Exhibit A

CITY OF EUREKA	Category:	COMMUNITY DEVELOPMENT
POLICIES & PROCEDURES	Subject:	CHAPTER 158 MEDICAL CANNABIS ORDINANCE ENFORCEMENT
Date Adopted:	File Number	4.04

POLICY OBJECTIVE

To provide procedures for enforcement of Eureka Municipal Code Chapter 158 Medical Cannabis: Cultivation, Processing and Distribution.

ASSIGNED RESPONSIBILITY

Community Development Department

APPLICABILITY

Applicable to persons who grow or are alleged to be cultivating cannabis, and applicable to properties whereupon cannabis is or may be cultivating.

PROCEDURES

A. Definitions

CITY. The City of Eureka.

DAY. A calendar day, unless otherwise noted.

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

ENFORCEMENT OFFICER. Any City employee or agent authorized to enforce any provisions of this Code or any Code adopted or enforced by the City.

GROW HOUSE.

a) A non-residential property that has been illegally converted from its intended use (commercial and/or industrial) to allow the cultivation of cannabis.

b) A dwelling unit where cannabis is being cultivated, that cannot be legally used, or is not being used, for sleeping, eating or cooking.

INSPECTION TEAM. Any number of City employees or agents authorized to inspect property for the purpose of enforcing the provisions of The Eureka Municipal Code Chapter 158 or any Code adopted or enforced by the City.

OCCUPANT. The owner, tenant, lessee, or sub-lessee, occupying or having use of a property.

OWNER. The owner of record of real property.

PROPERTY. Any real property and/or improvements thereon.

B. Notice of Complaint

1. Whenever a complaint is received alleging a violation of Chapter 158 of the Eureka Municipal Code, the Enforcement Officer shall send a written Notice of Complaint to the owner of the property and to the property address.

2. The First Notice of Complaint shall contain all of the following:
   a. The location that is the subject of the complaint.
   b. The section of the Code alleged to be violated and a description of the alleged violation.
   c. The date by which the owner of the property or the property's occupant shall contact the City to schedule an inspection by the City. This date shall be no less than fifteen (15) days from the date the First Notice of Complaint is mailed.
   d. The date of the next available City inspection day.

3. If no response to the First Notice of Complaint is received within the 15 day contact period, then a Second Notice of Complaint shall be sent. The Second Notice of Complaint shall contain all of the information in "B.2." above, plus all of the following:
   a. Reference to the First Notice of Complaint.
   b. The date by which the owner of the property or the property's occupant shall contact the City to schedule an inspection by the City. This date shall be no less than fifteen (15) days from the date the Second Notice of Complaint is mailed.
   c. Notice that if contact is not made and the City inspection scheduled by the date specified, fines shall be assessed beginning the 16th day following the date the Second Notice of Complaint was sent.

4. If no response to the Second Notice of Complaint is received within the 15 day contact period, then a Final Notice of Complaint shall be sent. The Final Notice

of Complaint shall contain all of the information in "B.2." above, plus all of the following:

a. A summary of the previous notices.
b. An invoice assessing the daily fine for failure to contact the City, or failure to schedule and complete a City inspection within the time frame.
c. Information outlining the Appeal Procedure for the Complaint (see "E." below).

5. All Notices of Complaint shall be sent by certified mail, return receipt requested.

C. Inspections

1. The Inspection Team shall consist of members of the City of Eureka Community Development, Building, Police, and Fire departments in any combination and number deemed appropriate by the City. The City may also include other Departments or Agencies as necessary.

2. Inspections shall be scheduled and performed on days and at times as determined by the City of Eureka.

3. If the owner of the property or the property's occupant fails to respond to the First or Second Notice of Complaint within the specified time, or if the City is barred by the property owner or property occupant from carrying out a scheduled inspection, the City may request an inspection warrant.

4. No more than two unannounced follow-up inspections may be made at the discretion of the City within the 12 months following compliance with Chapter 158.

5. If, during an inspection, Enforcement Officers discover violation/s of codes, laws, or regulations other than those related to Chapter 158, then the Enforcement Officers may elect to pursue such violation/s through whatever means is appropriate for abatement and/or resolution of the violation/s.

