

## **Chapter 204 USE CLASSIFICATIONS**

### **204.02 Applicability**

Use classifications describe one or more uses having similar characteristics, but do not list every use or activity that may appropriately be within the classification. The director shall determine whether a specific use shall be deemed to be within one or more use classifications or not within any classification in this title. The director may determine that a specific use shall not be deemed to be within a classification, if its characteristics are substantially different than those typical of uses named within the classification. The director's decision may be appealed to the Planning Commission. (3334-6/97)

### **204.04 Uses Not Classified**

Any new use, or any use that cannot be clearly determined to be in an existing use classification, may be incorporated into the zoning provisions by a Zoning and Subdivision Ordinance text amendment, as provided in Chapter 247. Such an incorporation shall not be effective unless certified by the Coastal Commission as a Local Coastal Program amendment. (3334-6/97)

### **204.06 Residential Use Classifications**

- A. **Day Care, Limited (or Small-Family).** Non-medical care and supervision of six or fewer persons, or eight or fewer persons if two of the persons are six years of age or older, on a less than 24-hour basis. Children under the age of 10 years who reside in the home shall be counted for purposes of these limits. This classification includes nursery schools, preschools, and day-care centers for children and adults.
- B. **Group Residential.** Shared living quarters without separate kitchen or bathroom facilities for each room or unit. This classification includes boarding houses, but excludes residential hotels or motels.
- C. **Multifamily Residential.** Two or more dwelling units on a site. This classification includes manufactured homes.
- D. **Residential Alcohol Recovery, Limited.** Twenty-four-hour care for no more than six persons suffering from alcohol problems in need of personal services, supervision, protection or assistance. This classification includes only those facilities licensed by the State of California.
- E. **Residential Care, Limited.** Twenty-four-hour non-medical care for six or fewer persons in need of personal services, supervision, protection, or assistance essential for sustaining the activities of daily living. This classification includes only those services and facilities licensed by the State of California.
- F. **Single-Family Residential.** Buildings containing one dwelling unit located on a single lot. This classification includes manufactured homes.
- G. **Supportive Housing.** Housing with no limit on length of stay that is occupied by the target population and is linked to on-site or off-site services that assist residents to retain the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. On-site and off-site services may include, but are not limited to, after-school tutoring, child care, and career counseling. Supportive housing uses are subject only to those

restrictions and processing requirements that apply to other residential dwellings of the same type in the same zone.

H. **Transitional Housing.** Temporary housing (generally six months to two years) for a homeless individual or family who is transitioning to permanent housing. This type of housing includes multi-family unit developments and often includes a supportive services component to allow individuals to gain necessary life skills in support of independent living. Transitional housing uses are subject only to those restrictions and processing requirements that apply to other residential dwellings of the same type in the same zone. (3334-6/97, 3669-12/04, 3857-2/10)

## **204.08 Public and Semipublic Use Classifications**

A. **Cemetery.** Land used or intended to be used for the burial of human remains and dedicated for cemetery purposes. Cemetery purposes include columbariums, crematoriums, mausoleums, and mortuaries operated in conjunction with the cemetery, business and administrative offices, chapels, flower shops, and necessary maintenance facilities.

B. **Clubs and Lodges.** Meeting, recreational, or social facilities of a private or nonprofit organization primarily for use by members or guests. This classification includes union halls, social clubs and youth centers.

C. **Community and Human Service Facilities.**

1. Drug Abuse Centers. Facilities offering drop-in services for persons suffering from drug abuse, including treatment and counseling without provision for on-site residence or confinement.
2. Primary Health Care. Medical services, including clinics, counseling and referral services, to persons afflicted with bodily or mental disease or injury without provision for on-site residence or confinement.
3. Emergency Kitchens. Establishments offering food for the “homeless” and others in need.
4. Emergency Shelters. Establishments offering food and shelter programs for “homeless” people and others in need. This classification does not include facilities licensed for residential care, as defined by the State of California, which provide supervision of daily activities.
5. Residential Alcohol Recovery, General. Facilities providing 24-hour care for more than six persons suffering from alcohol problems, in need of personal services, supervision, protection or assistance.

These facilities may include an inebriate reception center as well as facilities for treatment, training, research, and administrative services for program participants and employees. This classification includes only those facilities licensed by the State of California.

6. Residential Care, General. Twenty-four-hour non-medical care for seven or more persons, including wards of the juvenile court, in need of personal services, supervision, protection, or assistance essential for sustaining the activities of daily living. This classification includes only those facilities licensed by the State of California.

