

EUREKA MUNICIPAL CODE

CHAPTER 158: MEDICAL CANNABIS: CULTIVATION, PROCESSING AND DISTRIBUTION

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
- 158.021 Cultivation or processing
- 158.022 Distributing

Permits

- 158.030 Fees and taxes

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 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 is 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.

~~The owner or permittee of each medical cannabis collective, cooperative, cultivation, processing or distribution facility shall indemnify and hold harmless the~~

Deleted: The owner or permittee of a medical cannabis cooperative, collective, cultivation, processing or distribution facility shall release the City of Eureka, and its agents, officers, elected officials, and employees from any injuries, damages, or liabilities of any kind that result from any arrest or prosecution of cooperative or collective, cultivation, processing or distribution owners, operators, employees, or clients for violation of state or federal laws. In addition, t

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.

Deleted: One or more rooms and a single kitchen designed for occupancy by one family for living and sleeping purposes

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 FACILITY*** includes ***MEDICAL CANNABIS*** nursery and/or research facilities.

MEDICAL CANNABIS CULTIVATION AREA. The maximum dimensions allowed for the growing and processing of medical cannabis. For the purpose of this chapter, the allowable cultivation area shall apply to the outward edge of the vegetative canopy.

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.).

Deleted: A distribution facility shall not include distribution to qualified patients who reside in a residential facility specified in California Health and Safety Code Section 11362.7(d)(1), so long as the location of the facility is otherwise permitted by the Municipal Code or by applicable state laws.

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

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 in an area not to cumulative 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 in the residence occupied by the qualified patient, or a self-contained accessory building that is secured, locked, and fully enclosed and which is 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 not exceed 10 feet in height per residence, regardless if cultivated within the residence or in an accessory building;

(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 medical cannabis cultivation area shall not adversely affect the health or safety of 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, 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 exceed 1200 watts;

(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; 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 area may exceed the 50 square foot maximum per residence, up to a total of 100 square feet of cultivation area, 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 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 area should be allowed to exceed 50 square feet;

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

Deleted: and

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

Deleted: .

(f) If the Exception Request includes a request to modify the standards prescribed in section 158.010(A)(1-12), documentation and information 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 in reliance upon a Building Permit, if one is needed. Such improvements may include, but are not limited to, installation of an automatic fire suppression system.

Deleted: 1

Comment [ss1]: I don't understand this.

Deleted: The Building Official may require additional standards for the cultivation area in excess of 50 square feet as necessary to meet the California Building Code and Fire Code, including but not limited to installation of fire suppression sprinklers

(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 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. 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

(5) The medical cannabis processing area shall not adversely affect the health or safety of 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, 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.

§ 158.0128 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.

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.

§ 158.021 CULTIVATION OR PROCESSING.

(A) Cultivation or processing facilities for distribution shall be allowed only in the Agriculture (A), [Coastal Agriculture \(AC\)](#), Limited Industrial (ML) or General Industrial (MG) zone districts.

(B) Cultivation or processing facilities shall only be allowed upon the granting of a conditional use permit 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 cultivation or processing facility for distribution.

(C) In addition to the conditional use permit required under section 158.021(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.

(D) The total number of cultivation or processing facilities within the City of Eureka shall be limited to _____. If an approved conditional use permit for a distribution facility allows for on-site cannabis cultivation and/or processing, the medical cannabis

distribution facility shall be counted as one of the allowed cultivation or processing facilities;

(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;

(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.

(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. 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, 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;

(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;

(9) The cultivation or processing facility shall not adversely affect the health or safety of 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, 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) Medical cannabis cultivation or processing facilities shall comply with other conditions prescribed in the approved conditional use permit.

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

Deleted: <#>The cultivation or processing facility shall only be permitted in conjunction with an associated medical cannabis distribution facility approved in accordance to applicable zoning regulations from the jurisdiction in which the distribution facility is located;¶

<#>The size and scale of the cultivation area shall be proportional to the qualified patient load of the associated distribution facility in accordance to applicable zoning regulations from the jurisdiction in which the distribution facility is located;¶

Formatted: Bullets and Numbering

Formatted: Bullets and Numbering

Formatted: Bullets and Numbering

Formatted: Bullets and Numbering

Formatted: Bullets and Numbering

Formatted: Bullets and Numbering

Formatted: Bullets and Numbering

Formatted: Bullets and Numbering

Formatted: Bullets and Numbering

Formatted: Bullets and Numbering

(H) The rights of an approved conditional use permit for a cultivation or processing facility run with the land as prescribed for all other conditional use permits in the Eureka Municipal Code.

§ 158.022 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.

(B) Medical cannabis distribution facilities shall only be allowed upon the granting of a conditional use permit 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 158.022(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) The total number of medical cannabis distribution facilities within the City of Eureka shall be limited to _____.

(E) 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 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;

(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) Any other information required by the Director of Community Development.

