

**CALIFORNIA COASTAL COMMISSION**

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# F7a

Filed: January 18, 2012  
60<sup>th</sup> Day: March 18, 2012  
Staff: Melissa Kraemer  
Staff Report: February 17, 2012  
Hearing Date: March 9, 2012  
Commission Action:

TO: Commissioners and Interested Parties

FROM: Charles Lester, Executive Director  
Robert Merrill, North Coast District Manager  
Melissa Kraemer, Coastal Planner

SUBJECT: Humboldt County Minor LCP Amendment No. HUM-MIN-1-12  
("Medical Marijuana Land Use Code")  
Meeting of March 9, 2012, in Chula Vista.

## **1. LCP AMENDMENT DESCRIPTION & DISCUSSION**

The County of Humboldt has submitted a Local Coastal Program amendment (LCPA) application seeking certification from the Commission to incorporate its "Medical Marijuana Land Use Code" into its Implementation Plan (IP). The proposed ordinance would add wording to County zoning code Title III, Division I, Chapter 3, Section B, Part 1 (Regulations That Apply in All or Several Zones, Uses & Activities) specifying limits on the indoor cultivation of medical marijuana for personal use in a residence or detached accessory building in a manner that is consistent with State law. The ordinance does not address outdoor cultivation of medical marijuana or commercial dispensaries.

The adopted ordinance would apply the same standards County-wide both in and out of the coastal zone by adding the standards to Section 313 of the County's zoning regulations, which pertains to the coastal zone, and to Section 314, which pertains to inland areas outside of the coastal zone. The County has recently implemented the subject ordinance in its inland area.

The intent of the proposed IP amendment is to balance "the needs of patients and their caregivers to have access to medical marijuana; the needs of residents, businesses, and communities to be protected from public health, safety, and nuisance impacts that can accompany the residential cultivation and processing of medical marijuana for an individual patient's use; and the need to eliminate...the harmful environmental impacts that can accompany marijuana cultivation."

The proposed new IP language would include numerous standards and restrictions regulating a qualified patient's indoor residential cultivation of medical marijuana for that patient's personal use with the intent of eliminating the potential nuisance and health and safety impacts associated with marijuana cultivation and processing. Such health and safety impacts include, but are not limited to, the following: residential fires from overloaded or improperly modified electrical systems used to power grow lights and exhaust fans for the cultivation of marijuana; soil and water contamination due to leaks and improperly stored fuels and supplies for generators used to power grow lights and fans for off-the-grid marijuana grows; excessive energy consumption to power the lights, fans, and other systems needed for a large indoor marijuana growing operations; conversion of rental houses to grow structures and associated deterioration of neighborhood character; and odor nuisances interfering with neighboring owners' use and enjoyment of their property.

The proposed new standards and restrictions regulating a qualified patient's indoor residential cultivation of medical marijuana for that patient's personal use include, but are not limited to, the following: (1) medical marijuana cultivation in a residence or detached accessory building shall not exceed 50 square feet or 10 feet in height per residence on a parcel; (2) a total of 50 square feet of indoor medical marijuana cultivation for personal use, which does not exceed 10 feet in height, is permitted for each residence on a parcel, regardless of whether the cultivation occurs in a residence or in a detached accessory building; (3) the medical marijuana cultivation and processing area in the residence or detached accessory building shall be indoors, posted with a legible copy of the individual patient's medical marijuana recommendation, secured against unauthorized entry, and maintained for the exclusive use of the qualified patient; (4) grow lights for medical marijuana cultivation for personal use in a residence or a detached accessory building shall not exceed 1,200 watts total; (5) all electrical equipment used in the indoor cultivation of medical marijuana in a residence or a detached accessory building shall be plugged directly into a wall outlet or otherwise hardwired; (6) the use of gas products for indoor medical marijuana cultivation or processing in a residence or a detached accessory building is prohibited; (7) no toxic or flammable fumigant shall be used for indoor cultivation of medical marijuana in a residence or a detached accessory building unless the requirements of Section 1703 of the California Fire Code have been met; (8) to minimize odor, the medical marijuana cultivation area shall be, at a minimum, mechanically ventilated with a carbon filter or other superior method; (9) from a public right of way, neighboring properties, or neighboring housing units, there shall be no visual or auditory evidence of indoor medical marijuana cultivation at the residence or detached accessory building that is detectable by a person of ordinary senses; (10) no effluent, including but not limited to waste products, chemical fertilizers, or pesticides shall be discharged into drains, septic systems, community sewer systems, water systems, or other drainage systems, including those that lead to rivers, streams, and bays as a result of indoor residential cultivation of medical marijuana; and (11) a waterproof membrane or other waterproof barrier shall be installed in the cultivation area or beneath individual plants to protect the floor of the indoor cultivation area from water damage.