- D. **Convalescent Facilities.** Establishments providing care on a 24-hour basis for persons requiring regular medical attention, but excluding facilities providing surgical or emergency medical services.
- E. **Cultural Institutions.** Nonprofit institutions displaying or preserving objects of interest in one or more of the arts or sciences. This classification includes libraries, museums, and art galleries.
- F. **Day Care, Large-Family.** Non-medical care and supervision for seven to 12 persons, or up to 14 persons if two of the persons are six years of age or older on a less than 24-hour basis. Children under the age of 10 years who reside in the home shall be counted for purposes of these limits.
- G. **Day Care, General.** Non-medical care for 13 or more persons on a less than 24-hour basis. This classification includes nursery schools, preschools, and day-care centers for children or adults.
- H. **Emergency Health Care.** Facilities providing emergency medical service with no provision for continuing care on an inpatient basis.
- I. **Government Offices.** Administrative, clerical, or public contact offices of a government agency, including postal facilities, together with incidental storage and maintenance of vehicles.
- J. **Heliports.** Pads and facilities enabling takeoffs and landings by helicopter.
- K. **Hospitals.** Facilities providing medical, surgical, psychiatric, or emergency medical services to sick or injured persons, primarily on an inpatient basis. This classification includes incidental facilities for out-patient treatment, as well as training, research, and administrative services for patients and employees.
- L. **Maintenance and Service Facilities.** Facilities providing maintenance and repair services for vehicles and equipment, and materials storage areas. This classification includes corporation yards, equipment service centers, and similar facilities.
- M. **Marinas.** A boat basin with docks, mooring facilities, supplies and equipment for small boats.
- N. **Park and Recreation Facilities.** Noncommercial parks, playgrounds, recreation facilities, and open spaces.
- O. **Public Safety Facilities.** Facilities for public safety and emergency services, including police and fire protection.
- P. **Religious Assembly.** Facilities for religious worship and incidental religious education, but not including private schools as defined in this section.
- Q. **Schools, Public or Private.** Educational institutions having a curriculum comparable to that required in the public schools of the State of California.
- R. **Utilities, Major.** Generating plants, electrical substations, above-ground electrical transmission lines, switching buildings, refuse collection, transfer, recycling or disposal facilities, flood control or drainage facilities, water or wastewater treatment plants, transportation or communications utilities, and similar facilities of public agencies or public utilities.
- S. **Utilities, Minor.** Utility facilities that are necessary to support legally established uses and involve only minor structures such as electrical distribution lines, underground water and sewer lines, and recycling and collection containers. (3334-6/97, 3669-12/04)

## **204.10 Commercial Use Classifications**

- A. **Ambulance Services.** Provision of emergency medical care or transportation, including incidental storage and maintenance of vehicles as regulated by Chapter [5.20](#).
- B. **Animal Sales and Services.**
1. **Animal Boarding.** Provision of shelter and care for small animals on a commercial basis. This classification includes activities such as feeding, exercising, grooming, and incidental medical care, and kennels.
  2. **Animal Grooming.** Provision of bathing and trimming services for small animals on a commercial basis. This classification includes boarding for a maximum period of 48 hours.
  3. **Animal Hospitals.** Establishments where small animals receive medical and surgical treatment. This classification includes only facilities that are entirely enclosed, soundproofed, and air-conditioned. Grooming and temporary (maximum 30 days) boarding of animals are included, if incidental to the hospital use.
  4. **Animals, Retail Sales.** Retail sales and boarding of small animals, provided such activities take place within an entirely enclosed building. This classification includes grooming, if incidental to the retail use, and boarding of animals not offered for sale for a maximum period of 48 hours.
  5. **Equestrian Centers.** Establishments offering facilities for instruction in horseback riding, including rings, stables, and exercise areas.
  6. **Pet Cemetery.** Land used or intended to be used for the burial of animals, ashes or remains of dead animals, including placement or erection of markers, headstones or monuments over such places of burial.
- C. **Artists' Studios.** Work space for artists and artisans, including individuals practicing one of the fine arts or performing arts, or skilled in an applied art or craft.
- D. **Banks and Savings and Loans.** Financial institutions that provide retail banking services to individuals and businesses. This classification includes only those institutions engaged in the on-site circulation of cash money. It also includes businesses offering check-cashing facilities.
- With Drive-up Service.** Institutions providing services accessible to persons who remain in their automobiles.
- E. **Building Materials and Services.** Retailing, wholesaling, or rental of building supplies or equipment. This classification includes lumber yards, tool and equipment sales or rental establishments, and building contractors' yards, but excludes establishments devoted exclusively to retail sales of paint and hardware, and activities classified under Vehicle/Equipment Sales and Services.
- F. **Catering Services.** Preparation and delivery of food and beverages for off-site consumption without provision for on-site pickup or consumption. (See also Eating and Drinking Establishments.)
- G. **Commercial Filming.** Commercial motion picture or video photography at the same location more than six days per quarter of a calendar year. (See also Chapter [5.54](#), Commercial Photography.)

