



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY

PLANNING DEPARTMENT

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April 19, 2017

Agenda Item #12  
April 25, 2017

Honorable Board of Supervisors  
Administration Building  
1221 Oak Street  
Oakland, CA 94612

Dear Board Members:

**SUBJECT:** Medical Cannabis Dispensary and Cultivation Ordinances

**RECOMMENDATION:**

That the Board of Supervisors:

1. Adopt the Initial Study/Mitigated Negative Declaration (IS/MND) prepared for the Medical Cannabis Ordinance Amendments and adopt the attached Resolution.
2. Approve the proposed ordinance amending Chapter 6.108 of the Alameda County General Code to regulate medical cannabis dispensaries, to permit and regulate the delivery of medical cannabis in the unincorporated area of Alameda County, and to regulate the sale, dispensing and delivery of edibles.
3. Approve the proposed ordinance amending Sections 17.04.010, 17.06.040, 17.38.030, and 17.40.030 of Title 17 of the Alameda County General Code to conditionally permit medical cannabis dispensaries in specified districts within the unincorporated area of the County.
4. Approve the proposed ordinance adding Chapter 6.106 to the Alameda County General Code to implement a pilot program authorizing and regulating the cultivation of medical cannabis in the unincorporated area of Alameda County.
5. Approve the proposed ordinance amending Sections 17.04.010, 17.52.585, and 17.54.130 of Title 17 of the Alameda County General Code to implement a pilot program authorizing and regulating the cultivation of medical cannabis in the unincorporated area of Alameda County.

**BACKGROUND:**

The Medical Cannabis Regulation and Safety Act (MCRSA) was signed into law in October of 2015. The Act consists of three bills:

- AB 266 (Bonta, Cooley, Jones-Sawyer, Lackey, Wood) – Established dual licensing structure requiring state license and a local license or permit. Department of Consumer Affairs heads overall regulatory structure imposing health and safety and testing standards.

- AB 243 (Wood) – Established a regulatory and licensing structure for cultivation sites under the Department of Food and Agriculture.
- SB 643 (McGuire) - Established criteria for licensing of medical marijuana businesses, regulates physicians, and recognizes local authority to levy taxes and fees.

In 2016, the Board Transportation and Planning Committee initiated amendments to the County’s existing dispensary ordinance (Chapter 6.108 of the County General Code) and the addition of cultivation ordinances to address the local licensing provisions of MCRSA. An interdepartmental working group representing staff from the County Administrator’s Office, the Sheriff’s Office, the Office of the County Counsel, the Environmental Health Department, the Agriculture/Weights and Measures Department, and the Planning Department was formed to develop the draft medical cannabis dispensary and cultivation ordinances. Over the past several months, the draft medical cannabis dispensary and cultivation ordinances have been discussed at many public meetings throughout the unincorporated county; and the Board Transportation and Planning Committee has continued to provide direction on the content of the ordinances. This input has helped shape the current proposed ordinances.

The existing dispensary ordinance in Chapter 6.108 of the County General Code allows a total of three dispensaries on specified parcels zoned for commercial or industrial use in the West County. Proposed changes to the dispensary requirements necessitate revisions to the existing dispensary ordinance as well as amendments to the Zoning Ordinance to allow medical cannabis dispensaries as a conditional use in certain commercial zoning districts and in the “A” (Agricultural) District. The cultivation ordinance would establish a medical cannabis cultivation pilot program. Implementation of the pilot program will require adding Chapter 6.106 to Title 6 of the County General Code to establish requirements for the program, as well as amendments to the Zoning Ordinance to allow the cultivation of medical cannabis as a conditional use in the “A” (Agricultural) District.

### **DISCUSSION/SUMMARY:**

#### **Dispensary Ordinances**

The following changes to the provisions of the existing dispensary ordinance in Chapter 6.108 of the County General Code are included in the draft ordinances:

- Increase the maximum number of dispensaries allowed in the unincorporated area from three to five:
  - Three in West County: no more than two dispensaries would be allowed in either of the two areas shown on the revised Exhibit A map (attached).
  - Two in East County, as shown on the new Exhibit B map (attached).
- Require selection of new dispensaries through a “Request for Proposals” (RFP) process.
- Require dispensaries to comply with all land use regulations including requirements in Title 17 of the Alameda County General Code, the Alameda County General Plan (including Measure D amendments), and any applicable specific plans, including the requirement to obtain any conditional use permits.
- Prohibit dispensaries in residential and industrial zoning districts.
- Permit the delivery of medical cannabis from permitted “brick-and-mortar” dispensaries located within the unincorporated area and in other jurisdictions to patients.
- Increase the 20 pound limit on the amount of cannabis that can be stored at a dispensary to 100 pounds.

- Allow limited testing of product on site, but only by management as necessary for business operations.
- Allow the sale, distribution, and delivery of edibles if produced in a commercial facility (that does not produce food items) constructed in accordance with applicable building standards and health and safety standards.

The following changes to Title 17 of the County General Code are included in the draft ordinances:

- Allow dispensaries as a conditional use in certain commercial zoning districts and in agricultural zoning districts.

### **Cultivation Ordinances**

The proposed addition of Chapter 6.106 to the County General Code includes the following provisions to implement the cultivation pilot program:

- Allow a maximum of four medical cannabis cultivation sites in the unincorporated area:
  - Up to two permitted dispensaries in good standing will be eligible for a ministerial cultivation permit.
  - Up to two cultivators may be selected through a solicitation process similar to that being used for new dispensaries.
  - Cultivation permits during this pilot program are limited to two years in duration.

The following changes to Title 17 of the County General Code are proposed to implement the cultivation pilot program:

- Allow medical cannabis cultivation as a conditional use in the “A” (Agricultural) Zoning District.
- Allow only indoor/greenhouse cultivation and limit the size of the cultivation canopy to 22,000 square feet.
- Require each cultivation site to obtain a Conditional Use Permit subject to compliance with adopted performance standards before beginning operation.
- Require a 1,000-foot buffer between cultivation sites and sensitive receptors, which is the same buffer required between dispensaries and sensitive receptors.

### **Sheriff’s Office Concerns**

The Sheriff’s Office, which is participating in the County’s Medical Cannabis Interdepartmental Work Group, opposes the following provisions of the proposed ordinance amendments:

- Any increase in the number of dispensaries in the County
- Any cultivation in the County
- Any deliveries in the County
- Increase in the amount of cannabis allowed at the dispensaries
- Sale of edibles at the dispensaries.

The Sheriff’s Office also strongly opposes Section 6.108.120.A.5. of the dispensary ordinance and any similar cultivation performance standard, which would allow dispensary management to smoke, ingest, or otherwise consume cannabis on the premises of a dispensary “as reasonably necessary for dispensary operations such as purchasing, pricing, and quality control.” The position of the Sheriff’s Office is that this provision could result in unsafe situations where dispensary employees are under the influence of

cannabis while performing their jobs or leaving the premises after work. Also, if dispensary employees smoke cannabis on the dispensary premises, it would be difficult to effectively ventilate the smoking area to prevent the smoke from entering the rest of the dispensary building. The Castro Valley Municipal Advisory Council and members of the San Lorenzo Village Homes Association Board also expressed strong opposition to this provision.

### **California Environmental Quality Act**

A Notice of Intent to Adopt a Mitigated Negative Declaration (NOIA) and an Initial Study/draft Mitigated Negative Declaration (IS/MND) for the proposed Medical Cannabis Ordinances were released on March 7, 2017 for a 20-day public review period which ended on March 27, 2017. One comment was received during this period; however, the comment did not address an environmental issue. The NOIA and IS/MND are attached and can also be accessed on the County website at: <http://www.acgov.org/cda/planning/landuseprojects/medical-cannabis.htm>.

The IS/MND identifies Climate Change and Greenhouse Gas (GHG) Emissions impacts as potentially significant, but less than significant with mitigation. The proposed mitigation measure would require an applicant for a medical cannabis cultivation site to employ as many energy reduction measures as necessary at the proposed facility to achieve GHG emissions levels below the specified significance threshold level. Energy reduction measures may include measures such as lower energy lighting, a low-emission vehicle fleet and renewable energy sources. No other mitigation measures are proposed in the IS/MND.

### **Planning Commission Recommendation**

At its April 3, 2017 meeting, the Planning Commission voted five to one to recommend that the Board of Supervisors adopt the attached medical cannabis dispensary and cultivation ordinances, with the addition of “places of worship” to the list of uses from which dispensaries are required to locate a distance of at least 1,000 feet (per Section 6.108.030.E.2 of the dispensary ordinance); and with “places of worship” also added to the list of uses from which cultivation sites are required to locate a distance of at least 1,000 feet (per Section 17.52.585.C.9.c of the Zoning Ordinance amendment pertaining to cultivation sites).

