individual qualified patient shall be permitted more than twice a day; and
- 55.3.11.4 The hours of operation of medical marijuana CCDF shall be no earlier than 10 a.m. and no later than 7 p.m.; and
- 55.3.11.5 Medical marijuana CCDF shall only provide medical marijuana to an individual qualified patient who has a valid, verified physician's recommendation issued in the State of California. CCDF shall verify on an annual basis that the physician's recommendations of their members are current and valid; and
- 55.3.11.6 ~~Medical cooperatives or collectives~~ CCDF 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; and
- 55.3.11.7 Each building entrance to medical marijuana CCDF 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 CCDF is prohibited; and
- 55.3.11.8 Each building entrance to medical marijuana CCDF 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; and
- 55.3.11.9 No medical marijuana **CCDF or** 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 same parent or guardian is present to accept the delivery of medical marijuana; and
- 55.3.11.10 ~~Every~~ **All** medical marijuana CCDF shall display a copy of the inspection receipt issued by the Humboldt County Sealer of Weights and Measures for all weighing and measuring devices; and
- 55.3.11.11 All medical marijuana dispensed by CCDF must be obtained solely from their members in accordance with state law and the California Attorney General's Guidelines; and
- 55.3.11.12 All signs for medical marijuana CCDF must comply with sections 313-87.3 and 314-87.2 of the County Zoning Regulations; and
- 55.3.11.13 The cultivation of marijuana by CCDF to the flowering stage is prohibited. However, CCDF may distribute pre-flowering live plants to their members only if allowed by an approved conditional use permit and coastal development permit; and



55.3.11.14 An up-to-date inventory of all hazardous materials stored and used onsite shall be maintained on the premises of the medical marijuana ~~CCDF dispensing facility~~ with a copy of this inventory provided to the Humboldt County Division of Environmental Health; and

55.3.11.15 Medical marijuana CCDF shall maintain all necessary permits, and pay all required taxes and fees. CCDF shall also provide invoices to vendors to ensure vendor's tax liability responsibility; and

55.3.11.16 Medical marijuana CCDF shall implement their policies and procedures as outlined in their Operations Manual as approved by the Planning Commission. Any deviations from or changes in the Operations Manual or in the Operating Standards must be conveyed to ~~Community Development Services~~ **the Humboldt County Planning and Building Department** in writing within 30 days of the change; and

55.3.11.17 Medical marijuana CCDF shall comply with any and all conditions of their conditional use permit and coastal development permit.

#### 55.3.12 Performance Review Reports

55.3.12.1 Medical marijuana CCDF shall submit a "Performance Review Report" on an annual basis from their initial date of operation 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, Operating Standards, 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 *specific* CCDF that could potentially lead to revocation of the *associated* conditional use permit and coastal development permit pursuant to section 312-14 of the Humboldt County Code, the Planning Commission may require the submittal of more frequent "Performance Review Reports".

55.3.12.2 Medical marijuana CCDF shall be inspected by the Humboldt County Sheriff or his/her designee, and/or employees of ~~Community Development Services~~ **the Humboldt County Planning and Building Department** and/or the Code Enforcement Investigator on an annual basis, or more frequently as requested by the Planning Commission, to determine if the ~~CCDF cooperative, collective or delivery service~~ is in compliance with its conditional use permit and coastal development permit, Operating Standards, 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 CCDF for inclusion in their "Performance Review Report" to the Planning Commission.

55.3.12.3 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 medical marijuana CCDF and accompany the "Performance Review Report" for costs associated with the inspection and the review of the report by County staff.



55.3.12.4 Non-compliance by medical marijuana CCDF in allowing the inspection by the above-mentioned County personnel, or refusal to pay the required 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 coastal development permit and/ or subject the holder of the permit(s) to the penalties outlined in this Code, above.

#### 55.3.13 Permit Revocation & Transfer

55.3.13.1 A conditional use permit and coastal development 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 *and any successor provisions*.

55.3.14.1 Conditional use permits and coastal development permits to operate CCDF may be transferred upon approval by the Planning Commission after a noticed public hearing.

