



AGENDA
RIO DELL PLANNING COMMISSION
REGULAR MEETING – 6:30 P.M.
WEDNESDAY, NOVEMBER 28, 2012
CITY COUNCIL CHAMBERS
675 WILDWOOD AVENUE, RIO DELL

WELCOME . . . By your presence in the City Council Chambers, you are participating in the process of representative government. Copies of this agenda, staff reports and other material available to the City Council are available at the City Clerk's office in City Hall, 675 Wildwood Avenue and on the City's website at riodellcity.com. Your City government welcomes your interest and hopes you will attend and participate in Rio Dell City Council meetings often.

THE TYPE OF COMMISSION BUSINESS IS IDENTIFIED IMMEDIATELY AFTER EACH TITLE IN BOLD CAPITAL LETTERS.

A. CALL TO ORDER

B. ROLL CALL

C. PLEDGE OF ALLEGIANCE

D. CEREMONIAL

E. CONSENT CALENDAR

- 1) 2012/1128.01 - Approve Minutes of the September 26, 2012 Regular Meeting
(ACTION)

F. PUBLIC PRESENTATIONS

This time is for persons who wish to address the Commission on any matter not on this agenda and over which the Commission has jurisdiction. Items requiring Commission action not listed on this agenda may be placed on the next regular agenda for consideration if the Commission directs, unless a finding is made by at least 2/3rds of the Commission that the item came up after the agenda was posted and is of an urgency nature requiring immediate action. Please limit comments to a maximum of 3 minutes.

G. SCHEDULED MATTERS/PUBLIC HEARINGS/STUDY SESSIONS

- 1) 2012/1128.02- Conduct Public Hearing/Adopt Resolution No. PC 059-2012
Recommending the City Council Approve and Adopt Medical
Marijuana Regulations, Section 17.30.155 of the Rio Dell Municipal
Code (RDMC) **(ACTION)**

H. REPORTS/STAFF COMMUNICATIONS

I. ADJOURNMENT

HAPPY HOLIDAYS!

*The next Regular Planning Commission meeting is scheduled for
January 23, 2013 at 6:30 p.m. in the City Council Chambers*

**CITY OF RIO DELL
PLANNING COMMISSION
REGULAR MEETING
SEPTEMBER 26, 2012**

CALL TO ORDER

The Regular meeting of the Rio Dell Planning Commission was called to order at 6:30 p.m. by Planning Commissioner Chapman.

Present were Commissioners Chapman, Angeloff, Johnson and Millington.

Others present were Community Development Director Caldwell, and City Clerk Dunham.

CONSENT CALENDAR

Motion was made by Angeloff/Johnson to approve the consent calendar including the approval of minutes of the July 25, 2012 regular meeting, and acceptance of the resignation from Commissioner Gonzales on the Planning Commission. Motion carried 4-0.

PUBLIC PRESENTATIONS

None

SCHEDULED MATTERS/PUBLIC HEARINGS

Approve Resolution No. PC 056-2012 Recommending that the City Council Repeal the City's Existing Parking Regulations and Establish new Parking Regulations under Section 17.30.180 of the Rio Dell Municipal Code (RDMC)

Community Development Director Caldwell provided a staff report and stated that a study session was held a few months ago to discuss possible changes to the City's Parking regulations. He said the existing parking regulations adopted in 1968 are clearly outdated and there are a number of use types that are not identified.

He directed the Commissioners attention to the Land Use Type table which identifies the various land use types and the minimum number of required off-street parking spaces.

Commissioner Millington asked the reasoning behind requiring ½ space parking; Community Development Director Caldwell said the intent is to round up in most instances but provided a scenario where there may be (10) 4-bedroom units in a multi-family development and at 2.5 spaces per dwelling unit, the total number of required

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parking spaces would be 25.5 whereas if the 2.5 were rounded up to 3 there would be 30 parking spaces required.

Community Development Director Caldwell noted that one use type that is a little different from other jurisdictions is *Shopping Centers* at 1 space for every 300 sq. ft. of gross floor area.

Commissioner Johnson referred to the newly constructed apartments at 340-350 Wildwood Avenue and asked how many parking spaces would be required under the newly proposed regulations; Community Development Director Caldwell said a total of 8 spaces would be required including guest parking.

Commissioner Millington asked how the regulations would apply if one day the bottom floor of those apartments were converted to commercial uses; Community Development Director Caldwell said existing structures would be exempt from any new requirements.