### **Fee Study**

Staff has selected a consultant to prepare a fee study consistent with the provisions of Proposition 26 to determine the appropriate level of fees for application review and approval for medical cannabis dispensaries and cultivation sites as well as medical cannabis delivery; and for costs associated with on-going maintenance and monitoring of these permits to fully recover the cost of County staff time to perform these functions. Staff anticipates that the fee study will be completed by August of 2017. After the study is completed, the Board will be asked to approve a fee schedule.

### **Ordinance Implementation**

While the fee study is underway, staff will develop application solicitation processes and forms for dispensary and cultivation permits, as well as application forms and processes for delivery permits. Subsequent tasks to implement the ordinances will include the following:

#### Dispensary and Cultivation Permit Application Solicitation and Review Process

- Solicit applications for permits
- Screen applications, conduct selection processes, establish permit conditions, and issue permits
- Process potential permit appeals

Delivery Permit Application and Review Process

- Develop application process and forms for delivery permits
- Review applications and establish conditions

Two-year Permit Renewal Process for Dispensaries, Delivery, and Cultivation Sites

- Review renewal applications
- Review compliance with permit conditions

On-going Maintenance and Monitoring of Dispensary, Cultivation, and Delivery Permits

- Regular inspections of facilities
- Monitoring for compliance with permit conditions
- Enforcement for non-compliance

**CONCLUSION:**

Staff recommends that your Board adopt the IS/MND and approve the proposed ordinances. A list of past meetings and links to presentations and written materials from those meetings is available on the County website at: <http://www.acgov.org/cda/planning/landuseprojects/medical-cannabis.htm>.

Very truly yours,



Chris Bazar, Director  
Community Development Agency

**Attachments**

- Attachment 1 - Draft resolution for adoption of the Initial Study and Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program
- Attachment 2 – Notice of Intent to Adopt a Mitigated Negative Declaration for Medical Cannabis Ordinance Amendments and Mitigated Negative Declaration for Medical Cannabis Ordinance Amendments
- Attachment 3 – An Ordinance Amending Chapter 6.108 of the Alameda County General Code to Regulate Medical Marijuana Dispensaries, to Permit and Regulate the Delivery of Medical Cannabis in the Unincorporated Area of Alameda County, and to Regulate the Sale, Dispensing and Delivery of Edibles
  - Exhibit A (map of West County)
  - Exhibit B (map of East County)
- Attachment 4 – An Ordinance Amending Title 17 of the Alameda County General Code to Conditionally Permit Medical Cannabis Dispensaries in Specified Districts within the Unincorporated Area of Alameda County
- Attachment 5 – An Ordinance Adding Chapter 6.106 to the Alameda County General Code to Implement a Pilot Program Authorizing and Regulating the Cultivation of Medical Cannabis in the Unincorporated Area of Alameda County
- Attachment 6 – An Ordinance Amending Title 17 of the Alameda County General Code to Implement a Pilot Program Authorizing and Regulating the Cultivation of Medical Cannabis in the Unincorporated Area of Alameda County
- Attachment 7 – Performance Standards and Standard Conditions for Pilot Program Cultivation Sites.
- Attachment 8 – Planning Commission Resolution No. 17-06 - at Meeting Held April 3, 2017
- Attachment 9 – Comment letters received

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Approved as to Form  
DONNA R. ZIEGLER, County Counsel

By Heather Littlejohn, Deputy County Counsel

**THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA,  
STATE OF CALIFORNIA**

On motion of Supervisor  
Seconded by Supervisor

and approved by the following vote:

Ayes:

Noes:

Excused or Absent:

**THE FOLLOWING RESOLUTION WAS ADOPTED APRIL 25, 2017:  
NUMBER R- 2017-**

**ADOPT THE INITIAL STUDY/MITIGATED NEGATIVE DECLARATION (IS/MND)  
PREPARED FOR THE MEDICAL CANNABIS ORDINANCE AMENDMENTS**

**WHEREAS**, the County of Alameda did initiate the preparation of the proposed Medical Cannabis Dispensary Ordinances (comprised of amendments to Chapter 6.108 of Title 6 and Sections 17.04.010, 17.06.040, 17.38.030, and 17.40.030 of Title 17 of the Alameda County Ordinance Code), and Cultivation Ordinances (comprised of the addition of Chapter 6.106 to Title 6 and amendments to Sections 17.04.010, 17.52.585, and 17.54.130 of Title 17 of the Alameda County Ordinance Code) (collectively, "Ordinances"); and

**WHEREAS** a draft Initial Study/Mitigated Negative Declaration ("IS/MND") was prepared by the County to evaluate the potential environmental impact of the Ordinances pursuant to the California Environmental Quality Act ("CEQA"). The draft IS/MND in its entirety was circulated for public review as required by CEQA for a period of 20 days, beginning March 7, 2017; and

**WHEREAS**, this Board did hold a public hearing on the Ordinances and the IS/MND at the hour of 1:00 PM on Tuesday, the twenty-fifth day of April 2017, in the Board Chambers, County Administration Building, 1221 Oak Street, Oakland, for which notice was given as required by law and at which the Board took public testimony; and

**WHEREAS**, this Board has reviewed the IS/MND together with any comments received during the public review process and on the basis of the record before the Board finds that there is no substantial evidence that the proposed Ordinances will have a significant effect on the environment;

**WHEREAS**, the documents and other material which constitute the record of proceedings upon which this Board's decision is based are located at the offices of the County of Alameda's Planning Department at 224 West Winton Avenue, Hayward, California, 94544.

**NOW THEREFORE BE IT RESOLVED**, that this Board of Supervisors finds, on the basis of the whole record before it, that there is no substantial evidence that the proposed Ordinances will have a significant effect on the environment; and

**BE IT FURTHER RESOLVED** that this Board of Supervisors finds that an Initial Study/Mitigated Negative Declaration is the appropriate and proper environmental analysis for the proposed medical cannabis ordinance amendments and complies with the requirements of CEQA; and

**BE IT FURTHER RESOLVED** that this Board of Supervisors finds that the Initial Study/Mitigated Negative Declaration was duly prepared by the County of Alameda and reflects the lead agency's independent judgment and analysis; and

**BE IT FURTHER RESOLVED** that this Board of Supervisors does hereby adopt the Initial Study/Mitigated Negative Declaration for the Ordinances; and

**BE IT FURTHER RESOLVED** that this Board of Supervisors does hereby adopt the Mitigation Monitoring and Reporting Program set forth in Exhibit A to this Resolution.

**BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA**







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# Mitigation Monitoring and Reporting Program

## Medical Cannabis Ordinance Amendments *County of Alameda Community Development Agency*

### INTRODUCTION

The purpose of this program is to describe the mitigation monitoring process for the project and to describe the role and responsibilities of the County of Alameda's Community Development Agency (CDA) for its implementation under the California Environmental Quality Act (CEQA).

The purpose of a mitigation monitoring program is to ensure that measures adopted to mitigate or avoid significant environmental impacts are implemented. This document is prepared in compliance with CEQA Guidelines §15097. CDA views the mitigation monitoring program as a working guide to facilitate not only the implementation of mitigation measures, but also the monitoring and compliance activities of CDA and monitors it may designate.

### PROJECT BACKGROUND

The Medical Cannabis Ordinance Amendments (the "Ordinance Amendments") was the subject of an Initial Study/Mitigated Negative Declaration ("IS/MND") released for public review on March 7, 2017. The IS/MND determined that the implementation of the regulations set forth in the Ordinance Amendments would have no impact or less than significant impacts requiring no mitigation in the following areas:

- Aesthetics/Visual
- Agriculture and Forest Products
- Biological Resources
- Cultural Resources
- Geology/Soils
- Hazards/Hazardous Materials
- Hydrology/Water Quality
- Land Use and Planning
- Mineral Resources
- Noise
- Population/Housing
- Public Services
- Recreation
- Transportation
- Utilities and Service Systems

The IS/MND determined that mitigation measures would be required in two environmental resource areas to reduce potential impacts to a less-than-significant level. They are as follows:

- Air Quality
- Climate Change and Greenhouse Gas Emissions

The IS/MND concluded that with implementation of the mitigation measures identified in the document, all potentially significant impacts would be reduced to levels of less than significant.

## **ROLES AND RESPONSIBILITIES**

As the lead agency under CEQA, the County of Alameda is required to monitor the project to ensure that the adopted mitigation measures are implemented effectively. The County Board of Supervisors is responsible for adopting the Mitigated Negative Declaration and the Ordinance Amendments which authorize the programs, procedures and regulations pertaining to the cultivation and dispensing of medical cannabis in the unincorporated areas of Alameda County. The Director of the County's Community Development Agency, in consultation with other County departments and agencies, will oversee and administer the permit application review and approval processes and will be responsible for verifying compliance with the mitigation measures included in the MND and the Mitigation Monitoring and Reporting Program (the "MMRP") as set forth below.