#### 55.3.15 Medical Marijuana Research Laboratories and Testing Facilities

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.

#### 55.3.16 Medical Marijuana Business Offices

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

**SECTION 2. Section 314-55.3 of Chapter 4 of Division 1 of Title III is hereby added as follows:**

**314-55.3 Medical Marijuana Cooperative or Collective Dispensing Facilities (CCDF)**

**55.3.1 Authority and Title**

This section applies to all Medical Marijuana Cooperative or Collective Dispensing Facilities (CCDF), as defined in this Code.

**55.3.2 Purpose and Intent**

The purpose of this Section is to minimize the negative land use impacts that can be associated with patient to patient transfers of medical marijuana through CCDF, as defined herein.

**55.3.3 Applicability and Interpretation**

**55.3.3.1 *These regulations shall apply to the locating and permitting of CCDF in zoning districts which authorize this use, as specified under Section 55.3.8.2 of this Code.***

**55.3.3.2** The distribution of medical marijuana by CCDF within the jurisdiction of the County of Humboldt shall be controlled by the provisions of this Code, regardless of whether the distribution existed or occurred prior to the adoption of this Code.

**55.3.3.3** All distribution of medical marijuana by CCDF, as defined herein, 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 ***these regulations*** within one (1) year of the ***adoption of the*** ordinance establishing this Code.

**55.3.3.4** Nothing in this Code is intended, nor shall it be construed, to exempt ~~any~~ ***the*** distribution of medical marijuana by a collective, cooperative, or delivery service, as defined herein, from compliance with the Humboldt County zoning and land use regulations, as well as other applicable provisions of the County Code, or compliance with any applicable state laws.

**55.3.3.5** Nothing in this Code is intended, nor shall it be construed, to exempt CCDF as defined herein, or other marijuana-related activities ***governed by these regulated*** regulations from any and all applicable local and state construction, electrical, plumbing, land use, or any other building or land use standards or permitting requirements.

**55.3.3.6** Nothing in this Code is intended, nor shall it be construed, to preclude a landlord from limiting or prohibiting ***CCDF***.



55.3.3.7 The definitions in this Code are intended to apply solely to the *regulations herein*. Applicable definitions in Humboldt County Code section 314-135 et seq. and section 111-1 et seq. may also apply to this Code.

#### 55.3.4 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.

#### 55.3.5 Release of Liability and Hold Harmless

As a condition of approval for any conditional use permit and coastal development permit approved for medical marijuana CCDF, as defined herein, 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 of medical marijuana CCDF 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 handling or distribution of medical marijuana.

#### 55.3.6 Penalties

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

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.

#### 55.3.7 Definitions

Except as otherwise provided, when used in this Code, the following terms shall have the following meanings:

*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.

*Collective or Cooperative Dispensing Facilities (“CCDF”)*: a medical marijuana collective, cooperative or delivery service, as defined herein, operating in compliance with all applicable state and local laws. This does not include Medical Marijuana Research Laboratories and Testing Facilities, and Medical Marijuana Business Offices, as described under 55.3.15 and 55.3.16 of this code.



*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 processing and distribution of medical marijuana to its members from a “store-front” as a collaborative effort.

*Medical Marijuana Cooperative*: A democratically-controlled entity organized under the laws of the State of California, which includes filing articles of incorporation with the State and conducting its business, the distribution of medical marijuana to its members, as a collaborative effort for the benefit of its members from a “store-front”.

*Medical Marijuana Delivery Service*: A medical marijuana collective or cooperative, as defined herein, that delivers medical marijuana to its members from a “store-front” base of operations located in a commercial or industrial zone within the unincorporated area of Humboldt County. A medical marijuana delivery service shall not be operated from a residential-zoned parcel and is not eligible for an address of convenience.

*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.

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

*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.

#### 55.3.8 General Provisions

This section applies to all medical marijuana Collective or Cooperative Dispensing Facilities (CCDF), as defined in this Code.