Commissioner Angeloff referred to Section 3(a) *Location of Off-Street Parking* and asked how this provision accommodates parking for smaller lots and at the same time promotes business; Community Development Director Caldwell said one possible way to address this in the future would be through in-lieu parking fees where the business pays fees to the City to provide and maintain off-site substitute parking.

Commissioner Angeloff then referred Section 4(v) where it states that “the substitute parking area is owned by the owner of the property on which the use for which the parking is being provided.....” and asked what if someone wants to lease substitute parking; Community Development Director Caldwell said the lease would need to run concurrent with the lease of the building where the business is located. He noted that exceptions to the requirements for the number of off-street parking spaces may be allowed with a Conditional Use Permit provided evidence is submitted in support of the exception.

Commissioner Angeloff commented that Section 11(i) which says that each single family residence shall be provided an access driveway with a minimum length of 20 feet from the back of the sidewalk seems to conflict with Section 7(b) which says that the first 25 feet from a paved public street must be paved. Community Development Director Caldwell said he would discuss the issue with the City Manager and Roadways Superintendent for clarification but explained the reason for the 20 foot driveway is to accommodate larger vehicles so that they do not encroach beyond the driveway.

Moving on to Section 11 (i & ii), Commissioner Angeloff asked how the required driveway widths impact the commercial lots downtown; Community Development

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Director Caldwell explained the existing lots are exempt however newly developed lots will need to comply. He said 16 feet for the width of a one-way driveway and 25 feet for a two-way driveway is standard language.

Commissioner Angeloff asked if there is an appeals process before the City Council; Community Development Director Caldwell said there is an exception process and his recommendation is that exceptions be considered by the Planning commission through the Conditional Use Permit process.

Commissioner Angeloff commented that all of his concerns are based on promoting business.

Commissioner Johnson referred to Section 15 *Parking Lot Lighting* and utilizing energy-efficient lighting technology and stated that Cal-Trans is now switching to LED lighting and suggested that LED lighting be included in the language. Community Development Director Caldwell agreed to amend the language to include LED lighting.

Commissioner Chapman noted that the City of Fortuna recently changed some of their lighting to LED and said there is a grant program available to assist with the upgrades.

A public hearing was opened to receive public input on the proposed resolution; there being no public comment, the public hearing closed.

Motion was made by Millington/Johnson to approve Resolution No. PC 056-2012 *Recommending to the City Council, Approval of the Parking Ordinance*. Motion carried 4-0.

Approve Resolution No. PC 057-2012 Recommending that the City Council Amend the Town Center/Urban Residential General Plan and Zoning Map Designations, Amending the Rio Dell Land Use Designation Acreage Distribution Table, Amend the Town Center Description, the Town Center Permitted Uses and Land Use Policies of the General Plan to Reflect Proposed Changes

Community Development Director Caldwell provided a staff report and said a workshop was held in May to discuss the One Way street concept in the Avenues neighborhoods and the possibility of amending the Town Center/Urban Residential land use designations. He said there was discussion and support for limiting the Town Center designation to those parcels which front on Wildwood Ave. Also discussed, was the idea of expanding the allowed uses of the Town Center designation, to include artisan studios to encourage commercial development in the town down area.

Community Development Director Caldwell said another issue discussed was the requirement for two-story structures in the Town Center zone. Members of the

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community felt this discourages new commercial businesses who have no desire to build a multi-story building.

Another recommended change was to eliminate attached and detached residential uses in the Town Center.

Commissioner Millington referred to Section 2(LU-19) in regard to live-work units which may be provided with a Conditional Use Permit provided residential activities are located at the back of the building and do not occupy more than 40% of the gross floor area and are occupied only by the operator of the business. She expressed concern that she would not be allowed to rent out a portion of her building for commercial space.

Community Development Director Caldwell said an exception could be granted through the CUP process.

Consensus of the Commission was to strike the last portion of the sentence that reads: "and are occupied only by the operator of the business."

Commissioner Angeloff asked for clarification under Principal Permitted Uses in the Town Center zone in regard to dry cleaning, *not including processing plants*. He suggested the words *not including dry cleaning processing plants* be put in parentheses after the words *dry cleaning*. Commissioners concurred.

Commissioner Angeloff asked why the recommendation is to have banks without drive-up facilities; Community Development Director Caldwell said typically you don't see drive-thru banks in Town Center zones where the lots are typically smaller although a Conditional Use Permit could be processed to allow for such use if the use was found to be compatible with the area.

Community Development Caldwell said there are currently two parcels on Wildwood Ave. that are subject to split zoning since they extend to First Ave. but he is recommending against the split zoning.