**Medical Cannabis Ordinance Amendments Project  
Mitigation Monitoring and Reporting Program**

Commitments and Mitigation Measures	Timing	Implementation Responsibility	Verification	
			Monitoring Action	Monitoring Responsibility Date/Initials
<p><b>Air Quality</b></p> <p><b>Mitigation Measure AQ-1: Construction Period Dust Suppression – Best Management Practices</b></p> <p>The Project shall demonstrate compliance with the following basic construction mitigation measures or best management practices (BMPs):</p> <ol style="list-style-type: none"> <li>All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.</li> <li>All haul trucks transporting soil, sand, or other loose material off-site shall be covered.</li> <li>All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.</li> <li>All vehicle speeds on unpaved roads shall be limited to 15 mph.</li> <li>All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.</li> </ol>	<p>During construction of the cannabis facility</p>	<p>Holders of a Conditional Use Permit for the development of a medical cannabis dispensary or cultivation operation and contractors used for the construction of the facility</p>	<p>Observation of construction work in progress</p>	<p>County CDA (Planning Director or his/her designee)</p>

**Medical Cannabis Ordinance Amendments Project  
Mitigation Monitoring and Reporting Program**

Commitments and Mitigation Measures	Timing	Implementation Responsibility	Verification	
			Monitoring Action	Monitoring Responsibility Date/Initials
<p>f. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.</p> <p>g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.</p> <p>h. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.</p>				
<b>Climate Change and Greenhouse Gas Emissions</b>				
<p><b>Mitigation Measure GHG-1: Energy and GHG Emissions Reduction</b></p> <p>Each applicant for a dispensary or cultivation site permit shall minimize energy usage in its cannabis production and distribution operations to the extent feasible. Applicants for a cannabis cultivation site Conditional Use Permit shall present in their application materials a quantitative estimate of annual GHG emissions that would result from the proposed cultivation facility. If</p>	<p>Present quantitative estimate of annual GHG emissions and plans and specifications for energy reduction measures (if applicable) upon</p>	<p>Project Applicant</p>	<p>Verify that a valid estimate of GHG emissions has been prepared as part of the application process; determine the level of mitigation required</p>	<p>County CDA (Planning Director or his/her designee)</p>

**Medical Cannabis Ordinance Amendments Project  
Mitigation Monitoring and Reporting Program**

Commitments and Mitigation Measures	Timing	Implementation Responsibility	Verification	
			Monitoring Action	Monitoring Responsibility Date/Initials
<p>the results of the analysis indicate that annual emissions would exceed the threshold of 1,100 MTCO<sub>2</sub>/year, the applicant shall include in the plans and specifications for the facility as many of the following or other comparably effective energy reduction measures as necessary to achieve GHG emissions levels below the significance threshold level:</p> <p>a. <u>Lower Energy Lighting</u>. Technological advances in LED and other types of energy-efficient lighting for indoor agricultural use have been found capable of producing the necessary light wavelengths in the correct ratios for photosynthesis to occur at levels that can sustain high crop yields, while reducing the amount of heat generated by typical high-intensity bulbs, consuming substantially less (up to 70% less) power than high-intensity discharge bulbs.</p> <p>b. <u>Low Emission Vehicle Fleet</u>. Vehicles used for delivery of medical cannabis to qualified patients should be qualified low-emission vehicles.</p> <p>c. <u>Renewable Energy Sources</u>. Use of renewable energy sources such as photovoltaic panels or direct connections to on-site or near-site wind power turbines that would supply electrical power for lighting, heating and other energy demands of the proposed operation.</p> <p><u>Purchase of Carbon Credits</u>. If the foregoing methods or other means of reducing annual GHG emissions fail to achieve sufficient</p>	<p>submission of an application to the Community Development Agency for a Conditional Use Permit. If purchase of carbon credits is required, carbon credits must be purchased prior to the issuance of final building permit(s) or, if no building permit is required, prior to the expiration of 120 days after issuance of the Conditional Use Permit.</p>		<p>to ensure that GHG emissions will be below threshold levels. If purchase of carbon credits is required, review evidence of purchase submitted by applicant.</p>	

**Medical Cannabis Ordinance Amendments Project  
Mitigation Monitoring and Reporting Program**

Commitments and Mitigation Measures	Timing	Implementation Responsibility	Verification		
			Monitoring Action	Monitoring Responsibility	Date/Initials
<p>reduction to below threshold levels, the applicant shall purchase carbon credits sufficient to offset the remaining emissions above the threshold levels, through the Climate Action Reserve program, which establishes high quality standards for carbon offset projects, oversees independent third-party verification bodies, issues carbon credits generated from such projects and tracks the transaction of credits over time in a transparent, publicly-accessible system.</p>					

**NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION  
FOR  
MEDICAL CANNABIS ORDINANCE AMENDMENTS**

Notice is hereby given that Alameda County is proposing to adopt amendments to the County General Code regarding the regulation of medical cannabis uses. The project consists of the following four ordinances regulating dispensaries, deliveries, the sale of edibles, a pilot cultivation program and associated zoning:

- An ordinance amending Chapter 6.108 of the Alameda County General Code permitting and regulating medical cannabis dispensaries, the delivery of medical cannabis and the sales of edible medical cannabis products in the unincorporated area of Alameda County
- An ordinance amending Title 17 Alameda County General Code to effectuate zoning changes to implement the Dispensary Ordinance
- An ordinance amending Chapter 6.106 of the Alameda County General Code to implement a pilot program regulating the cultivation of medical cannabis in the unincorporated area of Alameda County
- An ordinance amending Title 17 of the Alameda County General Code to effectuate zoning changes to implement the Cultivation Ordinance

The affected area is unincorporated Alameda County.

A Mitigated Negative Declaration is proposed to be adopted pursuant to the California Environmental Quality Act (CEQA) and State and County CEQA Guidelines. The draft Mitigated Negative Declaration has found that the proposed ordinances as written will not have a significant effect upon the environment.

**COMMENT DEADLINE:** Comments should be addressed to Elizabeth McElligott, Alameda County Planning Department, 224 West Winton Avenue, Room 111, Hayward, CA 94544; or sent by FAX to (510) 785-8793; or by e-mail to [Elizabeth.mcelligott@acgov.org](mailto:Elizabeth.mcelligott@acgov.org). The Comment period will be from **March 7, 2017 to March 27, 2017**, a period of 21 days pursuant to Section 15105(b) of the CEQA Guidelines. Comments must be received no later than **5:00 PM on March 27, 2017**.

If you challenge the Initial Study and draft Mitigated Negative Declaration in court, you may be limited to raising only those issues you or someone else raised in any subsequent public hearing by any County hearing body, or in written correspondence delivered to the Planning Department or hearing body prior to a final public hearing.

**DOCUMENT AVAILABILITY:** Copies of the proposed ordinances and the Initial Study and draft Mitigated Negative Declaration are available for public review from 8:30 AM to 5:00 PM, at the Alameda County CDA-Planning Department Offices (224 West Winton Avenue, Room 111, Hayward). These documents also are on the Alameda County website at <http://www.acgov.org/cda/planning/landuseprojects/medical-cannabis.htm>. Paper copies of all documents may be purchased for a price equal to the cost of reproduction. In addition, copies of all documents are available for public review at the following libraries and County offices:

- Castro Valley Library, 3600 Norbridge Ave, Castro Valley
- San Lorenzo Library, 395 Paseo Grande, San Lorenzo
- Dublin Library, 200 Civic Plaza, Dublin
- Alameda County Community Development Agency, Martinelli Center, 3585 Greenville Rd, Livermore

**PUBLIC MEETINGS:** A public meeting will be held before the Alameda County Planning Commission on: Monday, March 20, 2017 at 3:00 PM, at 224 West Winton Avenue, Hayward, CA 94544 in the Public Hearing Room.







## ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY

### INITIAL STUDY / MITIGATED NEGATIVE DECLARATION

Pursuant to the California Environmental Quality Act, as amended

#### A. PROJECT DESCRIPTION

1. **Project title:** Medical Cannabis Ordinance Amendments
2. **Lead agency name & address:** Alameda County Planning Department  
224 W. Winton Avenue, Room 111  
Hayward, CA 94544
3. **Contact person & phone number:** Elizabeth McElligott, Assistant Planning Director  
(510) 670-5400
4. **Project location:** All of unincorporated Alameda County
5. **Project sponsor's name & address:** County of Alameda
6. **General Plan designation:** See text
7. **Zoning:** See text
8. **Description of Project:**

Alameda County is proposing to adopt amendments to the County General Code regarding the regulation of medical cannabis uses. The project consists of the following four ordinances regulating dispensaries, deliveries, the sale of edibles, a pilot cultivation program and associated zoning:

- a. An ordinance amending Chapter 6.108 of the Alameda County General Code permitting and regulating medical cannabis dispensaries, the delivery of medical cannabis and the sales of edible medical cannabis products in the unincorporated area of Alameda County, hereinafter referred to as the "Dispensary Ordinance"
- b. An ordinance amending Title 17 Alameda County General Code to effectuate zoning changes to implement the Dispensary Ordinance, hereinafter referred to as "Dispensary Zoning"
- c. An ordinance amending Chapter 6.106 of the Alameda County General Code to implement a pilot program regulating the cultivation of medical cannabis in the unincorporated area of Alameda County, hereinafter referred to as the "Cultivation Ordinance."
- d. An ordinance amending Title 17 of the Alameda County General Code to effectuate zoning changes to implement the Cultivation Ordinance, hereinafter referred to as "Cultivation Zoning."