H. **Commercial Recreation and Entertainment.** Provision of participant or spectator recreation or entertainment. This classification includes theaters, sports stadiums and arenas, amusement parks, bowling alleys, billiard parlors and poolrooms as regulated by Chapter [9.32](#); dance halls as regulated by Chapter [5.28](#); ice/roller skating rinks, golf courses, miniature golf courses, scale-model courses, shooting galleries, tennis/racquetball courts, health/fitness clubs, pinball arcades or electronic games centers, cyber café having more than four coin-operated game machines as regulated by Chapter [9.28](#); card rooms as regulated by Chapter [9.24](#); and fortune telling as regulated by Chapter [5.72](#).

Limited. Indoor movie theaters, game centers and performing arts theaters and health/fitness clubs occupying less than 2,500 square feet.

I. **Communications Facilities.** Broadcasting, recording, and other communication services accomplished through electronic or telephonic mechanisms, but excluding Utilities (Major). This classification includes radio, television, or recording studios; telephone switching centers; telegraph offices; and wireless communication facilities.

J. **Eating and Drinking Establishments.** Businesses serving prepared food or beverages for consumption on or off the premises.

1. With Fast-Food or Take-Out Service. Establishments where patrons order and pay for their food at a counter or window before it is consumed and may either pick up or be served such food at a table or take it off-site for consumption.

a. Drive-through. Service from a building to persons in vehicles through an outdoor service window.

b. Limited. Establishments that do not serve persons in vehicles or at a table.

2. With Live Entertainment/Dancing. An eating or drinking establishment where dancing and/or live entertainment is allowed. This classification includes nightclubs subject to the requirements of Chapter [5.44](#) of the Municipal Code.

K. **Food and Beverage Sales.** Retail sales of food and beverages for off-site preparation and consumption. Typical uses include groceries, liquor stores, or delicatessens. Establishments at which 20% or more of the transactions are sales of prepared food for on-site or take-out consumption shall be classified as Catering Services or Eating and Drinking Establishments.

With Alcoholic Beverage Sales. Establishments where more than 10% of the floor area is devoted to sales, display and storage of alcoholic beverages.

L. **Food Processing.** Establishments primarily engaged in the manufacturing or processing of food or beverages for human consumption and wholesale distribution.

M. **Funeral and Interment Services.** Establishments primarily engaged in the provision of services involving the care, preparation or disposition of human dead other than in cemeteries. Typical uses include crematories, columbariums, mausoleums or mortuaries.

N. **Horticulture.** The raising of fruits, vegetables, flowers, trees, and shrubs as a commercial enterprise.

O. **Laboratories.** Establishments providing medical or dental laboratory services; or establishments with less than 2,000 square feet providing photographic, analytical, or testing services. Other laboratories are classified as Limited Industry.

P. **Maintenance and Repair Services.** Establishments providing appliance repair, office machine repair, or building maintenance services. This classification excludes maintenance and repair of vehicles or boats; see (Vehicle/Equipment Repair).

Q. **Marine Sales and Services.** Establishments providing supplies and equipment for shipping or related services or pleasure boating. Typical uses include chandleries, yacht brokerage and sales, boat yards, boat docks, and sail-making lofts.

R. **Reserved.**

S. **Nurseries.** Establishments in which all merchandise other than plants is kept within an enclosed building or a fully screened enclosure, and fertilizer of any type is stored and sold in package form only.

T. **Offices, Business and Professional.** Offices of firms or organizations providing professional, executive, management, or administrative services, such as architectural, engineering, graphic design, interior design, real estate, insurance, investment, legal, veterinary, and medical/dental offices. This classification includes medical/dental laboratories incidental to an office use, but excludes banks and savings and loan associations.

U. **Pawn Shops.** Establishments engaged in the buying or selling of new or secondhand merchandise and offering loans secured by personal property and subject to Chapter [5.36](#) of the Municipal Code.

V. **Personal Enrichment Services.** Provision of instructional services or facilities, including photography, fine arts, crafts, dance or music studios, driving schools, business and trade schools, and diet centers, reducing salons, fitness studios, and yoga or martial arts studios.

W. **Personal Services.** Provision of recurrently needed services of a personal nature. This classification includes barber and beauty shops, seamstresses, tailors, shoe repair shops, dry-cleaning businesses (excluding large-scale bulk cleaning plants), photo-copying, self-service laundries, and massage as regulated by Chapter [5.24](#).

X. **Research and Development Services.** Establishments primarily engaged in industrial or scientific research, including limited product testing. This classification includes electron research firms or pharmaceutical research laboratories, but excludes manufacturing, except of prototypes, or medical testing and analysis.