Commissioner Angeloff asked what impact the proposed amendments would have on potential development; Community Development Director Caldwell said he didn't anticipate any affect and stated there are currently only 4 or so vacant lots existing in the Avenues neighborhood.

At 7:33 p.m. a public hearing was opened to receive public input on the proposed resolution; there being no public comment, the public hearing closed.

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Motion was made by Angeloff/Johnson to approve Resolution No. PC 057-2012 Recommending to the City Council approval of the recommended mapping, General Plan and Text Amendments. Motion carried 4-0.

Approve Resolution No. PC 058-2012 Approving Proposed Variance for Rad Keller at 202 Columbus St. (APN 053-152-012)

Community Development Director Caldwell provided a staff report and said the applicant is requesting a Variance to the required 5 foot side-yard setback to allow the reconstruction/replacement of an existing garage in the same location. He said the existing garage is located 1 ½ feet from the property line.

He said a variance may be granted upon a finding that:

- a) The location, shape, size surroundings, topography, or other condition, applicable to the subject property, represent special circumstances, and that strict application of this title would deny the property owner privileges enjoyed by other property owners in the vicinity and within the same zoning district;
- b) The variance is necessary for the enjoyment and preservation of substantial property rights enjoyed by other property owners in the same vicinity and zoning district; and
- c) The variance is consistent with the general plan.

A public hearing was opened at 7:37 p.m. to receive public comment on the proposed variance; there being no public comment, the public hearing closed..

Commissioner Johnson said he noticed a large truck parked on the west side of the parcel; Mr. Keller stated that it is difficult to make a 3-point turn with that particular vehicle and the intent is to park it in the garage.

Motion was made by Millington/Angeloff to approve Resolution No. PC 058-2012 approving the proposed Variance for Rad Keller at 202 Columbus St. Motion carried 4-0.

REPORTS/STAFF COMMUNICATIONS

Community Development Director Caldwell reported on the next agenda will be introduction of a draft ordinance related to on-site marijuana cultivation.

Commissioner Johnson said he would like to make a recommendation to the City Council that Billy Joe Long be appointed to the Planning Commission to fill the unexpired term of Commissioner Gonzales. Commissioners concurred.

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ADJOURNMENT

The meeting adjourned at 7:42 p.m. to the October 24, 2012 regular meeting.

Attest:

Gary Chapman, Vice Chair

Karen Dunham, City Clerk

For Meeting of: November 28, 2012

To: Planning Commission

From: Kevin Caldwell, Community Development Director 

Through: Jim Stretch, City Manager 

Date: November 16, 2012

Subject: Medical Marijuana Regulations

Recommendation:

That the Planning Commission:

1. Receive staff's report regarding establishing Medical Marijuana Regulations (Ordinance 299-2012); and
2. Open the public hearing, receive public input and deliberate; and
3. Adopt Resolution No. PC 059-2012 recommending that the City Council approve and adopt Medical Marijuana Regulations, Section 17.30.155 of the Rio Dell Municipal Code (RDMC).

Summary

Staff was directed to prepare Medical Marijuana Regulations to regulate the cultivation of medical marijuana for personal use in residences and detached accessory buildings.

The purpose of the Medical Marijuana Regulations is to ensure that the cultivation of medical marijuana for personal use is conducted 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 incorporated area of the City of Rio Dell.

The intent of the proposed Medical Marijuana Regulations is to balance the needs of patients and their caregivers to have access to medical marijuana; the needs of residents, businesses, and neighborhoods 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.

It is the intent of the City that the Medical Marijuana Regulations not 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.

Due to the high monetary value placed upon marijuana, the County and local Cities have 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 City 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.

Widespread indoor cultivation of marijuana in the County and Cities 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.

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.

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.

Staff has reviewed the City's of Arcata's and Eureka's and the County's medical marijuana regulations. Both Eureka and Arcata have very similar regulations in terms of the allowable area, wattage and exception requests. Each jurisdiction's standards are based per residence.

Notwithstanding the exception provisions, staff's recommended Medical Marijuana Regulations pretty much mirror the other local jurisdictions regulations. Below is a summary of the recommended regulations and the County's, City's of Arcata's and Eureka's regulations:

Jurisdiction	Maximum Area	Maximum Height	Maximum Wattage	Outdoor Cultivation
City of Rio Dell	50 sq. ft.	10 ft.	1200	No
City of Eureka	50 sq. ft.	10 ft.	1200	No
City of Eureka w/Exception Request ¹	100 sq. ft.	10 ft.	2400	No
City of Arcata	50 sq. ft.	10 ft.	1200	No
City of Arcata w/Exception Request ¹	100 sq. ft.	10 ft.	2400	No
County of Humboldt	50 sq. ft.	10 ft.	1200	No

¹ Exception request based on more than one qualified patient living at the residence or physicians recommendation that the patient needs require more than 50 square feet of cultivation area.