55.3.8.1 All CCDF shall operate in compliance with this Code, as well as all applicable state and local laws.

55.3.8.2 CCDF shall only be allowed in specifically enumerated zones with a valid business license, and a conditional use permit *issued pursuant to Section 312-3.1 of the code*. Zoning districts where a CCDF may be located are C-1, C-2, C-3, MB, ML, MH.

55.3.8.3 The fact that applicants possess other types of state or county or city permits, licenses or other entitlements does not exempt the applicant from the requirement of obtaining a conditional use permit from the County of Humboldt to operate CCDF within the jurisdiction of the County.

55.3.8.4 CCDF shall at all times be operated in such a way as to ensure the safety of patients and staff; to ensure the security of the medical marijuana; and to 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 CCDF.

#### 55.3.9 CCDF - Requirements

In addition to all other requirements for a conditional use permit and coastal development permit, all of the following *terms and provisions* ~~specific requirements~~ must be met in order for the Planning Commission to consider granting *or renewing* a conditional use permit or coastal development permit *to operate* CCDF:

55.3.9.1 Preparation of a hazardous materials storage, handling, and disposal plan approved by the Division of Environmental Health, if applicable.

55.3.9.2 The Planning Commission shall specifically regulate the location of CCDF by considering the potential impacts and cumulative impacts of proposed medical marijuana CCDF to the community area as a whole and specifically on the following existing uses located within a 500 foot radius of proposed CCDF, regardless of whether those existing uses are located within the jurisdiction of the County. The Planning Commission shall have the discretion to deny a conditional use permit for any proposed medical marijuana CCDF within 500 feet of the following uses if the Commission determines that the impacts of proposed CCDF have the potential to be significant on the following uses:



- 55.3.9.2.1 Residential neighborhoods and their inhabitants;
- 55.3.9.2.2 Church, as defined herein;
- 55.3.9.2.3 Playgrounds, public parks, libraries, licensed day care facilities, and places where children congregate, as defined herein;
- 55.3.9.2.4 Residential treatment facilities, as defined herein; and
- 55.3.9.2.5 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.

55.3.9.3 No medical marijuana CCDF, operators, establishments, or providers who possess, cultivate, or distribute medical marijuana shall be located within a 600-foot radius of a school [Health & Safety Code section 11362.768 (b)]. This distance shall be measured in a straight line from the property line of the school to the property line of the medical marijuana dispensing facility, operator, establishment, or provider.

55.3.8.6 Submission of an Operations Manual and compliance with the Operating Standards, ~~as presented below~~ *pursuant to sections 55.3.10 and 55.3.11 of this Code.*

#### 55.3.10 Operations Manual

Notwithstanding any other regulations or requirements for submitting an application for a conditional use permit, medical marijuana CCDF shall submit to the Planning Commission an Operations Manual which provides for the following:

- 55.3.10.1 Authorization for the County, its agents, and employees, to seek verification of the information contained within the conditional use permit application, the Operations Manual, and the Operating Standards at any time before or after the conditional use permit and costal development permit are issued; and
- 55.3.10.2 A description of the staff screening processes, which shall include a requirement for criminal background checks; and
- 55.3.10.3 The hours and days of the week ~~the medical marijuana CCDF~~ *when the CCDF* will be open; and
- 55.3.10.4 Text and graphic materials showing the site, floor plan and facilities ~~of the medical marijuana CCDF~~. The material shall also show structures and land uses within a 500 foot radius; and
- 55.3.10.5 A description of the security measures located on the premises, including but not limited to, lighting, alarms, and automatic law enforcement notification, and how these will assure the safety of staff and members and secure the medical marijuana against diversion for non-medical purposes; and