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

(1) 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;

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

(3) 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;

(4) 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;

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

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

(7) 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;

(8) The on-site display of cannabis plants, 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 specifically prescribed in the approved conditional use permit;

(9) 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;

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

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

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

(13) The distribution facility shall not adversely affect the health or safety of 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, or other impacts, or be hazardous because of the use or storage of materials, processes, products or wastes;

(14) Each and every package or unit of medical cannabis distributed shall have a label that states:

(a) The name and contact information of the cultivator and/or processor of the medical cannabis;

(b) The species or strain of the medical cannabis;

(c) The general location (nearest city and county) where the medical cannabis was cultivated and/or processed; and

Deleted: ¶
<#>If the conditional use permit authorizes on-site medical cannabis cultivation or processing at the site of the distribution facility, the cultivation and/or processing areas combined shall not exceed 25 percent of the distribution facility’s total floor area, and in no case exceed 1,500 square feet or exceed 10 feet in height;¶
¶
<#>If the distribution facility cultivates or processes medical cannabis at an off-site location, such off-site location shall be permitted and operated in compliance with the applicable regulations of the jurisdiction in which the off-site cultivation or processing facility is located. Compliance documentation from the applicable jurisdiction shall accompany the conditional use permit application for the medical cannabis cooperative or collective and be updated annually; ¶

Formatted: Bullets and Numbering

Formatted: Bullets and Numbering

Formatted: Bullets and Numbering

Formatted: Bullets and Numbering

Deleted: by or through the cooperative

Deleted: indicating the address

Formatted: Bullets and Numbering

Formatted: Bullets and Numbering

Formatted: Bullets and Numbering

Deleted: at which

Deleted: it

Deleted: , so that the City can conduct random or complaint driven audits, to ensure it was cultivated in a manner consistent with this ordinance

(d) All chemicals, fertilizers and/or pesticides used in the cultivation and processing of the medical cannabis;

Formatted: Bullets and Numbering

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

Deleted: . Each package or unit must also have a label indicating what fertilizers, chemicals or other inputs were used in its production; and

Formatted: Bullets and Numbering

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

(G) In addition to the findings specified for a conditional use permit, the Planning Commission 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;

(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; and

(3) If the proposed distribution facility is within 1000 feet from any existing park, playground, day care facility, school or other public assembly facility, either inside or outside the city limits, the impact of the distribution facility on such facility or the persons utilizing such facilities.

(H) The conditional use permit approved for a distribution facility may be suspended or revoked 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.

(I) The rights of an approved conditional use permit for a distribution facility run with the land as prescribed for all other conditional use permits in the Eureka Municipal Code.

FEES

§ 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 158.021 and 158.022, 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.

ENFORCEMENT

§ 158.040 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 eye to safety, and enforced rigorously in a manner such as to deter further violations.

Formatted: Centered
Formatted: Left

Deleted: ¶
Formatted: Underline

Comments/Suggestions

Formatted: Font: (Default) Tahoma

JEFF BRANDON. On-site consumption should be considered. Ban use on-site. pg 9 25% of area, cultivation area thresholds should be looked at. Concern regarding butane in ordinance since it is outlawed; CO2 is used and should be allowed (uses less power). [ord does not limit chemicals in coop/coll; only in residential environment]

Formatted: Font: Not Bold

Formatted: Font: (Default) Tahoma

DAVID KASAKOVE. Submitted responses to his attorney's, rep for NORML. A lot of the ordinance is based on illegal grows; "remuneration" is proper term. There are groups working on the issue of chemical content of cannabis to assure safe cannabis (councilmember Glass' concern). His attorney will be responding (to Sheryl). He feels, generally, we are on the right track. Limit of 1200 watts is not enough; 50 sq. ft. could be covered by one plant; might want to consider plant counts instead of canopy size (because of variety of species and broader canopy of certain species).

Formatted: Font: (Default) Tahoma

DAVE MUTAN. Cancer survivor and cannabis user. Disappointed in emphasis of indoor lighting and indoor grow as opposed to outdoor cultivation. [Councilman Leonard, so far we have not seen an issue with outdoor grows, so we were not looking to regulate those] like to see a 'good southern Humboldt' in Eureka.

Formatted: Font: (Default) Tahoma

NANCY WHITNEY. Concern with area limitation and wattage. Patients in wheelchairs could have problem maneuvering around cultivation area. Would there be a limitation on the distance between the product and the distribution facility?

Formatted: Font: (Default) Tahoma

JEFF BRANDON. Is there any decision on the max number of facilities? [not at his time, but Committee would be open to suggestions]. Suggest use calculations the state uses for issuing liquor licenses (based more on density of facilities). Term 16, package labeling; if the label has the exact location of the cultivation site, it could lead to security problems at the cultivation site. [alternative coop to keep a list of points of origin for city to verify points of origin].

Formatted: Font: (Default) Tahoma

RUTH ROBERTSON. No safe guards, residential neighborhoods, inspections by city, what repercussions for (cost reimbursement?) inspections to assure compliance. Can a permit be pulled, where is money coming from to do inspections and enforcement? [any violation can result in fines being assessed, funded through city general fund, which it already does for enforcement at this time. This ordinance would include a fee structure calibrated to cover the cost of oversight of the ordinance. The fee structure would not cover residential, since that use does not require a permit.]