The proposed IP amendment places limits on an activity that is already taking place. State law allows for the cultivation and possession of medical marijuana for the personal use of a qualified patient without fear of criminal prosecution against the patient, the patient's caregiver, or the physician who recommended medical marijuana for the patient. The cultivation of medical

marijuana for the personal use of a qualified patient on residential property consistent with State law is an activity that can be considered to be part of the residential use of the property. Thus, the proposed IP amendment does not change the kind, location, intensity, or density of a use that has been found consistent with the land use plan. Rather, the proposed amendment adds wording to the zoning code making the allowance for a particular indoor land use in several zones more specific. Interior improvements to an existing single family structure to accommodate medical marijuana cultivation performed consistent with the proposed ordinance in most cases would not require a coastal development permit (CDP). Section 30610(a) of the Coastal Act and the County's coastal zoning regulations exempts improvements to existing single family residences from CDP requirements, except for those classes of development that the Commission specifies by regulation involve a risk of adverse environmental effects and require that a permit be obtained. Only in very limited circumstances would interior improvements to an existing single family residential structure to accommodate medical marijuana cultivation performed consistent with the proposed ordinance involve a risk of adverse environmental effect and require a CDP pursuant to Commission-adopted Section 13250 of Title 14 of the California Code of Regulations. Therefore, as the proposed zoning code changes meet the criteria of a "minor amendment to an LCP" as defined under Section 13554(a) of the Commission's administrative regulations (14 CCR §§13001 *et seq.*), the Executive Director finds the proposed amendment to be consistent with the Coastal Act and minor in nature.

## **2. PUBLIC PARTICIPATION & COMMISSION REVIEW**

The proposed LCP amendment was the subject of local public hearings before the County Planning Commission and the Board of Supervisors. All of these public hearings were properly noticed to provide for adequate public participation. The LCP amendment submittal was filed as complete on January 18, 2012 and is consistent with Section 30514 of the Coastal Act and Section 13553 of Title 14 of the California Code of Regulations. Copies of the Board of Supervisors' adopted resolution and ordinance are attached as Exhibits Nos. 1 and 2.

The Executive Director has determined that the proposed LCP amendment is "minor" in nature under Sections 13554 and 13555 of the Commission's regulations, since the amendment would not result in a change to the kind, density, or intensity of use of land in the affected area. The Executive Director informed all interested parties by mail of his determination on February 17, 2012. The Commission will consider the Executive Director's determination at the March 9, 2012 meeting in Chula Vista. At that time, the Executive Director will report to the Commission any objection to the determination that is received within ten days of the posting of this notice. Anyone wishing to register an objection to the Executive Director's determination that the proposed LCP amendment is "minor" should contact Melissa Kraemer at (707) 445-7833 at the Commission's North Coast District Office in Eureka by March 5, 2012.

If one-third of the appointed members of the Commission so requests, the Executive Director's determination that the proposed amendment is minor shall not become effective, and the amendment shall be processed as a "major" LCP amendment consistent with Section 13555(b) of the Commission's regulations. In that event, staff recommends that the Commission extend the time period for Commission action on the proposed LCPA pursuant to Section 30517 of the Coastal Act, as Commission action must otherwise occur by March 18, 2012 (within 60 days of

filing). If the Commission concurs with the Executive Director's determination that the LCP amendment is minor in nature, then the amendment shall take effect ten working days after the Commission meeting and notice to Humboldt County consistent with Section 30514(c) of the Coastal Act.