- 55.3.10.6 A description of the screening, registration and validation process and procedures for qualified patients and caregivers; and
- 55.3.10.7 A description of qualified patient records acquisition and retention procedures and policies; and
- 55.3.10.8 A description of the processes, procedures and inventory controls for tracking the disparate strains, who they were grown by, and amounts of medical marijuana that come in and go out of the CCDF; and
- 55.3.10.9 Description of measures taken to minimize or offset the carbon footprint from ~~the~~ **operational** activities of ~~the CCDF~~; and
- 55.3.10.10 Description of chemicals stored, used and any effluent discharged as a result of ~~the~~ **operational** activities of ~~the CCDF~~; and
- 55.3.10.11 The procedure, documentation, and notice process for assuring the quality and safety of all medical marijuana distributed ~~by CCDF~~; and
- 55.3.10.12 The procedure and documentation process for determining patient dosage, including any testing for the major active agents in medical marijuana offered to members, such as cannabinoids tetrahydrocannabinol (THC), Cannabidiol (CBD), and Cannabinol (CBN); and
- 55.3.6.13 Any other information as may be requested by the County, its employees, and/or by the Planning Commission; and
- 55.3.6.14 CCDF shall implement their policies and procedures as outlined in their Operations Manual as approved by the Planning Commission. Any deviations from or changes in the Operations Manual must be conveyed to ~~Community Development Services~~ **the Humboldt County Planning and Building Department** in writing within 30 days of the change.

#### 55.3.11 Operating Standards

Notwithstanding any other regulations or requirements, medical marijuana CCDF shall comply with all of the following operating standards:

- 55.3.11.1 CCDF that function as medical marijuana delivery services shall not operate from an address of convenience located in a residential zone, as this category of business is not eligible for an address of convenience. Medical marijuana delivery services shall only operate from a “store-front” facility in a commercial or industrial zone with an approved conditional use permit; and
- 55.3.11.2 Medical marijuana CCDF may not be operated by or employ any persons who have been convicted of a felony or who are currently on probation; and



- 55.3.11.3 No dispensing of medical marijuana to an individual qualified patient shall be permitted more than twice a day; and
- 55.3.11.4 The hours of operation of medical marijuana CCDF shall be no earlier than 10 a.m. and no later than 7 p.m.; and
- 55.3.11.5 Medical marijuana CCDF shall only provide medical marijuana to an individual qualified patient who has a valid, verified physician's recommendation issued in the State of California. CCDF shall verify on an annual basis that the physician's recommendations of their members are current and valid; and
- 55.3.11.6 ~~Medical cooperatives or collectives~~CCDF 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; and
- 55.3.11.7 Each building entrance to medical marijuana CCDF 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 CCDF is prohibited; and
- 55.3.11.8 Each building entrance to medical marijuana CCDF 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; and
- 55.3.11.9 No medical marijuana **CCDF or** 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 same parent or guardian is present to accept the delivery of medical marijuana; and
- 55.3.11.10 ~~Every~~ **All** medical marijuana CCDF shall display a copy of the inspection receipt issued by the Humboldt County Sealer of Weights and Measures for all weighing and measuring devices; and
- 55.3.11.11 All medical marijuana dispensed by CCDF must be obtained solely from their members in accordance with state law and the California Attorney General's Guidelines; and
- 55.3.11.12 All signs for medical marijuana CCDF must comply with sections 313-87.3 and 314-87.2 of the County Zoning Regulations; and
- 55.3.11.13 The cultivation of marijuana by CCDF to the flowering stage is prohibited. However, CDDF may distribute pre-flowering live plants to their members only if allowed by an approved conditional use permit; and



55.3.11.14 An up-to-date inventory of all hazardous materials stored and used onsite shall be maintained on the premises of the ~~CCDF medical marijuana dispensing facility~~ with a copy of this inventory provided to the Humboldt County Division of Environmental Health; and

55.3.11.15 Medical marijuana CCDF shall maintain all necessary permits, and pay all required taxes and fees. CCDF shall also provide invoices to vendors to ensure vendor's tax liability responsibility; and

55.3.11.16 Medical marijuana CCDF shall implement their policies and procedures as outlined in their Operations Manual as approved by the Planning Commission. Any deviations from or changes in the Operations Manual or in the Operating Standards must be conveyed to ~~Community Development Services~~ **the Humboldt County Planning and Building Department** in writing within 30 days of the change; and

55.3.11.17 Medical marijuana CCDF shall comply with any and all conditions of their conditional use permit.

#### 55.3.12 Performance Review Reports

55.3.12.1 Medical marijuana CCDF shall submit a "Performance Review Report" on an annual basis from their initial date of operation 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, Operating Standards, 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 *specific* CCDF that could potentially lead to revocation of the *associated* 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".