The recommended regulations are consistent with the adopted Humboldt County District Attorney's Prosecution Guidelines (Attachment 1). According to the Guidelines, patients or their caregivers cultivating marijuana indoors pursuant to Health and Safety Code Section 11362.5 will not be prosecuted if the cultivation:

- Is within 100 square feet cumulatively measured by the vegetative canopy; and
- Contains 99 plants or less, including starts; and
- Is using 1.5 kilowatts (1500 watts) or less of illumination by artificial growing lights of any kind.

Zone Reclassification Required Finding:

1. The proposed amendment is consistent and compatible with the General Plan and any implementation programs that may be affected.

Section 65860(a) of the Government Code requires that zoning ordinances and amendments be consistent with the General Plan and any applicable specific plan. One of the primary purposes of a General Plan is protect the public the safety and welfare and to avoid nuisance impacts associated with various land uses.

There are no known General Plan Policies or Goals that would discourage or prohibit the adoption of Medical Marijuana Regulations. Therefore, the proposed amendment is consistent and compatible with the General Plan and any implementation programs that may be affected.

2. the proposed amendment will not have an adverse impact on the public health, safety and welfare and has been processed in accordance with the California Environmental Quality Act (CEQA).

The primary purpose of the California Environmental Quality Act (CEQA) is to inform the decision makers and the public of potential environmental effects of a proposed project.

Based on the nature of the project, staff has determined that the project is Statutorily Exempt pursuant to Section 15061(b) (3) of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations. Pursuant to Section 15061(b) (3) of the CEQA Guidelines this exemption is covered by the general rule that CEQA applies only to projects which have the potential for causing a **significant** effect on the environment. Where it can be seen with certainty that there is no possibility that the project in question may have a significant effect on the environment, the project is not subject to CEQA. Based on the nature of the proposed amendment, staff believes there is no evidence to suggest that the amendment will have a significant effect on the environment.

Financial Impact

The City is responsible for the costs associated with the proposed amendment. The cost is insignificant and will not result in additional budget expenditures or revisions.

Alternatives

The Planning Commission may choose not to recommend approval of the proposed Draft Medical Marijuana Regulations. The Planning Commission may also choose to modify staff's recommendation.

Attachments:

1. Humboldt County District Attorney's Prosecution Guidelines.
2. Resolution No. PC 059-2012 recommending that the City Council approve and adopt Medical Marijuana Regulations, Section 17.30.155 of the Rio Dell Municipal Code (RDMC).
3. Draft Ordinance No. 299-2012 establishing Medical Marijuana Regulations, Section 17.30.155 of the Rio Dell Municipal Code (RDMC).

HUMBOLDT COUNTY DISTRICT ATTORNEY'S
HEALTH & SAFETY CODE §§ 11357 - 11360, PROSECUTION GUIDELINES

INTRODUCTION:

Health & Safety Code §§ 11357 through 11360 provide generally that it is illegal to possess, cultivate, transport, distribute, or import marijuana in or into the state of California. *Health & Safety Code* § 11362.5 (Also known as Proposition 215 and/or the Compassionate Use Act of 1996) provides limited immunity from the prosecution of possession and cultivation of marijuana. The stated purposes of section 11362.5 are:

(i) To ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or *any other illness for which marijuana provides relief*. (Herein medical marijuana.) (*Health & Safety Code* § 11362.5(B), Emphasis added.)

(ii) To ensure that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction. (*Health & Safety Code* § 11362.5(B), Emphasis added.)

The goal and the purpose of these guidelines are:

(i) To provide for the public safety and security of the people of Humboldt County.

(ii) To fairly and consistently apply the law equally to all people of Humboldt County.

(iii) To ensure that the right of anyone with a recommendation from a physician to obtain and use marijuana for medical purposes (herein patients) is honored and respected in Humboldt County.

(iv) To ensure that patients and their primary caregivers are not subject to unnecessary criminal prosecution or sanction for legal cultivation and/or possession of marijuana.

(v) To provide guidelines regarding medical marijuana to all concerned: patients, caregivers, physicians and law enforcement agencies so that mutual rights, privileges and responsibilities may be mutually understood, honored and respected.

The Humboldt County District Attorney's Office will not prosecute patients whose use and possession of medical marijuana are within these guidelines.