**3. STAFF RECOMMENDATION**

Staff recommends that the Commission concur with the Executive Director's determination that the LCP amendment is minor.

**4. ADDITIONAL INFORMATION**

For further information, please contact Melissa Kraemer at the North Coast District Office (707) 445-7833. Correspondence should be sent to the district office at the letterhead address.

**5. EXHIBITS (ATTACHED)**

1. County Resolution No. 11-92 – Submittal of LCP Amendment Application
2. County Ordinance No. 2468 – Medical Marijuana Land Use Code Text Amendment

**BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA**  
Certified copy of portion of proceedings; meeting on December 13, 2011

**RESOLUTION NO. 11-92**

**RESOLUTION MAKING FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AND ADOPTING AN ORDINANCE ADDING SECTION 313-55.1 AND SECTION 314-55.1 TO THE HUMBOLDT COUNTY ZONING CODE, RELATING TO THE REGULATION OF INDOOR 'PERSONAL-USE' CULTIVATION WITHIN A RESIDENCE**

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

**WHEREAS**, Community Development Services - Planning Division has reviewed and circulated a draft of Phase 1 of the Ordinance which amends Chapter 3 and Chapter 4 of Title III of the Humboldt County Code, Regulations Inside and Outside the Coastal Zone, in particular Sections 313-55.1 & 314-55.1, relating to the regulation of Indoor 'Personal Use' cultivation within a residence; and

**WHEREAS**, Community Development Services - Planning Division has submitted documentation showing that the proposed ordinance amendments to the County Regulations will not have a significant effect on the environment pursuant to Sections 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines; and

**WHEREAS**, Community Development Services - Planning Division'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 6<sup>th</sup>, February 3<sup>rd</sup>, May 12<sup>th</sup>, and August 18<sup>th</sup> 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; and

**WHEREAS**, the Board of Supervisors on November 15, 2011 and December 13, 2011 held public hearings to consider the proposed ordinance amendments at which time all persons wishing to give testimony on the matter were heard.

**NOW, THEREFORE**, be it resolved, determined, and ordered by the Board of Supervisors, based on Community Development Services - Planning Division staff reports, supplemental reports, testimony presented at the public hearing(s), and having considered the recommendation of the Planning Commission, that the Board:

1. Finds that the Ordinance which amends Chapters 3 and 4 of Title III of the Humboldt County Code, Regulations Inside and Outside the Coastal Zone, in particular the addition of section 313-55.1 and section 314-55.1, relating to the regulation of Indoor 'Personal Use' cultivation within a residence, has been reviewed for compliance with requirements of CEQA, and the amendments have been determined to be categorically exempt from CEQA pursuant to Section 15061(b)(3) of CEQA Guidelines, and could not have a significant effect on the environment.
2. Makes the findings for approval of the amendments to the Zoning Regulations (Case No.: OR-11-01) based on the evidence submitted and further finds that the Local Coastal Program Amendment will be carried out in accordance with the Coastal Act.

**EXHIBIT NO. 1**

**APPLICATION NO.**

HUM-MAJ-1-12

HUMBOLDT COUNTY LCP  
AMENDMENT

COUNTY RESOLUTION NO.  
11-92 (1 of 2)

3. Approves and adopts Ordinance No. 2468 which amends Chapters 3 and 4 of Title III of the Humboldt County Code, Regulations Inside and Outside the Coastal Zone, in particular Section 313-55.1 & 314-55.1, relating to the regulation of Indoor 'Personal Use' cultivation within a residence.

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

1. The Community Development Services – 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 Community Development Services - 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.



Mark Lovelace, Chair, Humboldt County Board of Supervisors

Adopted on motion by Supervisor Smith , second by Supervisor Clendenen and the following vote:

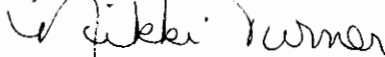
AYES:	Supervisors:	Smith, Clendenen, Bass, Sundberg
NAYS:	Supervisors:	Lovelace
ABSENT:	Supervisors:	
ABSTAIN:	Supervisors:	

STATE OF CALIFORNIA     )  
   )ss  
 County of Humboldt        )

I, Nikki Turner, Deputy 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.