55.3.12.2 Medical marijuana CCDF shall be inspected by the Humboldt County Sheriff or his/her designee, and/or employees of ~~Community Development Services~~ **the Humboldt County Planning and Building Department** and/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, Operating Standards, 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 CCDF for inclusion in their "Performance Review Report" to the Planning Commission.

55.3.12.3 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 medical marijuana CCDF and accompany the "Performance Review Report" for costs associated with the inspection and the review of the report by County staff.



55.3.12.4 Non-compliance by medical marijuana CCDF in allowing the inspection by the above-mentioned County personnel, or refusal to pay the required 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 permit to the penalties outlined in this Code, above.

#### 55.3.13 Permit Revocation & Transfer

55.3.13.1 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 *and any successor provisions*.

55.3.14.1 Conditional use permits to operate CCDF may be transferred upon approval by the Planning Commission after a noticed public hearing.

#### 55.3.15 Medical Marijuana Research Laboratories and Testing Facilities

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.

#### 55.3.16 Medical Marijuana Business Offices

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



**ATTACHMENT B**

Resolution No. \_\_\_\_\_

**BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA**  
Certified copy of portion of proceedings; meeting on \_\_\_\_\_, 2015

**RESOLUTION NO.** \_\_\_\_\_

**RESOLUTION MAKING FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AND ADOPTING AN ORDINANCE ADDING SECTIONS 313-55.3 AND 314-55.3 RELATING TO THE REGULATION OF STOREFRONT-BASED MEDICAL MARIJUANA COLLECTIVE OR COOPERATIVE DISPENSING FACILITIES.**

**WHEREAS**, California Government Code Section 65853 and Section 312-50 et seq. of the Humboldt County Code sets forth the manner in which Zoning Regulations may be amended; and

**WHEREAS**, the Planning & Building Department has reviewed and circulated a draft ordinance which amends Chapter 3 and Chapter 4 of Title III of the Humboldt County Code, Regulations Inside and Outside the Coastal Zone, adding Sections 313-55.3 and 314-55.3, which relate to the regulation of storefront-based medical marijuana collective or cooperative dispensing facilities ("CCDF").

**WHEREAS**, the Planning and Building Department have submitted evidence showing that, pursuant to section 15060(c)2 and 15060(c)3 of the CEQA Guidelines, the proposed ordinance amendments to the County Regulations are not subject to CEQA, as it they show no potential to result in a physical change to the environment either directly or indirectly. Furthermore, they do not constitute a "project" as defined under section 15378 of the CEQA Guidelines, and may also be found exempt from CEQA under the following sections: 15061(b)3 'General Rule', 15308 'Actions taken by local ordinance to assure protection of the environment', and 15321 'Enforcement Actions by Regulatory Agencies'. Lastly, the LCP Amendments are statutorily exempt from environmental review per Section 15265 of the CEQA Guidelines; and

**WHEREAS**, the Planning & Building Department's staff report includes evidence in support of finding that the proposed Ordinance is consistent with requirements of Section 65853 of the California Government Code and Section 312-50 et seq. of the Humboldt County Code; and

**WHEREAS**, on January 6th, February 3rd, May 12th, and August 18th 2011, the Humboldt County Planning Commission held public hearings on the proposed ordinance revisions to receive other evidence and testimony; and

**WHEREAS**, the Planning Commission has reviewed and considered said reports and other testimony presented to the Commission, and on August 18, 2011 recommended that the Board of Supervisors not approve the proposed ordinance amendments.