D. Inspection Fees and Violation Fines, Penalties, and Interest

1. No fine or inspection fee will be assessed if:

a. The owner of the property or the property's occupant contacts the City within the fifteen (15) days specified in either the First or Second Notice of Complaint; and
b. The required initial inspection of the property is conducted on the date set by the City; and
c. The property is deemed to be in compliance with the provisions of Chapter 158 during the inspection.

2. If the owner of the property or the property's occupant fails to contact the City within the specified time, or the City is barred by the owner or property occupant from carrying out a scheduled inspection, then a fine will be assessed for each day to and including the date an inspection is scheduled, beginning not less than fifteen (15) days after the Second Notice of Complaint was sent.

3. If, during an inspection, the property is determined not to be in compliance with the provisions of Chapter 158, then an inspection fee shall be assessed for the inspection, and a fine assessed for each day beginning the day the first inspection is conducted and continuing until the property owner or property occupant schedules a re-inspection which results in the property being deemed to be in compliance with the provisions of Chapter 158.

4. If, during an inspection, the property is determined to be a Grow House, then a Grow House fine shall be assessed for each day beginning the day of the inspection and continuing until the property owner or property occupant schedules a re-inspection which results in the property being deemed to be in compliance with the provisions of Chapter 158 during the inspection.

5. Fees and/or fines shall be assessed either to the property owner or the property occupant, at the discretion of the City.

6. Prior to receiving a re-inspection, the owner or occupant of the property shall pay:
   a. the inspection fee assessed and/or unpaid from the previous inspection, if any;
   b. an inspection fee for the re-inspection; and
   c. all daily fines assessed from the date of the previous inspection, to and including the date the property owner or property occupant contacts the City to schedule the re-inspection.

7. Daily fines being assessed shall be held in abeyance beginning the day after the property owner or property occupant contacts the City to schedule a re-inspection.

8. If, at the re-inspection, the City determines the violation still exists, then the daily fines being held in abeyance will be assessed retroactively beginning the day after the property owner or property occupant contacted the City to schedule the re-inspection.

9. If the re-inspection reveals the violation has been resolved, then the date the property owner or property occupant contacted the City to schedule the inspection shall be the last day that daily fines accrue.

10. Fees for inspections performed as a result of obtaining an inspection warrant shall be charged to the property owner or property occupant at the discretion of the City.

11. If a potential violation of Chapter 158 is discovered by a Department or Agency and the Inspection Team is requested to respond, then an Emergency Inspection fee as adopted by the City Council shall be assessed, if a violation of Chapter 158 is found.

12. A penalty, as adopted by the City Council, shall be added to the original amount of any delinquent fines and/or fees on the last day of each month after the due date. The penalties shall not exceed 50% of the amount of the fine.

13. In addition to any penalties, interest as adopted by the City Council shall be added to any fine and/or fee which is not paid by the due date.

E. <u>Appeal Procedure</u>

1. Any owner or occupant of a property that the City determines is in violation of Chapter 158 and (a) is assessed a fine and/or fee as a result of a violation of Chapter 158; or (b) disputes they are the responsible party, may utilize this Appeal Procedure. The appellant may contest there was a violation, and/or that they are the responsible party, by completing a Request for Hearing Form and returning it to the City Clerk within 30 days from the date of the inspection where the violation was determined, or the date the fine and/or fee was first assessed. The Request for Hearing Form shall be accompanied by an Advance Deposit of the fine and/or fee, or notice that a Request for an Advance Deposit Hardship waiver has been filed pursuant to Eureka Municipal Code §10.48 for Administrative Citations.

2. The Request for Hearing Form may be obtained from the City Clerk.

3. The Advance Deposit shall include all fines and fees assessed to and including the day the Request for Hearing Form is submitted.

4. The person requesting the hearing shall be notified of the time and place set for the hearing at least ten days prior to the date of the hearing.

5. If an additional written report will be submitted to the Hearing Officer for consideration at the hearing, then a copy of this report shall be provided to the person requesting the hearing at least five days prior to the date of the hearing.

6. The Hearing Officer shall be the Administrative Citation Hearing Officer as designated by the City Manager pursuant to Eureka Municipal Code §10.49.

7. Hearings shall be scheduled and conducted pursuant to §10.50 through §10.54 of the Eureka Municipal Code pertaining to Administrative Citations.