Y. **Retail Sales.** The retail sale of merchandise not specifically listed under another use classification. This classification includes department stores, drug stores, clothing stores, and furniture stores, and businesses retailing the following goods: toys, hobby materials, handcrafted items, jewelry, cameras, photographic supplies, medical supplies and equipment, electronic equipment, records, sporting goods, surfing boards and equipment, kitchen utensils, hardware, appliances, antiques, art supplies and services, paint and wallpaper, carpeting and floor covering, office supplies, bicycles, and new automotive parts and accessories (excluding service and installation).

Z. **Secondhand Appliances and Clothing Sales.** The retail sale of used appliances and clothing by secondhand dealers who are subject to Chapter [5.36](#). This classification excludes antique shops primarily engaged in the sale of used furniture and accessories other than appliances, but includes junk shops.

AA. **Sex-Oriented Businesses.** Establishments as regulated by Chapter [5.70](#); and figure model studios as regulated by Chapter [5.60](#).

**BB. Swap Meets, Indoor/Flea Markets.** An occasional, periodic or regularly scheduled market held within a building where groups of individual vendors offer goods for sale to the public.

**CC. Swap Meets, Recurring.** Retail sale or exchange of handcrafted or secondhand merchandise for a maximum period of 32 consecutive hours, conducted by a sponsor on a more than twice yearly basis.

**DD. Tattoo Establishment.** Premises used for the business of marking or coloring the skin with tattoos as regulated by Chapter [8.70](#).

**EE. Travel Services.** Establishments providing travel information and reservations to individuals and businesses. This classification excludes car rental agencies.

**FF. Vehicle/Equipment Sales and Services.**

1. Automobile Rentals. Rental of automobiles, including storage and incidental maintenance, but excluding maintenance requiring pneumatic lifts.
2. Automobile Washing. Washing, waxing, or cleaning of automobiles or similar light vehicles.
3. Commercial Parking Facility. Lots offering short-term or long-term parking to the public for a fee.
4. Service Stations. Establishments engaged in the retail sale of gas, diesel fuel, lubricants, parts, and accessories. This classification includes incidental maintenance and minor repair of motor vehicles, but excluding body and fender work or major repair of automobiles, motorcycles, light and heavy trucks or other vehicles.
5. Vehicle/Equipment Repair. Repair of automobiles, trucks, motorcycles, mobile homes, recreational vehicles, or boats, including the sale, installation, and servicing of related equipment and parts. This classification includes auto repair shops, body and fender shops, transmission shops, wheel and brake shops, and tire sales and installation, but excludes vehicle dismantling or salvage and tire retreading or recapping.
  - Limited. Light repair and sale of goods and services for vehicles, including brakes, muffler, tire shops, oil and lube, and accessory uses, but excluding body and fender shops, upholstery, painting, and rebuilding or reconditioning of vehicles.
6. Vehicle/Equipment Sales and Rentals. Sale or rental of automobiles, motorcycles, trucks, tractors, construction or agricultural equipment, manufactured homes, boats, and similar equipment, including storage and incidental maintenance.
7. Vehicle Storage. The business of storing or safekeeping of operative and inoperative vehicles for periods of time greater than a 24 hour period, including, but not limited to, the storage of parking tow-aways, impound yards, and storage lots for automobiles, trucks, buses and recreational vehicles, but not including vehicle dismantling.

**GG. Visitor Accommodations.**

1. Bed and Breakfast Inns. Establishments offering lodging on a less than weekly basis in a converted single-family or multi-family dwelling or a building of residential design, with incidental eating and drinking service for lodgers only provided from a single kitchen.
2. Hotels and Motels. Establishments offering lodging on a weekly or less than weekly basis. Motels may have kitchens in no more than 25% of guest units, and “suite” hotels may



have kitchens in all units. This classification includes eating, drinking, and banquet service associated with the facility.

3. Condominium-Hotel. Facility providing overnight visitor accommodations where ownership of at least some of the individual guestrooms (units) within the larger building or complex is in the form of separate condominium ownership interests, as defined in California Civil Code Section 1351(f). The primary function of the Condominium-Hotel is to provide overnight transient visitor accommodations within every unit that is available to the general public on a daily basis year-round, while providing both general public availability and limited owner occupancy of those units that are in the form of separate condominium ownership interests.

4. Fractional Ownership Hotel. Facility providing overnight visitor accommodations where at least some of the guestrooms (units) within the facility are owned separately by multiple owners on a fractional time basis. A fractional time basis means that an owner receives exclusive right to use of the individual unit for a certain quantity of days per year and each unit available for fractional ownership will have multiple owners.

**HH. Warehouse and Sales Outlets.** Businesses which store large inventories of goods in industrial-style buildings where these goods are not produced on the site but are offered to the public for sale.