**WHEREAS**, the Board of Supervisors on November 15, 2011 held a public hearing to consider the proposed ordinance amendments at which time all persons wishing to give testimony on the matter were heard.

**WHEREAS**, the Board of Supervisors directed staff to remove all CCDF-related provisions from the ordinance, and adopted Ordinance #2468, which was confined to regulation of indoor cultivation of medical marijuana within a residence.

**WHEREAS**, on June 23, 2015, the Board directed staff to bring back the CCDF provisions which were removed from Ordinance #2468 prior to adoption.



**WHEREAS**, at the request of the Board, the Planning Division of the Planning and Building Department has made non-substantive changes to the CCDF provisions and has presented the CCDF provisions to the Board as a standalone ordinance.

**NOW, THEREFORE**, be it resolved, determined, and ordered by the Board of Supervisors, based on the Planning & Building Department's staff report, testimony and evidence presented at the public hearing, and having considered the recommendation of the Planning Commission, that the Board:

1. Finds that the adoption of Title III, Division 1, Chapter 3, sections 313-55.3 and Title III, Division 1, Chapter 4, sections 314-55.3 have been reviewed for compliance with CEQA and found to be not subject to environmental review pursuant to section 15061(b)(3) of the CEQA Guidelines and found exempt from environmental review per sections 15265, 15308, and 15321 of the CEQA Guidelines; and
2. Makes the findings for approval of the amendments to the Zoning Regulations (Case No.: OR-15-01) based on the evidence submitted and further finds that the Local Coastal Program Amendment will be carried out in accordance with the Coastal Act.
3. Approves and adopts Ordinance No. \_\_\_\_ amending Chapters 3 and 4 of Title III of the Humboldt County Code, Regulations Inside and Outside the Coastal Zone, adding Sections 313-55.3 and 314-55.3 regulating the establishment and operation of Medical Marijuana Collective or Cooperative Dispensing Facilities in all zones, as well as the operation permitted Medical Marijuana Collective or Cooperative Dispensing Facilities in all zones.

**BE IT FURTHER RESOLVED** by the Humboldt County Board of Supervisors that:

1. The Planning & Building Department – Current Planning Division is hereby directed to transmit the Local Coastal Program Amendment to the California Coastal Commission for certification in accordance with the Coastal Act, the Local Coastal Program Amendment to become effective upon approval by the Coastal Commission.
2. The Planning & Building Department – Current Planning Division is hereby directed to prepare and file a Notice of Exemption with the County Clerk and Office of Planning and Research pursuant to California Environmental Quality Act.
3. The Clerk of the Board is hereby directed to give notice of the decision to any interested party.
4. The Clerk of the Board is hereby directed to publish the Post-Adoption Summary of Ordinance fifteen (15) days after its passage.

---

Estelle Fennell, Chair, Humboldt County Board of Supervisors

Adopted on motion by Supervisor \_\_\_\_\_, second by Supervisor \_\_\_\_\_ and the following vote:

AYES:	Supervisors:
NAYS:	Supervisors:
ABSENT:	Supervisors:
ABSTAIN:	Supervisors:

STATE OF CALIFORNIA )

County of Humboldt )ss  
)

I, Kathy Hayes, Clerk of the Board of Supervisors, County of Humboldt, State of California, do hereby certify the foregoing to be a full, true, and correct copy of the original made in the above-entitled matter by said Board of Supervisors at a meeting held in Eureka, California as the same now appears of record in my office.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Board of Supervisors.

Kathy Hayes  
Clerk of the Board of Supervisors  
of the County of Humboldt,  
State of California.



## **ATTACHMENT C**

### Post-Adoption Summary of Ordinance

## SUMMARY OF ORDINANCE

(To be published within fifteen days after adoption of this ordinance.)