Formatted: Font: (Default) Tahoma

BEVERLY WOLFE. Can the city really pull power – leaving resident without heat, etc.; what would be the liability?

Formatted: Font: (Default) Tahoma

Rusty Goodlive, Fire Marshal. Have pulled power on illegal grows, POP unit advised Fire Marshal about potential fire hazards. Based on the conditions, they

have a number of measures they can take. In situations where the electrical is a hazard, they can pull the meter pulled. In other situations, depending on how the electrical system has been modified, they may be able to isolate the breaker(s) to isolate the hazard area only. In some cases the circuits are overloaded, which can be abated by removing the equipment to eliminate the overload. Some times extension cords are tapped directly into the electrical system in the house.

MARY ELLEN. Care giver only growing in patient's home, why? City should look at letting caregivers grow for the patient at a site not in the patient's home. Important that patient be able to have access to specific product that meets their needs, cooperative may not be able to supply all the different products; allowing a caregiver to grow for a patient would allow the patient assurance that they can get the specific product they need. Coastal zone, issues of approval [most of industrial area is in the coastal zone]. Concerned that there should be enough sites outside the coastal zone. [committee is looking at expanding the zone districts that uses are allowed, which would expand area outside the coastal zone]. Should consider the location of public transportation in relation to location of distribution facilities.

Formatted: Font: (Default) Tahoma

GREG ALLEN. Civil Liberties Union. 158.003-problem with fist ½ because the language releases the city from any acts (illegal or unlawful by EPD) could be void on its face. Signing away any rights. [have Greg talk with Sheryl for legal aspects]. Unfair and wrong to have the first ½ of the indemnity clause. Ordinance is improved, but still some issues. 158.004 Dwelling Unit – SRO disqualified [look at definition to make sure that it doesn't sound like the kitchen is a separate room]. 158.010 (B) fire suppression sprinklers, cost is too prohibitive. Installation of sprinkler system +/- \$6,000. understand logic but may not be best way to proceed. Cap on number of facilities, is it an antitrust issue? Should let the free market decide. [City of Anaheim case, citywide dispensary ban] 158.022 (pg 12, para 12) off-site cultivation sites – documentary material may not exist for cultivation sites in areas where there are no ordinances on the books. May not be possible, no better alternative, but it should be looked at. [committee trying to capture locations that are not being conscientious in the quality of the product (environmental hazard sites, dumping diesel fuel in river)]

Formatted: Font: (Default) Tahoma

DAWN MATTHEW. How many non-coastal sites exist? [Sidnie described areas]

Formatted: Font: (Default) Tahoma

LORI BENEDICT. Qualified Patient Load used in ordinance, but dropped in definition. Concerned about arbitrary about exterior evidence – define more clearly. >50 sq. ft. sprinklers issue. [clarify that if the building code **requires** it, then it must be included]. Odor, cannot get rid of it. Section on offices is interesting, allowing dispensing in industrial area, difficult for patients to get to. Please consider expanding the zones. Pg 8 #12, any other information required by the Director is arbitrary. Odor is going to be a problem. Coastal zone questions. Pg 12, #12, 25% of distribution floor area, need to look at this. Why? Cultivation center, is that limited by 25% regulation? What does patient load mean? Pg 13, packaging and additives, address on something is asking for trouble. Asking what is in it could be asking for a trade secret. May be out of the city's

Formatted: Font: (Default) Tahoma

purview. Pg 13, (G) (1)-(3) not sure how we can include outside the city limits in our review.

BEVERLY WOLFE. Wants patients rights protected. Control illegal grows. Strict permit process, geared to keeping illegal grows out.

Formatted: Font: (Default) Tahoma

DAVE MUTAN. Owner of business (Eureka Healing Rainbow), cannot open because of Ordinance. Wants to deliver by bicycle.

Formatted: Font: (Default) Tahoma

ANON. 1200 watts is not enough. Canopy limit is good, but a novice grower cannot get enough product on 1200 watts. Lights 10x10 are may be 5000 watts to cover area not enough lumens. [problem is residential wiring cannot support larger lights] use 240 volt could use higher wattage. Not wattage, its about amps. 1200 watts is not enough for anything over 50 sq. ft. sprinkler system not good in a home because of pressure. There are stand alone units that does not require the piping. The units are available from the horticulture supply stores locally.

Formatted: Font: (Default) Tahoma

JEFF BRANDON. There are portable sprinkler units that are heat sensitive that could be used. Indoor hydroponics books can assist with determining how much wattage is needed to grow. To grow 15 watts/sq. ft. is adequate, but better at 30 watts/sq ft. [1200 watts is a H&S issue, not a grow issue]. If legalization in November, an Ordinance wouldn't be necessary.

Formatted: Font: (Default) Tahoma

ED FITZGERALD. Concern is residential neighborhoods. Not sure how ordinance would be enforced. No exterior evidence, smell/odor, how is this going to be enforced? Protect SFR areas, takes housing units out of production, fire hazards, etc. Active property management by landlords would be helpful.

Formatted: Font: (Default) Tahoma

REX BOHN. Opposed to all grows. Why doesn't the city manage the cooperative themselves?

Formatted: Font: (Default) Tahoma