## **II. Quasi Residential.**

1. Residential Hotels. Buildings with six or more guest rooms without kitchen facilities in individual rooms, or kitchen facilities for the exclusive use of guests, and which are intended for occupancy on a weekly or monthly basis.

2. Single Room Occupancy. Buildings designed as a residential hotel consisting of a cluster of guest units providing sleeping and living facilities in which sanitary facilities and cooking facilities are provided within each unit; tenancies are weekly or monthly.

3. Timeshare. Any arrangement, plan, or similar program, other than an exchange program, whereby a purchaser receives ownership rights in or the right to use accommodations for a period of time less than a full year during any given year, on a recurring basis for more than one year, but not necessarily for consecutive years. (3334-6/97, 3378-2/98, 3568-9/02, 3669-12/04, 3757-1/07, 3774-10/07, 3788-12/07, 3842-11/09)

## **204.12 Industrial Use Classifications**

**A. Industry, Custom.** Establishments primarily engaged in on-site production of goods by hand manufacturing involving the use of hand tools and small-scale equipment.

Small-Scale. Includes mechanical equipment not exceeding two horsepower or a single kiln not exceeding eight kilowatts and the incidental direct sale to consumers of only those goods produced on-site. Typical uses include ceramic studios, candle-making shops, and custom jewelry manufacture.

**B. Industry, General.** Manufacturing of products, primarily from extracted or raw materials, or bulk storage and handling of such products and materials. Uses in this classification typically involve a high incidence of truck or rail traffic, and/or outdoor storage of products, materials, equipment, or bulk fuel. This classification includes chemical manufacture or processing, food



processing and packaging, laundry and dry cleaning plants, auto dismantling within an enclosed building, stonework and concrete products manufacture (excluding concrete ready-mix plants), small animal production and processing within an enclosed building, and power generation.

**C. Industry, Limited.** Manufacturing of finished parts or products, primarily from previously prepared materials; and provision of industrial services, both within an enclosed building. This classification in-

cludes processing, fabrication, assembly, treatment, and packaging, but excludes basic industrial processing from raw materials and Vehicle/Equipment Services, but does allow food processing for human consumption.

**D. Industry, Research and Development.** Establishments primarily engaged in the research, development, and controlled production of high-technology electronic, industrial or scientific products or commodities for sale, but prohibits uses that may be objectionable in the opinion of the director, by reason of production of offensive odor, dust, noise, vibration, or in the opinion of the Fire Chief by reason of storage of hazardous materials. Uses include aerospace and biotechnology firms, and non-toxic computer component manufacturers.

1. This classification also includes assembly, testing and repair of components, devices, equipment, systems, parts and components such as but not limited to the following: coils, tubes, semi-conductors; communication, navigation, guidance and control equipment; data processing equipment; filing and labeling machinery; glass edging and silvering equipment; graphics and art equipment; metering equipment; optical devices and equipment; photographic equipment; radar, infrared and ultraviolet equipment; radio and television equipment.

2. This classification also includes the manufacture of components, devices, equipment, parts and systems which includes assembly, fabricating, plating and processing, testing and repair, such as but not limited to the following: machine and metal fabricating shops, model and spray painting shops, environmental test, including vibration analysis, cryogenics, and related functions, plating and processing shops, nuclear and radioisotope.

3. This classification also includes research and development laboratories including biochemical and chemical development facilities for national welfare on land, sea, or air; and facilities for film and photography, metallurgy; pharmaceutical, and medical and x-ray research.

**E. Wholesaling, Distribution and Storage.** Storage and distribution facilities without sales to the public on-site or direct public access except for recycling facilities and public storage in a small individual space exclusively and directly accessible to a specific tenant. This classification includes mini-warehouses.

**F. Alcoholic Beverage Manufacturing.** The manufacture or production of beer, wine, cider, or distilled spirits by any person licensed by the Department of Alcoholic Beverage Control of the State of California and includes the sale or distribution of said products both within and without the jurisdiction of the City.

**G. RT Flex Space.** Any combination of manufacturing, research and development, testing, distribution, warehouse and storage space, including retail and/or showroom (max 10% gross floor area), eating and drinking (max 10% gross floor area), and offices (max. 30% gross floor area) are permitted by right when complying with a minimum 1 parking space per 500 gross square feet parking requirement. (3334-6/97)

#### **204.14 Accessory Use Classifications**

**Accessory Uses and Structures.** Uses and structures that are incidental to the principal permitted or conditionally permitted use or structure on a site and are customarily found on the same site. This classification includes detached or attached garages, home occupations, caretakers' units, and dormitory type housing for industrial commercial workers employed on the site, and accessory dwelling units. (3334-6/97)