GUIDELINES

GENERALLY:

It is presumed, based on various government and non-governmental sources, that a patient will use up to three (3) pounds of processed usable marijuana per year.¹ Therefore, these guidelines are intended to allow for the cultivation and use of up to three (3) pounds of marijuana per year.

Outdoor cultivation provides the opportunity for only one (1) harvest per year while indoor cultivation provides the opportunity for up to three (3) harvests per year. These guidelines distinguish between outdoor and indoor cultivation, presume three (3) indoor harvests per year and treat outdoor and indoor harvests differently, but with the goal to provide for the use and cultivation of up to three (3) pounds of dried usable marijuana for patients per year whether through outdoor or indoor cultivation.

¹. The federal Investigational New Drug (IND) program provides patients with 10 to 12 medical marijuana cigarettes per day -- from 5.6 to 7.23 pounds per year of processed usable marijuana which amounts to 8.24 grams per day, or 6.63 pounds per year.

OUTDOOR CULTIVATION:

Patients or their caregivers cultivating marijuana in an area within one hundred (100) square feet cumulatively measured by the vegetative canopy of the plants and who have ninety-nine (99) plants or less, including starts, shall be deemed within the District Attorney's prosecution guidelines and will not be prosecuted.

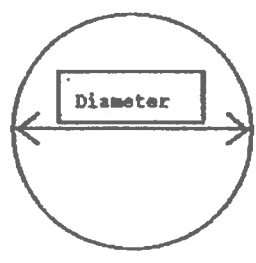
This limit applies to marijuana grown in a greenhouse, provided it is without the benefit of artificial light sources of any kind.

In measuring canopy diameter to determine compliance, the following approximate figures may be used:^{2 3}

<u>Plant Canopy Diameter</u> <u>(Width in feet)</u>	<u>Approximate</u> <u>Square feet</u>	<u>Approximate number of</u> <u>plants of equal square feet</u> <u>in 100 square feet</u>
1	1	99
2	3	33
3	7	14
4	13	7
5	20	5
6	28	3
7	38	2
8	50	2
9	64	1
10	79	1
11	95	1

² Actual Square foot per diameter: Area = diameter squared x 0.7854, e.g. Plant Diameter = 30", Area = (30 x 30) x 0.7854, Area = 900 x 0.7854, Area = 706.86 square inches, Area = 706.86 ÷ 144, (144 square inches per square foot), Area = 4.9 square feet.

³ To arrive at plants of equal size per 100 square feet divide 100 by square feet of plants, e.g., 30" plant diameter = 4.9 square feet, 100 ÷ 4.9 = 20.40 plants of 30" diameter in 100 square feet.



- Measuring Diameter

Summary:

Patients or their caregivers cultivating marijuana outdoors pursuant to *Health & Safety Code* § 11362.5, will not be prosecuted if the cultivation:

- i. Is within 100 square feet cumulatively measured by vegetative canopy; and
- ii. Contains 99 plants or less, including starts.

INDOOR CULTIVATION:

Patients or their caregivers cultivating marijuana in an area within one hundred (100) square feet cumulatively measured by the vegetative canopy of the plants and who ninety-nine (99) plants or less, including starts, and who are using one and one half (1.5) kilowatts (1500 watts) or less of illumination by artificial growing lights of any kind shall be deemed within the District Attorney's prosecution guidelines and will not be prosecuted.

Summary:

Patients or their caregivers cultivating marijuana indoors pursuant to *Health & Safety Code* § 11362.5, will not be prosecuted if the cultivation:

- i. Is within 100 square feet cumulatively measured by vegetative canopy; and
- ii. Contains 99 plants or less, including starts; and
- iii. Is using 1.5 kilowatts (1500 watts) or less of illumination by artificial growing lights of any kind.

PROCESSED MARIJUANA:

Patients or their caregivers who possess three (3) pounds or less of processed useable marijuana will be deemed within the District Attorney's prosecution guidelines and will not be prosecuted.

Unharvested plants are not to be included in this weight.

The District Attorney's Office recognizes that possession of certain amounts of cannabis product such as baked goods, tinctures, concentrated cannabis, infusions, salves and other cannabis derivatives may be consistent with medicinal use. However, such possession must necessarily and will be treated on a case by case basis with deference to state laws which prohibit possession of those products.

DOCUMENTATION:

A prompt and noninvasive determination of whether cultivation and/or possession is legal or illegal can best be accomplished with the cooperation of all parties involved. Therefore, the District Attorney's Office recommends that physician recommendations and/or other supporting documentation be conspicuously posted at cultivation sites and that such documentation or a copy of the documentation be carried with the patient and caregiver at all times. Failure to post and carry such documentation may result in unnecessary legal fees and costs and/or criminal prosecution.