Nikki Turner  
 Deputy Clerk of the Board of Supervisors  
 of the County of Humboldt,  
 State of California.

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BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

ORDINANCE NO. 2468

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT ADDING SECTION 313-55.1 AND SECTION 314-55.1 TO THE HUMBOLDT COUNTY ZONING CODE, RELATING TO THE REGULATION OF INDOOR MEDICAL MARIJUANA CULTIVATION WITHIN A RESIDENCE.

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

- SECTION 1. Section 313-55.1 of Chapter 3 of Division 1 of Title III is hereby amended as shown on the attached pages.
- SECTION 2. Section 314-55.1 of Chapter 3 of Division 1 of Title III is hereby amended as shown on the attached pages.
- SECTION 3. Amendments to 314-55.1 (Regulations Outside the Coastal Zone) shall take effect and be in force thirty (30) days from the date of its passage. Amendments to 313-55.1 (Regulations Inside the Coastal Zone) shall take effect immediately upon certification of the proposed amendments to the local coastal program. 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 13<sup>th</sup> day of December 2011.

AYES: Supervisors – Smith, Sundberg, Bass, Clendenen  
NOES: Supervisors – Lovelace  
ABSENT: Supervisors –



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

(SEAL)

ATTEST:  
Nikki Turner  
Deputy Clerk of the Board of Supervisors  
County of Humboldt, State of California


  
Nikki Turner - Deputy

EXHIBIT NO. 2
APPLICATION NO.
HUM-MAJ-1-12
HUMBOLDT COUNTY LCP AMENDMENT
COUNTY ORDINANCE NO. 2468 (1 of 8)

## **313-55.1 MEDICAL MARIJUANA LAND USES: COASTAL**

### 55.1.1 Authority and Title

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

### 55.1.2 Purpose and Intent

The purpose and intent of the Medical Marijuana Land Use Code (“MMLUC” or “this Code”) is to regulate the cultivation of medical marijuana for personal use in a residence or detached accessory building in a manner that is consistent with State law and which promotes the health, safety, comfort, convenience, and general welfare of the residents and businesses within the unincorporated area of Humboldt County by balancing three primary needs: the needs of patients and their caregivers to have access to medical marijuana; the needs of residents, businesses, and communities to be protected from public health, safety, and nuisance impacts that can accompany the residential cultivation and processing of medical marijuana for an individual patient’s use; and the need to eliminate, or at least limit to the extent possible, the harmful environmental impacts that can accompany marijuana cultivation.

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

### 55.1.3 Findings

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

1. In 1996, California voters approved Proposition 215 (codified as Health and Safety Code section 11362.5, and entitled “The Compassionate Use Act of 1996”).
2. The intent of the Compassionate Use Act is to permit the cultivation and possession of medical marijuana for the personal use of a seriously ill patient without fear of criminal prosecution against the patient, the patient’s caregiver or the physician who recommended medical marijuana for the patient. The Act further provides that “nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes.”
3. In 2004, Senate Bill 420 (codified as Health and Safety Code sections 11362.7 et seq. and known as the “Medical Marijuana Program Act” or “MMPA”) was enacted to clarify the scope of the Compassionate Use Act.