#### **204.16 Temporary Use Classifications**

- A. **Animal Shows.** Exhibitions of domestic or large animals for a maximum of seven days.
- B. **Festivals, Circuses and Carnivals.** Provision of games, eating and drinking facilities, live entertainment, animal exhibitions, or similar activities in a tent or other temporary structure for a maximum of seven days. This classification excludes events conducted in a permanent entertainment facility.
- C. **Commercial Filming, Limited.** Commercial motion picture or video photography at a specific location six or fewer days per quarter of a calendar year. (See also Chapter [5.54](#), Commercial Photography.)
- D. **Personal Property Sales.** Sales of personal property by a resident ("garage sales") for a period not to exceed 48 consecutive hours and no more than once every six months.
- E. **Real Estate Sales.** An office for the marketing, sales, or rental of residential, commercial, or industrial development. This classification includes "model homes."
- F. **Retail Sales, Outdoor.** Retail sales of new merchandise on the site of a legally established retail business for a period not to exceed 96 consecutive hours (four days) no more than once every three months.
- G. **Seasonal Sales.** Retail sales of seasonal products, including Christmas trees, Halloween pumpkins and strawberries.
- H. **Street Fairs.** Provision of games, eating and drinking facilities, live entertainment, or similar activities not requiring the use of roofed structures.
- I. **Trade Fairs.** Display and sale of goods or equipment related to a specific trade or industry for a maximum period of five days per year.
- J. **Temporary Event.** Those temporary activities located within the coastal zone that do not qualify for an exemption pursuant to Section 245.08.
- K. **Tent Event.** Allows for the overflow of any assembly for a period not to exceed 72 consecutive hours and not more than once every three months. (3334-6/97, 3521-2/02, 3669-12/04, 3724-2/06)

#### **204.18 Prohibited Uses—Medical Marijuana Businesses**

- A. **Purpose.** In order to expressly inform the public that any distribution of marijuana by Medical Marijuana Businesses, Collectives, Cooperatives or Dispensaries, etc., is prohibited in the City of Huntington Beach, the City is adding this express prohibition to the Zoning and Subdivision Ordinance.
- B. **Definitions.** For purposes of this section, the following term is defined:

1. **Medical Marijuana Business, Collective, Cooperative or Dispensary** means any location, structure, facility, vehicle, business, store, co-op, residence, or similar facility used, in full or in part, as a place at or in which marijuana is sold, traded, exchanged, bartered for in any way, made available, located, stored, displayed, placed or cultivated, including any of the foregoing if used in connection with the distribution of marijuana.

C. **Medical Marijuana Businesses, Collectives, Cooperatives or Dispensaries.** A Medical Marijuana Business, Collective, Cooperative or Dispensary or any other such business, no matter how so named, is not a permitted use in any zoning district or specific plan in the City. It shall be unlawful for any person or entity to own, manage, establish, conduct or operate a Medical Marijuana Business, Collective, Cooperative or Dispensary. Also, it shall be unlawful for any person to permit to be established, conducted, operated, owned or managed as a landlord, owner, employee, contractor, agent or volunteer, or in any other manner or capacity, any Medical Marijuana Business, Collective, Cooperative or Dispensary in the City.

D. **Public Nuisance.** Any use or condition caused or permitted to exist in violation of any of the provisions of this article is hereby declared a public nuisance and may be abated by the City.

E. **Enforcement.**

1. Violation of this Chapter 204 of the Huntington Beach Zoning and Subdivision Ordinance is a public nuisance and may be enforced pursuant to the provisions of the Municipal Code including the Zoning and Subdivision Ordinance.

2. Nothing in this article in any way limits any other remedies that may be available to the City, or any penalty that may be imposed by the City, for violations of this article. Such additional remedies include, but are not limited to, injunctive relief or administrative citations. (4059-5/15, 4058-6/15, 4137-10/17)

#### **204.20 Prohibited Uses—Commercial Non-Medical Marijuana Businesses and Deliveries**

A. **Purpose.** In order to expressly inform the public that any sale or distribution of non-medical marijuana by Commercial Non-Medical Marijuana Businesses, Collectives, Cooperatives or Dispensaries, etc., however named is prohibited in the City of Huntington Beach, the City is adding this express prohibition to the Zoning and Subdivision Ordinance.

B. **Definitions.** Unless otherwise specifically defined herein, the definitions contained within Adult Use of Marijuana Act shall apply to this Ordinance.

1. **Commercial Non-Medical Marijuana Business, Collective, Cooperative or Dispensary** means any location, structure, facility, vehicle, business, store, co-op, residence, or similar facility used, in full or in part, as a place at or in which marijuana (including marijuana for recreational use) is sold, traded, exchanged, bartered for in any way, made available, located, stored, displayed, placed or cultivated, including any of the foregoing if used in connection with the sale or distribution of non-medical marijuana.