The District Attorney's Office recognizes that under *Health & Safety Code* § 11362.5, an individual may qualify as a patient by an oral recommendation. However, a prompt and noninvasive determination of whether cultivation and/or possession is legal or illegal is best accomplished with a written recommendation. Therefore, the District Attorney's Office recommends that patients and caregivers obtain written recommendations.⁴

4. The Humboldt County Public Health Department has a patient card program. Participation in the program is voluntary and is not required by law or these guidelines. However, obtaining a card may enable a patient and caregiver to avoid arrest, legal fees and costs and prosecution.

PHYSICIAN RECOMMENDATIONS:

The District Attorney's Office recognizes that citizens have the right to choose their physicians and that their communications with them are privileged. Therefore, the District Attorney's Office will honor the possession of a valid physician's recommendation regardless of whether that physician resides in Humboldt County. Further, disclosure of confidential physician-patient communications will not be deemed a waiver of the physician-patient privilege by the District Attorney's Office.

ENFORCEMENT OPTIONS:

The District Attorney's Office does not regulate or advise law enforcement except as is explicitly provided by law. The following are suggestions to minimize the risk of unnecessary governmental destruction of private property and intrusion.

Health & Safety Code § 11362.5 provides that a physician can recommend marijuana use for "any illness for which marijuana provides relief." Physician-patient communications are privileged. Inquiry into the patient's physician-patient communications should be avoided unless necessary to obtain medical care for the patient.

Both the United States and the California Constitutions prohibit governmental taking without due process and compensation. Therefore, if an officer or officers believe marijuana cultivation and/or possession is pursuant to *Health & Safety Code* § 11362.5, but that the cultivation and/or possession exceeds these guidelines, the officer or officers should only seize that amount in excess of the guidelines.

These guidelines nullify any existing guidelines and shall remain in effect until further clarified by statute, case law or written revision by the District Attorney's Office.

NOTICE:

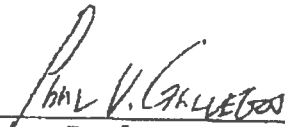
These guidelines and the policy they embody reflect the position of the Humboldt County District Attorney's Office only. Persons using or considering the use of marijuana, its possession, transportation or recommendation must be aware that the policies of other counties within may differ. More significantly, the federal government and other states

criminalize marijuana and all activities associated with its possession, cultivation, use, transportation, distribution and sale. These guidelines offer no protection against actions brought by other agencies.

Dated:

2/14/03

By:



Paul V. Gallegos
District Attorney,
Humboldt County

RESOLUTION NO. PC 059-2012

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIO DELL
RECOMMENDING APPROVAL OF MEDICAL MARIJUANA REGULATIONS, SECTION
17.30.155 OF THE RIO DELL MUNICIPAL CODE:**

WHEREAS one of the primary purposes of a General Plan is protect the public safety and welfare and to avoid nuisance impacts associated with various land uses; and

WHEREAS the intent of the proposed Medical Marijuana Regulations is to balance the needs of patients and their caregivers to have access to medical marijuana; the needs of residents, businesses, and neighborhoods 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; and

WHEREAS it is the intent of the City that the Medical Marijuana Regulations not 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; and

WHEREAS widespread indoor cultivation of marijuana in the County and Cities 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; and

WHEREAS the 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; and

WHEREAS the purpose of the Medical Marijuana Regulations is to ensure that the cultivation of medical marijuana for personal use is conducted 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 incorporated area of the City of Rio Dell; and

WHEREAS the City has reviewed and processed the proposed Parking Regulations in conformance with Sections 65350 – 65362 of the California Government Code; and

WHEREAS the City has reviewed and processed the proposed Parking Regulations in conformance with Section 17.30.010 of the City of Rio Dell Municipal Code; and

WHEREAS the City finds that based on evidence on file and presented in the staff report that the proposed Medical Marijuana Regulations are deemed to be in the public interest; and

WHEREAS the City finds that based on evidence on file and presented in the staff report that the proposed Medical Marijuana Regulations are consistent and compatible with a comprehensive view of the General Plan and any implementation programs that may be affected; and

WHEREAS the City finds that based on evidence on file and presented in the staff report that the potential impacts of the proposed Medical Marijuana Regulations has been assessed and have been determined not to be detrimental to the public health, safety, or welfare; and

WHEREAS the proposed Medical Marijuana Regulations has been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act (CEQA); and

WHEREAS the City has determined that the proposed Medical Marijuana Regulations are Statutorily Exempt pursuant to Section 15061(b) (3) of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations.