## **Dispensary Ordinance and Dispensary Zoning**

The existing dispensary ordinance in Chapter 6.108 of the County General Code allows a total of three dispensaries on specified parcels zoned for commercial or industrial use. Proposed changes to the dispensary requirements necessitate revisions to the existing dispensary ordinance as well as amendments to the Zoning Ordinance in Title 17 of the General Code to allow medical cannabis dispensaries as a conditional use, including as a conditional use in the “A” (Agricultural) District.

The following changes to the provisions of the existing Dispensary Ordinance are proposed:

- Increase the number of dispensaries allowed in the unincorporated area from three to five, three in the urban West County and two in the rural East County.
- Continue to allow dispensaries in commercial zoning districts, and prohibit them in residential and industrial zones.
- Allow up to two dispensaries in the “A” (Agricultural) Zoning District as a conditional agriculture-related use.
- Require selection of new dispensaries through a “Request for Proposals” (RFP) process, and require each selected facility to obtain a Conditional Use Permit from the Planning Department before beginning operation.
- Provide appropriate regulation for each license.
- Require compliance with anticipated state regulations to implement the State Medical Cannabis Regulation and Safety Act (MCRSA) and augmenting the state regulations as necessary.
- Allow for the delivery of medical cannabis to patients, from permitted “brick-and-mortar” dispensaries located within the unincorporated area and in other jurisdictions.
- Allow the sale of edibles at permitted dispensaries if produced in a commercial facility (that does not produce food items) constructed in accordance with applicable building standards and health and safety standards as opposed to private home kitchens.

The following Dispensary Zoning amendments are proposed to implement the Dispensary Ordinance:

- Require dispensaries to obtain a Conditional Use Permit
- Continue to allow dispensaries in commercial zoning districts, and prohibit them in residential and industrial zones.
- Allow dispensaries in the “A” (Agricultural) Zoning District as a conditional agriculture-related use.
- Require a 1000-foot setback between dispensaries and sensitive receptors.

## **Cultivation Ordinance and Cultivation Zoning**

The cultivation ordinance would establish a medical cannabis cultivation pilot program that would allow existing dispensaries that have been operating in good standing for at least one year to establish medical

cannabis cultivation sites, and allow an additional two cultivation sites to be selected through a “Request for Proposals” (RFP) process. Implementation of the cultivation pilot program will require revisions to Title 6 of the County General Code to establish requirements for the program, as well as amendments to the Zoning Ordinance in Title 17 to allow the cultivation of medical cannabis as a conditional use in the “A” (Agricultural) District.

The following provisions of the Cultivation Ordinance are proposed to implement the cultivation pilot program:

- The county shall have in effect no more than four cultivation permits throughout the duration of the pilot program.
- Limit the duration of the pilot to two years.
- Allow medical cannabis cultivation as a conditional use only in the “A” (Agricultural) Zoning District and only for up to four sites.
- Allow cultivation to occur only within an enclosed structure such as a greenhouse and limit the size of the cultivation canopy to a maximum of 22,000 square feet.
- Require each cultivation site to obtain a Conditional Use Permit subject to compliance with adopted performance standards before beginning operation.
- Require a 1000-foot buffer between cultivation sites and sensitive receptors.
- Allow the Director of the Community Development Agency (“Director”) to adopt Performance Standards applicable to cultivation uses, such as limitations on the emission of nighttime light and glare, noise, water use, solid and liquid wastes, wastewater and many other procedural aspects of a cultivation operation.

The following Cultivation Zoning amendments are proposed to implement the cultivation pilot program:

- Require each cultivation site to obtain a Conditional Use Permit subject to compliance with adopted performance standards before beginning operation.
- Require each cultivation site to obtain a Title 6 cultivation license.
- Allow medical cannabis cultivation as a conditional use only in the “A” (Agricultural) Zoning District
- Require a 1000-foot setback between cultivation sites and sensitive receptors.

Collectively, these four ordinances as amended and the Performance Standards are referred to herein as the “Project.”

## **9. Setting and Surrounding Land Uses:**

Alameda County is over 821 square miles in size and is bordered to the west by San Francisco Bay, to the North by Contra Costa County, to the South by Santa Clara County, and to the east by San Joaquin County. Within the County's borders lie 14 incorporated cities: Albany, Berkeley, Emeryville, Oakland, Piedmont, Alameda, San Leandro, Hayward, Union City, Newark, Fremont, Dublin, Pleasanton and

Livermore. Unincorporated areas of Alameda County include the communities of San Lorenzo, Ashland, Cherryland and Castro Valley (herein referred to as “West County”); unincorporated areas in East County are primarily the open space and agricultural areas north of Interstate 580 (I-580) near Pleasanton and Livermore and the area east of Livermore extending to the San Joaquin county line. The Project would only apply within the aforementioned unincorporated areas. These areas contain a large variety of built and natural settings including farmland, extensive open space, the 0.5 miles of shoreline on San Francisco Bay at the west edge of San Lorenzo, and residential, commercial, and industrial developments.

Baseline Conditions:

The County’s General Code currently includes provisions that regulate the dispensing of medical cannabis. The existing provisions were enacted in 2005. Pursuant to the current ordinance the unincorporated County has two currently licensed medical cannabis dispensaries, but has no licensed cannabis cultivation sites. The proposed amendments clarify and expand the existing provisions, creating a more carefully articulated regulatory structure relating to the licensing and operation of cannabis dispensaries and the delivery of cannabis products and establish a limited pilot cultivation program.

**10. Other Public Agencies whose Approval may be Required:**

Adoption and implementation of the proposed ordinance amendments does not require the approval of any other governmental agency. However, pursuant to the State Medical Cannabis Regulation and Safety Act and Proposition 64, the Bureau of Marijuana Control within the Department of Consumer Affairs has been created to administer and enforce the provisions of the new State laws. Various State agencies have been given responsibilities under the law including the Board of Equalization, Department of Food and Agriculture, The Department of Fish and Wildlife, the State Department of Public Health, the State Water Resources Control Board, and the Department of Pesticide Regulation. Each of these agencies is responsible for promulgating rules for and/or reporting information regarding the issuance of State licenses for commercial cannabis activities in California. Interaction between the County and some or all of these other agencies during the administration and enforcement of the ordinance amendments may be required.

Other State and local agencies may be involved in the County's permitting process. Each Conditional Use Permit will be subject to the California Environmental Quality Act (CEQA). The permitting process and CEQA review may include consultation with responsible agencies. Some projects may also require permitting from other jurisdictions based on relevant laws and regulations applicable at the time of review.

**B. ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED**

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a “Potentially Significant Impact” as indicated by the checklist on the following pages.

- Aesthetics                                     Agriculture Resources                     Air Quality
- Biological Resources                     Cultural Resources                     Geology/Soils
- Greenhouse Gas Emissions             Hazards/Hazardous Materials     Hydrology/Water Quality
- Land Use/Planning                     Mineral Resources                     Noise
- Population/Housing                     Public Services                     Recreation
- Transportation                     Utilities/Service Systems             Mandatory Findings of Significance

**C. LEAD AGENCY DETERMINATION**

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION** will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.
- I find that the proposed project MAY have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An **ENVIRONMENTAL IMPACT REPORT (EIR)** is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier **EIR or NEGATIVE DECLARATION** pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier **EIR or NEGATIVE DECLARATION**, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

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Signature:

Date:

Elizabeth McElligott

Assistant Planning Director

Name

Title

#### **D. EVALUATION OF ENVIRONMENTAL EFFECTS:**

The Environmental Checklist and discussion that follows is based on sample questions provided in the CEQA Guidelines, Appendix G, which focus on various individual concerns within 17 different broad environmental categories such as air quality, climate change, cultural resources, land use, public services, noise and traffic (and arranged in alphabetical order). The Guidelines also provide specific direction and guidance for preparing responses to the Environmental Checklist. The sample questions are meant to be used to meet the requirements for an Initial Study when the criteria set forth in CEQA Guidelines have been met. Substantial evidence of potential environmental impacts that are not listed in the checklist must also be considered.