4. Neither the Compassionate Use Act nor the Medical Marijuana Program Act address land use or building code issues that may arise from the residential cultivation or processing of medical marijuana for personal use within the County.
5. In August 2008, the California Attorney General issued *Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use* that were intended to further clarify California laws governing medical marijuana, and provide guidelines for patients and law enforcement to ensure that medical marijuana is not diverted for non-medical purposes.
6. The federal Controlled Substances Act (codified as 21 U.S.C. sections 801 et seq.) is a regulatory system designed to combat recreational drug abuse by making it unlawful to manufacture, distribute, dispense, or possess any controlled substance. The Act lists marijuana as a controlled substance, classifying it as a Schedule I Drug, which is defined as a drug or other substance that has a high potential for abuse, which has no currently accepted medical use in treatment, and has not been accepted as safe for use under medical treatment.
7. The United States Congress has provided that states are free to regulate in the areas of controlled substances, including marijuana, provided that state law does not positively conflict with the Controlled Substances Act (see 21 U.S.C. 903). The California Attorney General, citing to California case law, has opined that neither the Compassionate Use Act nor the Medical Marijuana Program Act conflict with the Controlled Substances Act because, in adopting these laws, California did not legalize medical marijuana, but instead exercised the state's reserved powers to not punish certain marijuana offenses under state law.
8. Law enforcement agencies report that depending upon the marijuana strain and whether it is grown indoors or outdoors, one plant may yield averages of roughly one-quarter to one and a half pounds of usable marijuana per plant. As of 2010, law enforcement indicates the value of illegal marijuana grown in the County to be roughly \$1,500 to \$4,000 per pound.
9. Due to the high monetary value placed upon marijuana, the County has experienced a number of home invasion robberies, thefts, and violent crimes, including homicides, related to marijuana cultivation. To defend against theft and armed robbery, some growers of marijuana have taken to arming themselves, which creates the potential for gunfire in the residential areas where indoor cultivation of marijuana is frequently occurring. The County has also experienced a number of residential fires from overloaded or improperly modified electrical systems used to power grow lights and exhaust fans for the cultivation of marijuana. Additionally, the County has experienced soil and water contamination due to leaks and improperly stored fuels and supplies for generators used to power grow lights and fans for off-the-grid marijuana grows.
10. Widespread indoor cultivation of marijuana in Humboldt County has led to a decrease in needed rental housing stock as rental homes are converted solely to structures to grow marijuana in, as well as excessive energy consumption to power the lights, fans, and other systems needed for a large indoor marijuana growing operation. As rental homes are converted to these grow structures, the character of the neighborhood around the grow structure deteriorates.

11. Marijuana that is grown indoors can lead to mold, mildew, and moisture damage to the building in which it is grown. Landlords, who thought they were renting a home for people to live in, later find that their property was turned into a structure to grow marijuana and extensively damaged by that use, requiring new flooring, walls, ceiling, electrical and plumbing work to return the home to a habitable state. Growing marijuana is susceptible to plant diseases, mold, mildew, and insect damage and may be treated with insecticides and herbicides that may harm human health when applied or when the chemical is disposed of in the trash or in the sewage disposal system.
12. Cultivation of marijuana may also result in private or public nuisances. Whether grown indoors or outdoors, marijuana plants, particularly as they mature, produce a distinctive odor that is often detectable far beyond property boundaries. This strong, distinctive odor can interfere with neighboring owners' use and enjoyment of their property. In addition, this odor of growing or "green" marijuana may alert malefactors to the location where marijuana is grown and thereby create the risk of burglary and robbery at that location.
13. The right of qualified patients and their primary caregivers under state law to possess and cultivate marijuana for personal medical purposes does not confer upon them a right to create or maintain a nuisance. By adopting this Code, which regulates the land use aspects of indoor residential cultivation of medical marijuana for personal use, the County anticipates a significant reduction in complaints regarding medical marijuana-related odors and residential mold and moisture issues affecting rental housing stocks, as well as a decrease in crime and fires related to the indoor cultivation and processing of medical marijuana.
14. The County finds that while the need for qualified patients and/or their caregivers to use and cultivate marijuana is authorized by state law, the potential land use impacts to the environment and to public health, safety and welfare as identified, necessitates that the County create regulations, such as this Code, to govern the indoor cultivation of medical marijuana in a residence for personal use in the County of Humboldt.
15. The County finds that the indoor cultivation of more than fifty (50) square feet of medical marijuana that is more than ten (10) feet tall per residence or detached accessory building, as defined herein, within the unincorporated area of the County will result in an unreasonable risk of crime, fire, and other nuisance-related impacts such as odors offensive to people living or working or recreating nearby, as well as resulting in the deterioration of the neighborhood character, decrease in rental housing stock, and excessive energy consumption and carbon dioxide emissions, along with the potential for diesel fuel and oil pollution from generators. Therefore, the indoor cultivation of more than fifty (50) square feet of medical marijuana that is more than ten (10) feet tall per residence or detached accessory building is hereby found and declared to be unlawful and a public nuisance.
16. The County further finds that the indoor cultivation of fifty (50) square feet or less of medical marijuana that is ten (10) feet tall or less per residence or detached accessory building, which is subordinate, incidental, and accessory to the residential use, within the unincorporated area of the County will achieve the goals of allowing qualified patients the ability to cultivate medical marijuana in their residence for their personal use,