NOW, THEREFORE BE IT RESOLVED that the Planning Commission of the City of Rio Dell recommends:

1. That the proposed Medical Marijuana Regulations are in the public interest and consistent with an overall comprehensive view of the General Plan; and
2. That based on evidence on file and presented in the staff report that the potential impacts of the proposed Medical Marijuana Regulations have been assessed and have been determined not to be detrimental to the public health, safety, or welfare; and
3. That based on the nature of the project, the project is Statutorily Exempt pursuant to Section 15061(b) (3) of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations. Pursuant to Section 15061(b) (3) of the CEQA Guidelines this exemption is covered by the general rule that CEQA applies only to projects which have the potential for causing a **significant** effect on the environment; and
4. That the City Council approve and adopt the proposed Medical Marijuana Regulations.

PASSED AND ADOPTED by the Planning Commission of the City of Rio Dell at their meeting of November 28, 2012 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

Gary Chapman, Chair Pro Tem

Karen Dunham, City Clerk

ORDINANCE NO. 299 - 2012

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIO DELL
ESTABLISHING MEDICAL MARIJUANA REGULATIONS, SECTION 17.030.155 OF THE RIO
DELL MUNICIPAL CODE:**

THE CITY COUNCIL OF THE CITY OF RIO DELL DOES ORDAIN AS FOLLOWS:

WHEREAS the purpose and intent of the Medical Marijuana Regulations is to regulate the cultivation of medical marijuana for personal use in a residence, detached accessory building; and

WHEREAS it is the intent of the City 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, or at least limit to the extent possible, the harmful environmental impacts that can accompany marijuana cultivation; and

WHEREAS it is the intent of the City that the cultivation of medical marijuana for personal use be conducted 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 incorporated area of the City of Rio Dell.; and

WHEREAS the City has reviewed and processed the proposed Medical Marijuana Regulations in conformance with Sections 65350 – 65362 of the California Government Code; and

WHEREAS the City has reviewed and processed the proposed Medical Marijuana Regulations in conformance with Section 17.30.010 of the City of Rio Dell Municipal Code; and

WHEREAS the City finds that based on evidence on file and presented in the staff report that the proposed Medical Marijuana Regulations are deemed to be in the public interest; and

WHEREAS the City finds that based on evidence on file and presented in the staff report that the proposed Medical Marijuana Regulations are consistent and compatible with a comprehensive view of the General Plan and any implementation programs that may be affected; and

WHEREAS the City finds that based on evidence on file and presented in the staff report that the potential impacts of the proposed Medical Marijuana Regulations has been assessed and have been determined not to be detrimental to the public health, safety, or welfare; and

WHEREAS the proposed Medical Marijuana Regulations has been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act (CEQA); and

WHEREAS the City has determined that the proposed Medical Marijuana Regulations is Statutorily Exempt pursuant to Section 15061(b) (3) of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Rio Dell:

1. Finds that the proposed Medical Marijuana Regulations are in the public interest and consistent with an overall comprehensive view of the General Plan; and
2. Finds that based on evidence on file and presented in the staff report that the potential impacts of the proposed Medical Marijuana Regulations have been assessed and have been determined not to be detrimental to the public health, safety, or welfare; and
3. Finds that based on the nature of the project, the project is Statutorily Exempt pursuant to Section 15061(b) (3) of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations. Pursuant to Section 15061(b) (3) of the CEQA Guidelines this exemption is covered by the general rule that CEQA applies only to projects which have the potential for causing a **significant** effect on the environment.
4. Approves and adopts the proposed Medical Marijuana Regulations.

BE IT FURTHER RESOLVED, that the City Council of the City of Rio Dell does hereby ordain as follows:

Section 1.

Section 17.030.155 is hereby established as follows:

Section 2.

17.030.155 Medical Marijuana Regulations

(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 Code Sections 11362.83 and 11362.768(f), the City Council does hereby enact this Code, which shall be known and may be cited as the "Medical Marijuana Regulations".

(2) Purpose and Intent. The purpose and intent of the Medical Marijuana Regulations is to regulate the cultivation of medical marijuana for personal use in a residence and detached accessory buildings.

It is the intent of the City that the cultivation of medical marijuana for personal use be conducted 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 incorporated area of the City of Rio Dell.

It is the intent of the City 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, or at least limit to the extent possible, the harmful environmental impacts that can accompany marijuana cultivation.

It is the intent of the City that the Medical Marijuana Regulations not 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.