Each question in the Checklist requires a “yes” or “no” reply as to whether or not the project will have a potentially significant environmental impact, with citations, information and/or discussion that supports that determination. Each possible answer to the questions in the Checklist is discussed below:

- **Potentially Significant Impact:** Checked if the existing setting (including relevant regulations or policies pertaining to the subject), and/or project characteristics demonstrates, based on substantial evidence, supporting information, previously prepared and adopted environmental documents, and specific criteria or thresholds used to assess significance, that the project will have a potentially significant impact.
- **Less than Significant With Mitigation:** Checked if existing conditions and/or specific project characteristics (supported with citations of relevant research or documents) will, or are likely to have physical environmental impacts that will exceed given thresholds or criteria by which significance is determined, but that with the implementation of clearly defined mitigation measures, such impacts will be avoided or reduced to less-than-significant levels.
- **Less than Significant Impact:** Checked if existing conditions and/or specific project features demonstrate that, while some effects may be discernible, the effect would not exceed a threshold of significance which has been established by the County or a Responsible Agency. The discussion may note that, due to the evidence that a given impact would be less than significant, no mitigation measures are required.
- **No Impact:** Checked if brief statements or cited reference materials clearly show that the impact could not be reasonably expected to occur due to the specific characteristics of the project or its location. Referenced sources or information may also show that the impact simply does not apply to the project.

The answers to all Checklist questions take account the whole action involved in the project, including off-site as well as on-site effects, cumulative and project-level impacts, indirect and direct effects, and construction as well as operational impacts. Except when a No Impact or Less than Significant Impact reply is indicated, the discussion of each issue also identifies:

- a. The significance criteria or threshold used to evaluate the impact; and
- b. The mitigation measure identified to reduce the impact to less than significant, with sufficient description to briefly explain how the mitigation measure reduces the effect to a less than significant level.



**1. AESTHETICS**

Would the project:

	YES: Potentially Significant Impact	NO: Less Than Significant with Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Have a substantial adverse effect on a scenic vista?				<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?				<input checked="" type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?		<input checked="" type="checkbox"/>		

**1a, b, & c): No Impact.** The project would have no effect on scenic vistas, scenic resources, or the visual character or quality of a site or its surroundings.

Dispensary locations would only be located within a structure legally established pursuant to Alameda County Code (including all applicable Conditional Use Permit and design review criteria, as applicable), and would only be allowed in areas currently zoned for commercial or agricultural uses. Buildings containing dispensaries would be similar to other commercial buildings permitted in the districts in their aesthetic design and character.

The four cultivation sites that would be allowed under the pilot program would only be permitted within areas zoned for agricultural use and only within a structure such as a greenhouse. The pilot program would limit the size of the cultivation canopy to a maximum of 22,000 square feet. The cultivation sites would be similar in nature to other agricultural uses already allowed, or allowed with permits, in the Agricultural zone.

**1d): Less than Significant.** Indoor and mixed-light cannabis cultivation will involve use of artificial lighting to aid in the cultivation process. Indoor lighting could be seen from the exterior of a greenhouse, and could potentially be the source of substantial light which could adversely affect nighttime views. However, the Performance Standards associated with the issuance of a cultivation permit include the following restrictions on lighting:

*“Lighting. Permittees using artificial lighting shall shield structures, including greenhouses, so that little to no light escapes. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise. Lighting that is visible*

*from the exterior of the cultivation area is prohibited, except such lighting as is reasonably utilized for the security of the premises.”<sup>1</sup>*

Security needs will likely include outdoor lighting at various entry points to the area containing cannabis operations, including dispensaries and cultivation sites. Exterior lighting improvements will be subject to the County's existing lighting criteria and policies that require directed lighting to illuminate only the area intended.<sup>2</sup> With these policies and performance standards applied, the project will have a less than significant impact on light and glare.

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<sup>1</sup> Attachment 4, Performance Standards and Standard Conditions for Pilot Program Cultivation Sites.

<sup>2</sup> Castro Valley General Plan Policy 113A; East County Area Plan Policy 115 and Program 64; San Lorenzo Village Specific Plan Land Use Regulation V.A.3.a.

**2. AGRICULTURE AND FOREST RESOURCES**

Would the Project:

	YES: Potentially Significant Impact	NO: Less Than Significant with Mitigation	NO: Less Than Significant Impact	No: No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				<input checked="" type="checkbox"/>
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?				<input checked="" type="checkbox"/>
d) Result in the loss of forest land or conversion of forest land to non-forest use?				<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use?				<input checked="" type="checkbox"/>

**2a, b, e): No Impact.** The limited cannabis cultivation that would be allowed under the ordinance amendments would permit only up to four cultivation sites, and only on sites designated for agricultural use. The MCRSA designates medical cannabis cultivation as an agricultural use for the purposes of MCRSA. The County has determined that cannabis cultivation bears some similarities to traditional agriculture, but does not fit squarely within the definition of agriculture for the purposes of zoning or local permitting due to specific concerns not associated with traditional agriculture, in particular, safety concerns. For this potential impact, cannabis cultivation is compatible with agricultural and forest resources and the resulting use of agricultural lands for cultivation purposes would not result in the loss or conversion of farmland to non-agricultural use.

With respect to the dispensaries that could be allowed within an agriculturally zoned district, such uses would be considered “agriculture enhancing commercial uses” and “visitor-serving commercial uses” that are permitted in the agricultural district pursuant to Measure D, and thus would not conflict with agricultural zoning in the County. All other dispensaries would be required to be located in areas zoned

for commercial use and would not convert farmlands to non-agricultural use. No aspect of the proposed ordinance amendments or pilot program would conflict with agriculturally designated lands or Williamson Act contracts.

**2c and d): No Impact.** No forest lands are located within or adjacent to locations where the project could affect land use. The project would not involve any direct loss of forest land or lands currently under timber preserve. Thus, no impacts on agriculture or forestry resources would occur. Unpermitted cultivation operations often do occur in forest lands, causing negative impacts. However, the ordinance amendments would prohibit such unpermitted uses and enable location of cannabis operations in zones that would not impact forest resources.

**3. AIR QUALITY**

Would the project:

	YES: Potentially Significant Impact	NO: Less Than Significant with Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Conflict with or obstruct implementation of the applicable air quality plan?				<input checked="" type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input checked="" type="checkbox"/>			
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?			<input checked="" type="checkbox"/>	
d) Expose sensitive receptors to substantial pollutant concentrations?			<input checked="" type="checkbox"/>	
e) Create objectionable odors affecting a substantial number of people?				<input checked="" type="checkbox"/>

**3a) No Impact.** Conflicts would be significant if the project would conflict with or obstruct implementation of the Bay Area Air Quality Management District’s (Air District) 2010 Clean Air Plan. Since most of the 2010 Clean Air Plan’s control measures are targeted to area-wide improvements, large stationary source reductions or large employers, those measures are not applicable to the project, and the project would not impede their implementation. Furthermore, a project that is consistent with development assumptions included within a jurisdiction’s General Plan which was considered in the development of the Clean Air Plan will not cause an obstruction to the implementation of the 2010 Clean Air Plan. The minor increase in commercial dispensaries and cultivation sites would not represent an increase in development beyond that anticipated under the County General Plan, and therefore would not interfere with implementation of the 2010 Clean Air Plan. There would be no impact due to a potential conflict with the Clean Air Plan.

**3b): Less than Significant Impact with Mitigation**

Construction Effects. The maximum construction activity that could occur pursuant to the project is construction of five (5) new dispensaries (with a total of three (3) in the West County and two in the East County), and a maximum of four (4) cultivation sites that would function within structures such as a greenhouse and would be permitted only in agriculturally designated areas in East County. Applications

for a new dispensary or a cultivation site must follow the County's Conditional Use Permit procedures, pursuant to Chapter 17 of the County Code. As a condition of any new construction that required discretionary approval (such as a CUP), it is standard practice for the County to include the following mitigation as a standard condition of approval:

**Mitigation Measure AQ-1: Construction-Period Dust Suppression - Best Management Practices.**

The Project shall demonstrate compliance with the following basic construction mitigation measures or best management practices (BMPs):

- a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- d. All vehicle speeds on unpaved roads shall be limited to 15 mph.
- e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- f. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
- h. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

With implementation of these standard BMPs for construction activity, new construction pursuant to the project would be regulated in a manner that is protective of the health of nearby residences, and would reduce dust emissions that could affect regional air quality. The project's construction-period air quality effects would be reduced to less than significant.

**3c and d): Less than Significant.**

Operational Effects: Significance thresholds used by Alameda County for air quality impacts are those adopted by the Air District in its 2011 CEQA Guidelines. The applicable thresholds for operational-related air quality effects indicate a project's emissions would be considered significant if they were to exceed 54 lbs/day of ROG, 54 lbs/day of NOX, 82 lbs/day of PM10, and/or 54 lbs/day of PM2.5. The Air District's 2011 CEQA Guidelines include substantial evidence substantiating operational screening levels for criteria air pollutants. These screening levels provide a conservative indication of whether a project

could result in potentially significant air quality impacts related to emission of criteria air pollutants during operation. If a proposed project does not exceed the screening levels, then criteria air pollutant emissions are considered to be less than significant. For dispensaries, the most similar land use type for screening of operational criteria pollutant emissions is a pharmacy or a drugstore, with or without a drive through. The screening size threshold for such a land use is 48,000 to 49,000 square feet depending on whether it includes a drive-through. The actual size of any future dispensary facility permitted under the project is not specified, but it is very unlikely that any dispensary permitted under the project would exceed this screening size. Any dispensary facility that would be less than 48,000 square feet in size would not be expected to generate significant criteria air pollutant emissions.