On July 28, 2015, the Humboldt County Board of Supervisors adopted Ordinance No. \_\_\_\_ which amended the Humboldt County Zoning Code, Title III, Division I, Chapters 3 and 4, adding Sections 313-55.3 and 314-55.3, regulating storefront-based Medical Marijuana Collective or Cooperative Dispensing Facilities within specified zones. The regulations are applicable to the unincorporated areas of Humboldt County, including the Coastal Zone. Section 313-53.1 of the regulations will be transmitted as a Local Coastal Program Amendment to the California Coastal Commission for certification in accordance with the Coastal Act, with the Local Coastal Program Amendment becoming effective upon certification by the Coastal Commission.

The names of the Supervisors voting for and against are as follows:

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors:

A copy of the Ordinance is posted in the office of the Clerk of the Board of Supervisors, Room 111, 825 Fifth Street, Eureka, California.



## **ATTACHMENT D**

### Findings for Adoption of Zoning Text Amendments

## ADMINISTRATIVE PROCEDURES ZONING TEXT AMENDMENT

### Findings:

Section 312-50 of the Humboldt County Code (H.C.C.) specifies the findings that must be made in order to approve an amendment to the Zoning Regulations and the Implementation Plan for the certified Local Coastal Program. The required findings are as follows:

1. *The proposed change is in the public interest.*
2. *The proposed change is consistent with the General Plan.*
3. *That amendment to the County's Certified LCP may be approved where the California Coastal Commission finds, upon submittal by the County, that the amendment meets the requirements of, and is in conformity with, the policies of Chapter 3 commencing with Section 30200 of the Public Resources Code, and the implementing ordinances are in conformity with and carry out the provisions of the certified LCPs.*
4. *The proposed amendment does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.*



**Public Interest and General Plan, Coastal Act and Housing Element Consistency.**

**1. Public Interest:** The following table identifies the evidence which supports finding that the proposed Zoning Ordinances and LCP Amendments are in the public interest.

<b>Applicable Requirements</b>	<b>Evidence Supporting the Finding</b>
Government Code Section 65356.1 and § 1452.2 of the Framework Plan.  <i>The General Plan Amendment must be in the public interest.</i>	The project applies countywide. The implementation measures (zoning ordinance changes) will provide guidance on a unique form of land use not previously anticipated by the Zoning Regulations. The development of these new policies and performance standards will provide guidance and new tools to address land use issues surrounding siting and operational standards for collectives, cooperatives, and delivery services. This third phase of the MMLUO will help prevent conflicts between medical marijuana cultivation and neighboring land uses. As well as provide for the placement of operational restrictions and careful siting of distribution facilities to ensure adequate separation from sensitive receptors and compatibility with nearby development. Therefore, the proposed changes can be found to be in the public interest.

**2. General Plan Consistency:** The following table identifies the evidence which supports finding that the proposed Zoning Ordinance and LCP Amendments are consistent with a comprehensive view of the General Plan Volume 1 (Framework Plan).

Applicable Requirements	Evidence Supporting Finding
<p>§ 1330 Consistency</p> <p>The elements of the General Plan must be consistent.</p> <p>All the goals, policies and standards must be consistent.</p> <p>The General Plan text and diagrams must support each other and show the same conclusions.</p> <p>The data base must be consistent for all the elements.</p> <p>When a portion of the plan is amended, then the rest of the plan and its implementing programs must be brought into conformity.</p> <p>Zoning or the implementation of the plan is required to be consistent with the plan.</p>	
<p>§ 1452.2 Required Findings</p> <p>Base information or physical conditions have changed; or</p> <p>Community values and assumptions have changed; or</p> <p>There is an error in the plan; or</p> <p>To maintain established uses otherwise consistent with a comprehensive view of the plan.</p>	
	<p>The project applies countywide. The implementation measures (zoning ordinance changes) will provide guidance on a unique form of land use not previously anticipated by the Zoning Regulations. The development of these new policies and performance standards will provide guidance and new tools to address land use issues surrounding siting and operational standards for collectives, cooperatives, and delivery services. The third phased of the MMLUO will help provide for the placement of operational restrictions and careful siting of distribution facilities to ensure adequate separation from sensitive receptors and compatibility with nearby development. Therefore, the proposed changes can be found to be consistent with the goals, policies, and standards of the current General Plan.</p> <p>The base information of the General Plan changed with the passage of Proposition 215 in 1995 and adoption of Senate Bill 420 in 2004.</p> <p>The new implementing ordinances and LCP Amendments are required to provide additional time to bring the other elements of the General Plan in line with the provisions of state law that pertain to medical cannabis.</p> <p>Medical Cannabis uses can be considered 'established' when considering that over 20 years have passed since the decriminalization of Medical Marijuana occurred under a statewide ballot initiative.</p>