F. Lien Procedure

1. Whenever a fine and/or fee has been imposed on the property owner for a violation pursuant to Chapter 158 and the fine and/or fee, including penalties and/or interest, or any portion thereof has not been fully paid within 60 calendar days of the date upon which the fine and/or fee, including penalties and/or interest, became due and payable, the Community Development Department may initiate proceedings to establish and record a lien against the property.

2. Prior to the recording of the lien, the Community Development Department shall prepare and file with the City Clerk a report stating, for each property for which a lien is proposed, the amount of the delinquent fine and/or fee, any applicable penalties and interest, and an administrative fee, if any, established by resolution of the City Council to recover the administrative costs incurred in recording the lien and carrying out the lien procedures.

3. The City Clerk shall fix a time, date, and place for hearing by the City Council of the report and to receive any protests or objections thereto.

4. The Community Development Department shall send written notice to the owner

of each affected property not less than ten days prior to the time set for the hearing. Such notice shall set forth the amount of the delinquent administrative fine and/or fee and any penalties and interest which are due. Such notice shall be delivered by certified mail, return receipt requested, addressed to each owner of such property to be assessed as that owner's address appears on the last equalized assessment roll or supplemental roll of the County of Humboldt, whichever is more current. Service by mail as provided for herein shall be effective on the date of mailing, and the failure of any person to actually receive such notice shall not affect the validity of the notice.

5. At the conclusion of the hearing, the City Council may adopt a resolution confirming, discharging, or modifying the amount of the lien proposed for each affected property and order that the amount not discharged as to any property be reduced to a lien against that property. The City Council may thereupon order that the fee be specifically assessed against the property involved. If the City Council orders that the fee be specially assessed against the property, it shall confirm the assessment and thereafter said assessment may be collected at the same time and in the same manner as ordinary real property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary real property taxes. All laws applicable to the levy, collection, and enforcement of real property taxes are applicable to the special assessment.

6. Within 30 days following the adoption of a resolution by the City Council imposing a lien, the Community Development Department shall file the same as a judgment lien in the Office of the County Recorder for the County of Humboldt, California.

7. Once payment in full is received by the City for outstanding fines and/or fees, penalties, interest, and administrative fees, the Community Development Department shall provide the owner, or concerned escrow company or financial institution with a notice of satisfaction of lien for recordation with the Office of the County Recorder. Recordation of the Notice of Satisfaction shall cancel the City's lien.

G. Collections

1. Whenever a fine and/or fee has been imposed on a property occupant for a violation pursuant to Chapter 158 and the fine and/or fee, including penalties

and/or interest, or any portion thereof has not been fully paid within 60 calendar days of the date upon which the fine and/or fee, including penalties and/or interest, became due and payable, the Community Development and Finance Departments may initiate proceedings to submit the account for collection.

H. Confidentiality

1. Names and contact information for complainants shall remain confidential unless or until such time as an action is filed in a court of law.

2. The location of the property where the alleged or known cannabis cultivation is occurring shall remain confidential unless or until such time as an inspection warrant or other action is filed in a court of law, a lien is recorded against the property, or a past-due account is sent for collection.

I. Repeat Violators and Complainants

1. Owners or occupants who repeatedly violate the provisions of Chapter 158 shall be fined pursuant to fines and fees as adopted by the City Council. Fines shall increase for each subsequent violation, whether at the same location as previous violations, or at a new location.

J. Penalty

1. Whoever violates any provision of Eureka Municipal Code Chapter 158 where no other penalty is provided, refer to § 10.99 of the Eureka Municipal Code.

Exhibit B

Eureka Municipal Code
Chapter 158
Table of Fees and Fines
FY 2010-11

Description	Fee	
Emergency Inspection	$581.20/hour	1 hour minimum
Scheduled Inspection	$348.72/hour	1 hour minimum
Warrant Inspection	$425.60	
Conditional Use Permit Annual Review	$1080.00	
Exception Request	$190.00	
Failure to contact City or schedule and complete City inspection within time frame	$50.00 per day	
Failure to comply with Chapter 158 at City inspection	$50.00 per day	
Grow House Fine	$500.00 per day	
Repeat Violator – 1st Offense	$500.00 per day	
Repeat Violator – Additional Offenses	$500.00 per day	Each offense increases fine by $500 per day.
Penalty	10%	
Interest	1%	
Administrative fee for lien	50% of lien amount	

Approved 09-07-10