(3) Findings. The City Council hereby finds and declares the following:

(a) In 1996, California voters approved Proposition 215 (codified as Health and Safety Code Section 11362.5, and entitled "The Compassionate Use Act of 1996").

(b) 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."

(c) 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.

(d) The Compassionate Use Act (Section 11362.5, Health and Safety Code) expressly anticipates the enactment of local legislation. It provides: "Nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, not to condone the diversion of marijuana for nonmedical purposes."

(e) 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.

(f) In February 2003, the Humboldt County District Attorney's Office issued its Prosecution Guidelines regarding the cultivation, possession and use of medical marijuana.

(g) 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.

(h) 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.

(i) 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.

(j) Due to the high monetary value placed upon marijuana, the County and local Cities have 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 City 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.

(k) Widespread indoor cultivation of marijuana in the County and Cities 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.

(l) 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.

(m) 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.

(n) 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 City 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 cultivation and processing of medical marijuana.

(o) The City 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 City create regulations, such as this Code, to govern the cultivation of medical marijuana for personal use in a residence, detached accessory building or outdoors.

(p) The City 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 City 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. 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.

(q) The City 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 is subordinate, incidental, and accessory to the residential use, within the City will achieve the goals of allowing qualified patients the ability to cultivate medical marijuana in or at 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.

(4) Applicability and Interpretation

(a) The cultivation and processing of medical marijuana for personal use in a residence or detached accessory building or outdoors within the jurisdiction of the City 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.

(b) Nothing in this Code is intended, nor shall it be construed, to exempt any cultivation of medical marijuana for personal use, from compliance with the City of Rio Dell's 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 Rio Dell Municipal Code, or any other applicable state or federal laws.

(c) 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.

(d) The definitions in this Code are intended to apply to the Medical Marijuana Regulations. Applicable definitions in the Rio Dell Municipal Code may also apply to this Code.

(5) Definitions

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

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.

Outdoor(s): Not enclosed or covered by a roof, exposed to the elements.

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 of medical marijuana 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.

(6) Residential Cultivation for Personal Use

The City shall not interfere with a qualified patient's residential cultivation of medical marijuana for that patient's personal use, so long as the cultivation is in conformance with this Code and state law.

In order to eliminate the potential nuisance and health and safety impacts to the greatest extent possible, residential medical marijuana cultivation and processing for personal use shall be in conformance with the following standards:

(a) Indoor 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

(b) Indoor 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

(c) 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

(d) 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

(e) Grow lights for medical marijuana cultivation for personal use in a residence or a detached accessory building shall not exceed 1200 watts total; and

(f) 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

(g) The use of gas products (CO₂, butane, etc.) for indoor medical marijuana cultivation or processing in a residence or a detached accessory building is prohibited; and

(h) 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

(i) 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

(j) From a public right of way, neighboring properties, or neighboring housing units, there shall be no visual or auditory evidence of medical marijuana cultivation at the residence or detached accessory building that is detectable by a person of ordinary senses; and

(k) Medical marijuana cultivation, processing, or transfers in a residence or detached accessory building are prohibited as a Home Occupation; and

(l) No sale, trading, or dispensing of medical marijuana is allowed on a parcel where residential cultivation of medical marijuana occurs; and

(m) 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 City jurisdiction; and

(n) 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

(o) 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 and streams as a result of the cultivation of medical marijuana; and

(p) The 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

(q) The indoor residential cultivation of medical marijuana must comply with all applicable state and county laws, including fire and building codes; and

(r) 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.

(7) 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 City under the applicable state and county laws, including the City's abatement and administrative penalty procedures.

Section 3. Severability

If any provision of the ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

Section 4. Limitation of Actions

Any action to challenge the validity or legality of any provision of this ordinance on any grounds shall be brought by court action commenced within ninety (90) days of the date of adoption of this ordinance.

Section 5. CEQA Compliance

The City Council has determined that the adoption of this ordinance is exempt from review under the California Environmental Quality Act (CEQA), subject to Section 15061 of the CEQA Guidelines. Due to the nature of the proposed code revisions, there is no evidence that any significant impact to the environment would occur as a result of adoption of the Ordinance. Any environmental effects associated with adoption and implementation of the Ordinance.

Section 5. Effective Date

This ordinance becomes effective thirty (30) days after the date of its approval and adoption.

I HEREBY CERTIFY that the forgoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Rio Dell on December 18, 2012 and furthermore the forgoing Ordinance was passed, approved and adopted at a regular meeting of the City Council of the City of Rio Dell, held on the 15th of January 2013 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Julie Woodall, Mayor

ATTEST:

Karen Dunham, City Clerk