2. **Non-medical marijuana delivery** means the commercial transfer of non-medical marijuana or non-medical marijuana products to a person, including any technology that enables persons to arrange for or facilitate the commercial transfer of non-medical marijuana or non-medical marijuana products.

3. **Non-medical marijuana products** means non-medical marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients.

C. **Commercial Non-Medical Marijuana Businesses, Collectives, Cooperatives or Dispensaries.** A Commercial Non-Medical Marijuana Business, Collective, Cooperative or Dispensary or any other such business, no matter how so named, is not a permitted use in any zoning district or specific plan in the City. It shall be unlawful for any person or entity to own, manage, establish, conduct or operate a Commercial Non-Medical Marijuana Business, Collective, Cooperative or Dispensary. Also, it shall be unlawful for any person to permit to be established, conducted, operated, owned or managed as a landlord, owner, employee, contractor, agent or volunteer, or in any other manner or capacity, any Commercial Non-Medical Marijuana Business, Collective, Cooperative or Dispensary in the City.

D. **Non-Medical Marijuana Deliveries.** Delivery of non-medical marijuana is not a permitted use in any zoning district or specific plan in the City. No permit or any other applicable license or entitlement for use, nor any business license, shall be approved or issued for the establishment, maintenance or operation of non-medical marijuana deliveries.

E. **Public Nuisance.** Any use or condition caused or permitted to exist in violation of any of the provisions of this section is hereby declared a public nuisance and may be abated by the City.

F. **Enforcement.**

1. Violation of this Chapter 204 of the Huntington Beach Zoning and Subdivision Ordinance is a public nuisance and may be enforced pursuant to the provisions of the Municipal Code including the Zoning and Subdivision Ordinance.

2. Nothing in this section in any way limits any other remedies that may be available to the City, or any penalty that may be imposed by the City, for violations of this section. Such additional remedies include, but are not limited to, injunctive relief or administrative citations. (4137-10/17)

## **204.22 Non-Medical Marijuana Cultivation**

A. **Purpose.** The purpose and intent of this section is to regulate the cultivation of non-medical marijuana in a manner that protects the health, safety and welfare of the community. [Health and Safety Code](#) section 11362.2 authorizes the City to adopt reasonable regulations regarding the cultivation of non-medical marijuana inside a private residence or accessory structure to a private residence. That section also authorizes the City to completely prohibit the cultivation of non-medical marijuana outside, as long as the California Attorney General has not made a determination that the non-medical use of marijuana is lawful in California under federal law. The Attorney General has not made such a determination.

This section is not intended to interfere with the right of an individual 21 years of age or older to possess or cultivate non-medical marijuana, as provided for by Proposition 64. This section is not intended to give any person independent legal authority to grow non-medical marijuana; it is intended simply to impose reasonable regulations on the cultivation of non-medical marijuana when cultivation is authorized by California law.

Furthermore, it is the purpose and intent of this section to require that non-medical marijuana allowed to be cultivated pursuant to Proposition 64 only be done so in appropriately secured, enclosed, and ventilated structures, so as not to be visible to the general public; to provide for the health, safety and welfare of the public; to prevent odor created by non-medical marijuana plants from impacting adjacent properties; and to ensure that marijuana grown in the City remains secured.

**B. Definitions.** For the purposes of this section, the following definitions shall apply unless the context clearly indicates otherwise. If a word is not defined in this section, and not otherwise defined in state law, the common and ordinary meaning of the word shall apply.

1. **Cultivation** means the planting, growing, harvesting, drying or processing of marijuana plants or any part thereof.
2. **Fully enclosed and secure structure** means a space within a building that complies with the applicable Building Code and Zoning and Subdivision Ordinance, and has a complete roof enclosure supported by connecting walls extending from the ground to the roof, a foundation slab or equivalent base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, and is accessible only through one or more lockable doors. Walls and roof must be constructed of solid materials that cannot be easily broken through, and must be constructed with non-transparent material.
3. **Indoors** means inside a fully enclosed and secure structure or within a residential structure.
4. **Non-medical marijuana** means marijuana that is intended to be used for non-medical purposes pursuant to [Health and Safety Code](#) section 111362.1 et seq.
5. **Non-medical marijuana cultivation** means the planting, growing, harvesting, drying or processing of non-medical marijuana plants or any part thereof pursuant to [Health and Safety Code](#) section 11362.1 et seq., as those sections may be amended from time to time.
6. **Outdoors** means any location within the City that is not within a fully enclosed and secure structure.
7. **Person** means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability corporation, collective, cooperative, or combination thereof in whatever form or character.
8. **Private residence** means a house, an apartment unit, a mobile home or other similar dwelling.