while minimizing, to the extent possible, the negative impacts on the neighbors, the neighborhood, local businesses, and the community from a qualified patient's medical marijuana cultivation and processing.

#### 55.1.4 Applicability and Interpretation

1. The indoor cultivation and processing of medical marijuana for personal use in a residence or detached accessory building within the jurisdiction of the County of Humboldt shall be controlled by the provisions of this Code, regardless of whether the cultivation or processing existed or occurred prior to the adoption of this Code.
2. Nothing in this Code is intended, nor shall it be construed, to exempt any indoor residential cultivation of medical marijuana for personal use, from compliance with the Humboldt County zoning and land use regulations, or all applicable local and state construction, electrical, plumbing, land use, or any other building or land use standards or permitting requirements, or any other applicable provisions of the County Code, or compliance with the Coastal Act, or any other applicable state or federal laws.
3. Nothing in this Code is intended, nor shall it be construed, to preclude a landlord from limiting or prohibiting marijuana cultivation, smoking, or other related activities by tenants.
4. The definitions in this Code are intended to apply to the MMLUC. Applicable definitions in Humboldt County Code section 313-135 et seq. and section 111-1 et seq. may also apply to this Code.

#### 55.1.5 Severability

If any section, subsection, sentence, clause, portion, or phrase of this Code or the application thereof, is held invalid, illegal, or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of any other portions of this Code. The County hereby declares that it would have passed this Code and each section, subsection, sentence, clause, portion, or phrase hereof, regardless of the fact that any one or more section, subsection, sentence, clause or phrase has been declared illegal, invalid, or unconstitutional.

#### 55.1.6 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, unlawful and a public nuisance and shall be subject to injunction, abatement or any other remedy available to the County under the applicable state and county laws, including the County's abatement and administrative penalty procedures.

#### 55.1.7 Definitions

Except where the context otherwise requires, the following definitions shall govern the construction of this Code:

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*Cultivation of Medical Marijuana for Personal Use:* cultivation and processing of medical marijuana indoors in a residence or detached accessory structure by a qualified patient, or the primary caregiver on behalf of a qualified patient, which does not exceed fifty (50) square feet or ten (10) feet in height.

*Detached Accessory Building - Residential:* a building which is a) incidental and subordinate to the residence or residential use, b) located on the same parcel, and c) does not share at least ten (10) feet of common wall with the residence or other accessory building. A greenhouse may be considered a Detached Accessory Building if it is a fully enclosed, secure and lockable structure that has a roof supported by connecting walls extending continuously to a perimeter foundation or equivalent base to which the connecting walls are securely attached.

*Indoor(s):* within a fully enclosed and secure structure that has a roof supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached.

*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.

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

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

*Residence:* any structure designed or used for residential occupancy, regardless of whether it is located in a residential zone.

*Residential Cultivation:* the growing of fifty (50) square feet or less that is ten (10) feet or less in height of medical marijuana indoors within a residence or detached accessory structure, as defined herein. Such cultivation shall be for a qualified patient's personal use and must be subordinate, incidental, and accessory to the residential use.

#### 55.1.8 Indoor Residential Cultivation for Personal Use

The County shall not interfere with a qualified patient's indoor residential cultivation of medical marijuana for that patient's personal use in the coastal zone, so long as the cultivation is in conformance with this Code and state law, including the California Coastal Act.