An additional operational aspect of the dispensary operations is the delivery of medical cannabis or medical cannabis products from a dispensary to a primary caregiver, a qualified patient or a testing laboratory. The number of any such deliveries is not specified in the project, nor can the number of deliveries and associated vehicle miles travelled be estimated with any certainty. However, vehicle emissions associated with delivery of medical cannabis would be no different than delivery of any other commercially delivered product, and no existing regulations for delivery-related emissions are placed on other commercial delivery operations. It is also reasonable to assume that each delivery trip is equivalent to the reverse of a patient pick-up trip, which is otherwise accounted for under the screening size criteria. Delivery-based emissions, combined with other operational emissions of a dispensary, would not be expected to result in more than 54 lbs/day of ROG, 54 lbs/day of NOX, 82 lbs/day of PM10, and/or 54 lbs/day of PM2.5.

There are no identified criteria pollutant emission sources associated with cultivation sites as indicated under the project, other than minor amounts of employee trips to and from the site. As to other types of potential air quality pollutants, the Performance Standards and Standard Conditions for pilot program cultivation sites indicates the following:

*All planting, growing, harvesting, drying, curing, grading, or trimming of cannabis must occur within the interior of an enclosed structure, such as a greenhouse.*

Additionally, Section 17.52.585 of the draft cultivation ordinance states that no Conditional Use Permit for cultivation shall be issued unless the Board of Zoning Adjustments finds that:

*Any dust, dirt or particulate matter shall not be discharged into the air from any activity or from any products stored on the site.*

With containment of agricultural practices associated with cannabis cultivation within a structure, cultivation sites would not be indicated as significant air quality emission sources.

**3e): No Impact.** Provisions included within the proposed Code Amendments and the performance standards associated with the pilot program would prevent cultivation activities from emitting odorous gases or odorous matter in quantities that would be perceptible outside the cultivation site. These provisions include:

*“The County’s draft medical cannabis dispensary and cultivation ordinances both require applicants to demonstrate that adequate measures will be implemented to control any odors that may emanate from the facility. Section 6.108.060.A.16 of the draft dispensary ordinance and Section 6.106.060.A.16 of the draft cultivation ordinance require that an applicant provide a description of the methods by which the applicant will mitigate any potentially adverse impacts, such as loitering, odors or noise, on surrounding property owners. The dispensary shall be designed to provide sufficient odor absorbing ventilation and exhaust systems so that any odor generated inside the dispensary is not detected outside the building in which it operates, on adjacent public rights-of-way, or within other units located within the same building as the dispensary if it occupies only a portion of the building.”*

Section 17.52.585 of the draft cultivation ordinance states that no Conditional Use Permit for cultivation shall be issued unless the Board of Zoning Adjustments finds that:

*“C. Odorous gases or odorous matter shall not be emitted in quantities such as to be perceptible outside of the cultivation site;”*

With implementation of these provisions, impacts related to odorous emissions would be less than significant.



**4. BIOLOGICAL RESOURCES**

Would the project:

	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?			<input checked="" type="checkbox"/>	
b) Have a substantial adverse effect on any riparian, aquatic or wetland habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or US Fish and Wildlife Service?			<input checked="" type="checkbox"/>	
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?			<input checked="" type="checkbox"/>	
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?			<input checked="" type="checkbox"/>	
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?			<input checked="" type="checkbox"/>	
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?				<input checked="" type="checkbox"/>
g) Result in conversion of oak woodlands that will have a significant effect on the environment?				<input checked="" type="checkbox"/>

**4a, b, c, d and e): Less than Significant**

The project's ordinance amendments would enable the establishment of up to three dispensaries (either using existing buildings or constructing new buildings) within commercial zoning districts in urbanized West County areas and two in the agricultural East County area. Dispensaries located in the urbanized West County are unlikely to involve sites containing sensitive biological resources. Proposed dispensaries

and cultivation operations for sites in the agricultural East County would have a higher potential for impacts to sensitive biological resources.

Establishment of dispensaries and cultivation operations would involve an application process leading to the issuance by the County of a Conditional Use Permit which, among other things, would be subject to project-specific environmental review pursuant to CEQA and would be conditioned upon compliance with all applicable federal and state statutes, regulations and requirements, including but not limited to:

- a. the federal Endangered Species Act that prohibits killing, harming, or otherwise “taking” listed animal species;
- b. the federal Migratory Bird Treaty Act that prohibits killing, possessing, or trading of migratory birds except in accordance with regulations, including protection of active nests from destruction and all nests of species protected by the MBTA, whether active or not;
- c. the federal Clean Water Act that includes programs addressing both point-source and nonpoint-source pollution, inclusive of Section 404 and Section 401 requirements for the discharge of dredged and fill material into waters of the United States;
- d. the California Endangered Species Act (Fish and Game Code of California, Chapter 1.5, Sections 2050-2116), which prohibits the take of any plant or animal listed or proposed for listing as rare (plants only), threatened, or endangered;
- e. The California Fish and Game Code, which includes regulations governing the use of, or impacts to, many of the state’s fish, wildlife, and sensitive habitats including rivers, streams and lakes;
- f. The Porter-Cologne Water Quality Control Act, including its authorization of the SWRCB to issue CWA certifications for projects that would discharge to state waters and the RWQCB authority over any fill activities within state waters, including isolated waters or wetlands that may be outside the jurisdiction of the USACE.
- g. the Alameda County Tree Ordinance, as amended, being Chapter 12.11 of Title 12 of the Alameda County General Ordinance Code, which applies to trees within the public right-of-way), and
- h. any applicable policies, principles or guidelines intended to protect and preserve important environmental resources and significant natural features as included in County Area Plans, Master Plans or Specific Plans.

The project’s proposed development standards also restrict cultivation of medical cannabis to indoor structures such as greenhouses, reducing the need for security fencing that might otherwise restrict animal movement.

Any future development of new structures or reuse of existing structures pursuant to the project would be individually evaluated against biological resource criteria at each location, based on the regulatory requirements listed above. With effective implementation of these existing regulations, the project will not result in impacts to special status species, riparian habitats, other sensitive natural communities, federally protected wetlands, or native resident or migratory wildlife corridors. The County’s permit application and review process is sufficiently rigorous to ensure against impacts to protected resources.

**4f): No Impact.** Project implementation will not conflict with any local policies or ordinances protecting biological resources or conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. The ordinance amendments include provisions for establishing medical cannabis dispensaries within the unincorporated areas of Alameda County, including the West County areas (San Lorenzo, Ashland, Cherryland and Castro Valley) and East County. Development within these areas is governed by the applicable elements of the Alameda County General Plan and Specific Plans (including the Eden Area Plan, the Castro Valley General Plan the East County Area Plan, the Fairview Area Specific Plan and other area Specific Plans), the Alameda County Zoning Ordinance (Title 17), and the Alameda County General Code. These governing documents contain goals and policies that call for the conservation and protection of listed species and critical habitats resulting in guiding development to avoid, minimize or mitigate impacts to biological resources. Any new uses established pursuant to the proposed ordinance amendments would be subject to the applicable goals, policies, and regulations for the protection and conservation of biological resources

**4g): No Impact.** There are no HCPs in Alameda County and therefore there is no potential for cannabis operations, whether dispensaries, distribution or cultivation, to conflict with the provisions of an HCP. (Source: <http://ecos.fws.gov/ecp0/conservationPlan/region?region=8&type=HCP>)

**5. CLIMATE CHANGE AND GREENHOUSE GAS EMISSIONS**

Would the project:

	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?		<input checked="" type="checkbox"/>		
b) Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?		<input checked="" type="checkbox"/>		

**5a and b): Less than Significant with Mitigation.** There is a growing body of research being conducted, principally within states that have legalized the production of cannabis, as to the energy demands associated with indoor cannabis production. As with many types of early research efforts, the results can be used by advocates for or against a particular position on the issue, and must be weighed carefully to reach objective and independent conclusions. One of the more fact-based pieces of research identified for use in this CEQA analysis is an energy policy paper published on Elsevier Ltd., titled “*The Carbon Footprint of Indoor Cannabis Production*”, by Evan Mills of Energy Associates, March 2012.<sup>3</sup> This article presents a model of the cannabis production process using public domain sources, and provides a national-averaged estimate of the life-cycle energy use, costs and associated GHG emissions resulting from indoor cannabis production. Generally, this paper identifies the major categories of energy used in indoor cannabis cultivation as including high-intensity lighting; dehumidification to remove water vapor; space heating, cooling and drying; use of irrigation water; ventilation and air conditioning; injection of CO<sub>2</sub> to increase foliage growth; air cleaning, noise and odor suppression; and vehicle travel. According to this research paper, energy demands can total as much as 6,000 kW/hours for each kilogram (kg) of cannabis yield, resulting in approximately 4,600 kg of CO<sub>2</sub> emissions per kilogram yield of cannabis. This includes approximately 88% of CO<sub>2</sub> emissions (4,048 kg) attributable to electrical energy use, and 12% of CO<sub>2</sub> emissions (552 kg) attributed to vehicle emissions