**C. Cultivation of non-medical marijuana.** The following regulations shall apply to the cultivation of non-medical marijuana within the City:

1. **Cultivation not in compliance with this section.** It is declared to be unlawful and a public nuisance for any person owning, leasing, occupying or having charge or possession of any parcel or premises within any zoning district or specific plan in the City to cultivate non-medical marijuana except as provided for in this Code. No person other than an individual 21 years of age or older may engage in the cultivation of non-medical marijuana.
2. **Outdoor cultivation.** It is unlawful and a public nuisance for any person owning, leasing, occupying, or having possession of any legal parcel or premises within any zoning district or specific plan in the City to cause or allow such parcel or premises to be used for the outdoor cultivation of non-medical marijuana.

3. **Indoor cultivation.** Indoor cultivation of non-medical marijuana is prohibited in all zoning districts and specific plans of the City, except for residential zones, mixed use zones, or in commercial zones, when such cultivation occurs on a parcel or premises with an approved private residence. All cultivation must be in compliance with this section and state law.

4. **Indoor cultivation in private residence.** The indoor cultivation of non-medical marijuana in a residential zone, mixed use zone, or in a commercial zone on a parcel or premises with an approved private residence, shall only be conducted within a fully enclosed and secure structure or within a residential structure. Such cultivation shall be in conformance with the following minimum standards:

- a. The primary use of the property shall be for a residence. Non-medical marijuana cultivation is prohibited as a home occupation.
- b. All areas used for cultivation of non-medical marijuana shall comply with the Huntington Beach Municipal Code including the Zoning and Subdivision Ordinance, as well as applicable law.
- c. Indoor grow lights shall not exceed 1,200 watts per light, and shall comply with the California Building, Electrical and Fire Codes as adopted by the City. Lights shall be located away from combustible materials and a minimum of 30 inches from fire sprinklers.
- d. The use of gas products (CO<sub>2</sub>, butane, propane, natural gas, etc.) or generators for cultivation of non-medical marijuana is prohibited.
- e. Any fully enclosed and secure structure or residential structure used for the cultivation of non-medical marijuana must have a ventilation and filtration system installed that shall prevent marijuana plant odors from exiting the interior of the structure and that shall comply with the Huntington Beach Municipal Code, including the Zoning and Subdivision Ordinance.
- f. A fully enclosed and secure structure used for the cultivation of non-medical marijuana shall be located in the rear yard area of the parcel or premises, and must maintain a minimum 10-foot setback from any property line as well as any other applicable development standards of the zoning district. The yard where the fully enclosed and secure structure is maintained must be enclosed by a solid fence at least six feet in height. This provision shall not apply to cultivation occurring in a garage.
- g. Adequate mechanical locking or electronic security systems must be installed as part of the fully enclosed and secure structure or the residential structure prior to the commencement of cultivation.
- h. Non-medical marijuana cultivation shall be limited to six marijuana plants per private residence, regardless of whether the marijuana is cultivated inside the residence or a fully enclosed and secure structure. The limit of six plants per private residence shall apply regardless of how many individuals reside at the private residence.
- i. The residential structure shall remain at all times a residence, with legal and functioning cooking, sleeping and sanitation facilities with proper ingress and egress. These rooms shall not be used for non-medical marijuana cultivation where such cultivation will prevent their primary use for cooking of meals, sleeping and bathing.
- j. Cultivation of non-medical marijuana shall only take place on impervious surfaces.

k. From a public right-of-way, there shall be no exterior evidence of non-medical marijuana cultivation occurring on the parcel.

l. Non-medical marijuana cultivation area, whether in a fully enclosed and secure structure or inside a residential structure, shall not be accessible to persons under 21 years of age.

m. Written consent of the property owner to cultivate non-medical marijuana within the residential structure shall be obtained and shall be kept on the premises, and available for inspection by the Chief of Police or his/her designee.

n. A 2A:10B:C portable fire extinguisher that complies with the regulations and standards adopted by the state fire marshal and applicable law, shall be kept in the fully enclosed and secure structure used for cultivation of non-medical marijuana. If cultivation occurs in a residential structure, the portable fire extinguisher shall be kept in the same room where the cultivation occurs.

**D. Public Nuisance.** Any use or condition caused or permitted to exist in violation of any of the provisions of this section is hereby declared a public nuisance and may be abated by the City.

**E. Enforcement.**

1. Violation of this Chapter 204 of the Huntington Beach Zoning and Subdivision Ordinance is a public nuisance and may be enforced pursuant to the provisions of the Municipal Code including the Zoning and Subdivision Ordinance.

2. Nothing in this section in any way limits any other remedies that may be available to the City, or any penalty that may be imposed by the City, for violations of this section. Such additional remedies include, but are not limited to, injunctive relief or administrative citations. (4137-10/17)