In order to eliminate the potential nuisance and health and safety impacts to the greatest extent

possible, indoor residential medical marijuana cultivation and processing for personal use shall be in conformance with the following standards:

1. Medical marijuana cultivation in a residence shall not exceed fifty (50) square feet or exceed ten (10) feet in height per residence on a parcel; and
2. Medical marijuana cultivation in detached accessory buildings shall not exceed fifty (50) square feet or exceed ten (10) feet in height per residence on a parcel; and
3. A total of fifty (50) square feet of indoor medical marijuana cultivation for personal use, which does not exceed ten (10) feet in height, is permitted for each residence on a parcel, regardless of whether the cultivation occurs in a residence or in a detached accessory building. In no case shall a residence or a detached accessory building have a total of more than fifty (50) square feet or more than ten (10) feet in height of medical marijuana cultivation area per residence on the parcel, regardless of the number of qualified patients or primary caregivers residing at the residence or participating directly or indirectly in the cultivation; and
4. The medical marijuana cultivation and processing area in the residence or detached accessory building shall be indoors, as defined herein, posted with a legible copy of the individual patient's medical marijuana recommendation, secured against unauthorized entry, and maintained for the exclusive use of the qualified patient; and
5. Grow lights for medical marijuana cultivation for personal use in a residence or a detached accessory building shall not exceed 1200 watts total; and
6. All electrical equipment used in the indoor cultivation of medical marijuana in a residence or a detached accessory building 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 residential cultivation of medical marijuana is prohibited; and
7. The use of gas products (CO<sub>2</sub>, butane, etc.) for indoor medical marijuana cultivation or processing in a residence or a detached accessory building is prohibited; and
8. No toxic or flammable fumigant shall be used for indoor cultivation of medical marijuana in a residence or a detached accessory building unless the requirements of section 1703 of the California Fire Code have been met; and
9. On parcels that contain more than one residence, no odor of medical marijuana shall be detectable from the exterior of the residence or detached accessory building by a person of ordinary senses. On parcels that contain only one residence, no odor of medical marijuana shall be detectable from the property boundaries by a person of ordinary senses. To achieve this, the medical marijuana cultivation area shall be, at a minimum, mechanically ventilated with a carbon filter or other superior method to prevent the odor of marijuana from escaping the indoor cultivation area and negatively impacting neighbors and the surrounding community. Ventilation systems shall be installed in a manner that facilitates decommissioning and a return of the cultivation area to non-cultivation residential uses; and
10. From a public right of way, neighboring properties, or neighboring housing units, there shall

be no visual or auditory evidence of indoor medical marijuana cultivation at the residence or detached accessory building that is detectable by a person of ordinary senses; and

11. Medical marijuana cultivation, processing, or transfers in a residence or detached accessory building are prohibited as a Cottage Industry or a Home Occupation, and are not eligible for an address of convenience; and
12. No sale, trading, or dispensing of medical marijuana is allowed on a parcel where residential cultivation of medical marijuana occurs; and
13. The qualified patient shall not cultivate medical marijuana for his or her personal use in more than one residence or detached accessory building within the jurisdiction of the County of Humboldt; and
14. The residence where medical marijuana is grown indoors for personal use shall maintain a kitchen and bathroom(s) for their intended use, and the kitchen, bathroom(s), and bedroom(s) shall not be used primarily for medical marijuana cultivation; and
15. No effluent, including but not limited to waste products, chemical fertilizers or pesticides shall be discharged into drains, septic systems, community sewer systems, water systems or other drainage systems including those that lead to rivers, streams and bays as a result of indoor residential cultivation of medical marijuana; and
16. The indoor residential cultivation of medical marijuana shall not adversely affect the health or safety of residents, neighbors, or nearby businesses by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes associated with the cultivation of medical marijuana; and
17. The indoor residential cultivation of medical marijuana must comply with all applicable state and county laws, including fire and building codes.
18. A waterproof membrane or other waterproof barrier shall be installed in the cultivation area or beneath individual plants to protect the floor of the indoor cultivation area from water damage.