The CO<sub>2</sub> emission factors attributed to electrical energy used in this research paper are based on national-average carbon burdens of 0.66 kg of CO<sub>2</sub>/kW/h, whereas locally used PG&E power has a substantially lower carbon burden of 0.20 kg CO<sub>2</sub>/kW/h. Adjusting for this lower carbon footprint of PG&E power supply, it can be estimated that indoor production of 1 kg of cannabis in Alameda County may result in less than one-third of the CO<sub>2</sub> emissions as estimated by Mills, or 1,216 kg attributable to electrical energy use, plus the 552 kg attributed to vehicle emissions, for a total of 1,768 kg of CO<sub>2</sub> emissions per

3 <http://hightimes.com/grow/how-much-energy-does-indoor-pot-really-use/>

kg of cannabis yield. Converting to metric tons (MT), 1 MT of cannabis yield could result in approximately 1,768 MT of CO<sub>2</sub> emissions.

This estimate of energy demand is based on production, or cannabis crop yield. The project does not include an estimate of cannabis yield per cultivation site, so an estimate of average yield, as also derived from the Mills research paper, has been developed for this analysis. According to the Mills paper, a standard cannabis production module of 4 feet by 4 feet (16 square feet) can yield up to 0.5 kg of final cannabis product per grow cycle (or 32 sf can potentially yield up to 1 kg of cannabis yield), with as many as 4 to 5 grow cycles per year. A 22,000 square foot cannabis canopy could therefore yield approximately 687.5 kg of final cannabis product per cycle, or 2,750 kg under a 4-cycle grow year. Actual annual cannabis crop yields would likely vary greatly depending upon agricultural practices, economies of scale, and operational efficiencies used. However, assuming that one cultivation site greenhouse or other structure with a 22,000 square-foot cannabis canopy may yield up to 2,750 kg (or 2.75 MT) of final cannabis product, each cultivation site may generate as much as 4,862 MTCO<sub>2</sub>/year of GHG emissions. Four cannabis cultivation sites, as proposed, would therefore generate as much as 19,448 MTCO<sub>2</sub> per year.

Another reference data point for the electrical energy demands associated with cannabis production comes from Boulder County, Colorado.<sup>4</sup> Based on metered energy use in that county, Boulder County has found that the average electricity consumption of a local 5,000 square foot indoor marijuana cultivation facility is about 41,808 kW-hours monthly. With the majority of this electricity coming from coal burning power plants, a typical 5,000 square foot indoor grow facility contributes approximately 43,731 pounds of CO<sub>2</sub> per month to the atmosphere. Using this Boulder County average, a 22,000 square-foot cannabis-cover greenhouse would generate approximately 4.4 times as much energy and result in approximately 4.4 times the CO<sub>2</sub> emissions as a 5,000 square-foot facility. On a yearly basis, this would be equivalent to approximately 2.3 million pounds of CO<sub>2</sub> per year, or 1,047 MTCO<sub>2</sub>/yr for energy usage only. This number does not account for other life-cycle emissions, such as those attributed to vehicle use.

#### Thresholds:

In accordance with State CEQA Guidelines, each lead agency must determine applicable thresholds of significance based on substantial evidence in the record. As standard practice, Alameda County relies on the Air District's *CEQA Thresholds Options and Justification Report* (2009), which provides substantial evidence for use of thresholds published in the 2011 *BAAQMD CEQA Guidelines*. As such, Alameda County applies a threshold of 1,100 MTCO<sub>2</sub>e/yr., or 4.6 MTCO<sub>2</sub>e/yr per service population, as its thresholds in assessing the significance of any project's individual GHG emissions.

Although actual GHG emissions associated with cannabis production at each cultivation site may vary substantially based on actual yield and agricultural practices employed, the estimated emissions from a

single 22,000 square-foot cannabis canopy greenhouse as presented above are substantial enough to conclude that GHG emissions from each new cultivation site (ranging between 1,047 MTCO<sub>2</sub>/yr for energy usage only, to full life-cycle emissions of as high as 4,862 MTCO<sub>2</sub>/year) would likely be significant, and mitigation measures would be warranted.

#### Mitigation Measures:

**Mitigation Measure GHG-1: Energy and GHG Emissions Reduction.** Each applicant for a dispensary or cultivation site permit shall minimize energy usage in its cannabis production and distribution operations to the extent feasible. Applicants for a cannabis cultivation site Conditional Use Permit shall present in their application materials a quantitative estimate of annual GHG emissions that would result from the proposed cultivation facility. If the results of the analysis indicate that annual emissions would exceed the threshold of 1,100 MTCO<sub>2</sub>/year, the applicant shall include in the plans and specifications for the facility as many of the following or other comparably effective energy reduction measures as necessary to achieve GHG emissions levels below the significance threshold level:

- a. Lower Energy Lighting. Technological advances in LED and other types of energy-efficient lighting for indoor agricultural use have been found capable of producing the necessary light wavelengths in the correct ratios for photosynthesis to occur at levels that can sustain high crop yields, while reducing the amount of heat generated by typical high-intensity bulbs, consuming substantially less (up to 70% less) power than high-intensity discharge bulbs.
- b. Low Emission Vehicle Fleet. Vehicles used for delivery of medical cannabis to qualified patients should be qualified low-emission vehicles.
- c. Renewable Energy Sources. Use of renewable energy sources such as photovoltaic panels or direct connections to on-site or near-site wind power turbines that would supply electrical power for lighting, heating and other energy demands of the proposed operation.

Purchase of Carbon Credits. If the foregoing methods or other means of reducing annual GHG emissions fail to achieve sufficient reduction to below threshold levels, the applicant shall purchase carbon credits sufficient to offset the remaining emissions above the threshold levels, through the Climate Action Reserve program, which establishes high quality standards for carbon offset projects, oversees independent third-party verification bodies, issues carbon credits generated from such projects and tracks the transaction of credits over time in a transparent, publicly-accessible system.<sup>5</sup>

#### Resulting Level of Significance

With effective reductions in overall energy demands at each cultivation site resulting in documented GHG emission levels below 1,100 MTCO<sub>2</sub>e/year or through the purchase of carbon credits to off-set the GHG

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<sup>5</sup> <http://www.climateactionreserve.org/>

emissions, the GHG emission impacts associated with the project would be reduced to levels of less than significant.

**6. CULTURAL RESOURCES**

Would the project:

	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Cause a substantial adverse change in the significance of a historical resource as defined in '15064.5?		<input checked="" type="checkbox"/>		
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to '15064.5?		<input checked="" type="checkbox"/>		
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?		<input checked="" type="checkbox"/>		
d) Disturb any human remains, including those interred outside of formal cemeteries?		<input checked="" type="checkbox"/>		

**6a, b, c & d): Less than Significant.** The project’s ordinance amendments would enable the establishment of new dispensaries (either using existing buildings or constructing new buildings) in commercial or agricultural zoning districts, and establishment of cultivation sites using enclosed structures such as greenhouses. Establishment of these facilities would require issuance of Conditional Use Permits from the County, and those permits would be conditioned upon compliance with all applicable federal, state and local statutes, regulations and requirements. For any new dispensaries that may consider reuse or demolition of any prehistoric or historic district, site, building or structure, the National Historic Preservation Act and its implementing regulations (16 USC Section 470 et seq., 36 CFR Part 800, 36 CFR Part 60 and 36 CFR Part 63) and state CEQA Guidelines (Section 21084.1 of the Public Resources Code) will require Alameda County to consider such effects on historic properties, including any substantial adverse change such as demolition, destruction, relocation or alteration that would impair a resource’s historic significance. For any new structures that may be proposed pursuant to the project, the County’s Conditional Use Permit process will also require identification and examination of any site-specific effects on unique archaeological or paleontological resources or Native American tribal cultural resources. Alameda County’s policies regarding archaeological and historic resources (including Native American tribal cultural resources) are that they should be preserved and maintained “to the maximum extent possible...including but not limited to those listed on official State and National Registers.” When site preparation and construction activities are proposed, the County’s policy follows the State laws that require adequate identification of the resources, and, where appropriate, preservation.

Additional requirements for cultural resources management include Code Chapter 1.7, Section 5097.5 (Archaeological, Paleontological, and Historical Sites) of the California Public Resources Code, and the disposition of Native American burials as governed by Section 7050.5 of the California Health and Safety Code and Sections 5097.94 and 5097.98 of the Public Resources Code.