**3. Consistency with State Laws:** The following table identifies the evidence which supports finding that the proposed Zoning Ordinance and LCP Amendments are consistent with State Laws.

Section(s)	Applicable Requirements	Evidence Supporting Finding
<p>Consistency: Administrative Regulations – Title 14, § 13551 And Public Resources Code, § 30200 (Coastal Act)</p> <p>The proposed amendments must conform to the policies contained in Chapter 3 of the Coastal Act. Chapter 3 sets forth policies regarding the following issues:</p>	<b>Access</b> (including provisions for access with new development projects, public facilities, lower cost visitor facilities, and public access)	<p>The proposed Zoning Ordinance and Local Coastal Program amendments will help regulate a unique form of land use not previously anticipated by the Zoning Code. The development of these new policies and performance standards will provide guidance and new tools to address land use issues surrounding the siting and operational standards for collectives, cooperatives, and delivery services. As such, no impact on coastal access concerns, recreational uses, marine or land resources, and industrial development is anticipated.</p> <p>The proposed new regulations would permit collectives, cooperatives, and delivery services to be operated in Commercial and Industrial zones. However, Coastal Dependent Industrial (MC) zones were specifically excluded. It is therefore not expected that development would result that would interfere with coastal industrial development opportunities or existing uses. In addition to needing a Conditional Use Permit, all collective facilities would be required to secure a Coastal Development Permit where Coastal Act consistency would be evaluated on a case-by-case basis.</p>
	<b>Recreation</b> (including protection of water-oriented activities, ocean- front land protection for recreational uses, aqua- cultural uses, and priority of development purposes)	
	<b>Marine Resources</b> (including protecting biological productivity, prevent hazardous waste spills, diking, filling and dredging, fishing, revetments and breakwaters, and water supply and flood control)	
	<b>Land Resources</b> (including environmentally sensitive habitats, agricultural lands, timberlands, and archaeological resources)	
	<b>Development</b> (including scenic resources, public works facilities, safety, and priority of coastal dependent developments)	
	<b>Industrial Development</b> (including location and expansion, use of tanker facilities, oil and gas development and transport (both onshore and off), and power plants.	
<p>30510(a) of the Act.</p> <p><b>Submission to the Commission</b></p> <p>The LCP Amendment shall be carried out in accordance with the Coastal Act (pursuant to Section 30510(a) of the Act.</p>	<p>The LCP Amendments will be carried out in accordance with § 30510(a) of the Coastal Act. The amendment(s) shall be forwarded to the Coastal Commission for review and certification, following adoption by the Board of Supervisors, and including sufficient materials to insure a 'thorough and complete review'.</p>	



**4. IMPACT ON RESIDENTIAL DENSITY TARGET:** The following table identifies the evidence which supports finding that the proposed project will not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.

§ 312-17.1.5 Housing Element Densities	
Applicable Requirements	Evidence Supporting Finding
The proposed development does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law (the mid-point of the density range specified in the plan designation), except where: 1) the reduction is consistent with the adopted general plan including the housing element; and 2) the remaining sites identified in the housing element are adequate to accommodate the County share of the regional housing need; and 3) the property contains insurmountable physical or environmental limitations and clustering of residential units on the developable portions of the site has been maximized.	The proposed Zoning Ordinance and Local Coastal Program amendments will help regulate a unique form of land use not previously anticipated by the Zoning Code. The development of these new policies and performance standards will provide guidance and new tools to address siting and operational standards for collectives, cooperatives, and delivery services. These provisions will not affect the number of housing units available within the county.