Any future development of new structures or reuse of existing structures pursuant to the project would be individually evaluated against historic and cultural resource criteria at each location, based on the regulatory requirements listed above. With effective implementation of these existing regulations, the project will not cause a substantial adverse change in the significance of a historical resource, a change in the significance of an archaeological resource, or directly or indirectly destroy a unique paleontological resource or a tribal cultural resource.

**7. GEOLOGY AND SOILS**

Would the project:	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:			<input checked="" type="checkbox"/>	
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.			<input checked="" type="checkbox"/>	
ii) Strong seismic ground shaking?			<input checked="" type="checkbox"/>	
iii) Seismic-related ground failure, including liquefaction?			<input checked="" type="checkbox"/>	
iv) Landslides?			<input checked="" type="checkbox"/>	
b) Result in substantial soil erosion or the loss of topsoil?			<input checked="" type="checkbox"/>	
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?			<input checked="" type="checkbox"/>	
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?			<input checked="" type="checkbox"/>	
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?			<input checked="" type="checkbox"/>	

**7a through e): Less than Significant.** The project’s ordinance amendments would enable the establishment of new dispensaries (either using existing buildings or constructing new buildings) in commercial or agricultural zoning districts, and establishment of cultivation sites using enclosed structures such as greenhouses. Establishment of these facilities would require issuance of a Conditional Use Permit from the County, and that permit would be conditioned upon compliance with all applicable state statutes, regulations and requirements including:

- the Alquist-Priolo Earthquake Fault Zoning Act,

- the California Seismic Hazards Mapping Act [California Public Resources Code Sections 2690-2699.6], and
- the California Building Standards Code [Title 24 of the California Code of Regulations]; and
- all local ordinances, regulations, guidelines, standards and requirements including all County Grading Permit requirements [Alameda County Code of Ordinances, Title 15 - Buildings and Construction, Chapter 15.36 – Grading, Erosion and Sediment Control], and applicable County building permit requirements.

Any future development of new or reuse of existing structures pursuant to the project would be individually evaluated against geological and soil criteria at each location, based on the regulatory requirements listed above. With effective implementation of these existing regulations, the project will not expose people or structures to potential substantial adverse effects involving rupture of a known earthquake fault, strong seismic ground shaking, seismic-related ground failure, landslides, result in substantial soil erosion or loss of topsoil, be located on a geologic unit or unstable soil, be located on expansive soil, or have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater.

**8. HAZARDS AND HAZARDOUS MATERIALS**

Would the project:	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?		<input checked="" type="checkbox"/>		
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?		<input checked="" type="checkbox"/>		
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?		<input checked="" type="checkbox"/>		
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				<input checked="" type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				<input checked="" type="checkbox"/>

**8a, b, and c): Less than Significant.** The project involves adoption of ordinance amendments that clarify and codify permit requirements and regulations for commercial medical cannabis activities including dispensaries, delivery operations, sale of edibles and a pilot cultivation program that would permit up to four (4) cultivation sites to be located only in areas zoned Agriculture in the unincorporated East County area. Commercial medical cannabis cultivation will likely involve the use of certain hazardous materials, including petroleum products, fertilizers and pesticides. Use of all of these potentially hazardous substances and products is regulated by local, state and federal regulations and standards. For example, the California Department of Pesticide Regulation (DPR) issued a bulletin in September 2015 that

provides growers of medical cannabis with information about how to comply with California's environmental laws as they relate to pesticide use.<sup>6</sup>

Item 16 of the Performance Standards for the pilot program, "Compliance with State Law," requires all permittees to comply with all state statutes, regulations and requirements of state agencies that regulate the use of pesticides and fertilizers, including the California Water Quality Control Board, the California Department of Pesticide Regulation, the California Environmental Protection Agency and the California Department of Food and Agriculture. The scope of Item 16 includes compliance with the directives in the aforementioned DPR bulletin. Compliance with applicable regulations of these agencies would ensure that any use of, or exposure to hazardous materials would represent a less than significant impact on the environment. In addition, the Performance Standards and Standard Conditions for pilot program cultivation sites also includes the following requirements addressing potential hazardous materials and hazards issues:

***21. Fuels and Agricultural Additives.*** *Storage, use and handling of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide shall be in compliance with applicable state and local laws and regulations, and in such a way that prevents spillage.*

***27. Processing Safety.***

- a. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment.*
- b. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis.*
- c. Employees handling cannabis in processing operations must have access to facemasks and gloves in good operable condition as applicable to their job function.*
- d. Employees must wash hands sufficiently when handling cannabis or use gloves.*

***28. Employee Safety Practices.***

- a. Cultivation operations and processing operations must implement safety protocols and provide all employees with adequate safety training relevant to their specific job functions, which may include:*
  - 1) Emergency action response planning as necessary;*

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<sup>6</sup> <http://www.cdpr.ca.gov/docs/county/cacfltrs/penfltrs/penf2015/2015015.htm>

- 2) *Employee accident reporting and investigation policies;*
  - 3) *Fire prevention;*
  - 4) *Hazard communication policies, including maintenance of material safety data sheets (MSDS);*
  - 5) *Materials handling policies;*
  - 6) *Job hazard analyses; and*
  - 7) *Personal protective equipment policies, including respiratory protection.*
- b. *Cultivation operations and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:*
- 1) *Operation manager contacts;*
  - 2) *Emergency responder contacts; and*
  - 3) *Poison control contacts.*
- c. *At all times, employees shall have access to safe drinking water and toilets and handwashing facilities that comply with applicable federal, state, and local laws and regulations. Plumbing facilities and water source must be capable of handling increased usage without adverse consequences to neighboring properties or the environment.*
- d. *On site-housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.*
- e. *All permittees shall, at the time of the application for a conditional use permit, include a Cannabis Processing Plan with all of the following:*
- 1) *Summary of processing practices.*
  - 2) *Description of location where processing will occur.*
  - 3) *Estimated number of employees, if any.*
  - 4) *Summary of Employee Safety Practices.*
  - 5) *Description of toilet and handwashing facilities.*
  - 6) *Description of plumbing and/or septic system and whether or not the system is capable of handling increased usage.*
  - 7) *Description of source of drinking water for employees.*

8) *Description of increased road use resulting from processing and a plan to minimize that impact.*

9) *Description of on-site housing, if any.*

**29. Waste.**

- a. *Solid and liquid wastes generated during cannabis production and processing must be stored, managed, and disposed of in accordance with applicable state and local laws and regulations.*
- b. *Wastewater generated during cannabis production and processing must be disposed of in compliance with applicable state and local laws and regulations.*
- c. *Wastes from the production and processing of cannabis plants must be evaluated against the state's hazardous waste regulations to determine if those wastes classify as hazardous waste. It is the responsibility of each waste generator to properly evaluate their waste to determine if it is designated as a hazardous waste. If a generator's waste does qualify as a hazardous waste, then that waste is subject to the applicable management and disposal standards. A cannabis plant, usable cannabis, trim and other plant material in itself is not considered hazardous waste unless it has been treated or contaminated with a solvent.*
- d. *Cannabis wastes that do not qualify as hazardous including but not limited to trim, roots, stalks, leaves, and stems must be rendered unusable prior to leaving the cultivation site.*

**30. Required Operations Plan.** *All applicants shall, at the time of the application for a conditional use permit, include an Operations Plan with their application materials that addresses the following elements in sufficient detail for the County to evaluate the proposed cultivation operation against the requirements included herein:*

- a. *Site Plan*
- b. *Site Security Plan*
- c. *Track and Trace Plan*
- d. *Cultivation Operations Plan*
- e. *Worker Safety Plan*
- f. *Cannabis Processing Plan*
- g. *Waste Disposal Plan*

The permit review and issuance process, with identified restrictions on operations as indicated above, would require that agricultural practices used at pilot cultivation sites would not create a significant hazard to the public or to the environment through the routine transport, use, or disposal of hazardous materials, or through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

**8d): No Impact.** No specific sites have been selected for potential new medical cannabis dispensaries or cultivation sites, so it is premature to assess whether any such facility may be proposed on a site listed pursuant to Government Code Section 65962.5 as a known contamination site (i.e., on the ‘Cortese List’). Pursuant to the project, all related activities are subject to issuance of discretionary permits, and the review of applications which would take into account whether a proposed dispensary or a cultivation site would be in a location that may create a significant hazard to the public or the environment. Applications on any such site would be required to comply with all state regional and local statutes, regulations and requirements pertaining to hazardous materials, including those of the California Department of Toxic Substances Control, the California Water Resources Control Board and/or the County Department of Environmental Health.

**8e, f, g and h): No impact.** Cannabis dispensaries, delivery operations, and cultivation pursuant to the pilot program are all activities subject to issuance of discretionary permits, the review of applications for which would take into account whether a proposed dispensary or a cultivation site may be located on sites within an airport land use plan; located near a private airstrip; on a site that would interfere with an emergency response plan; or would expose people or structures to the risk of wildland fires. The permit review and issuance process, the restrictions on operations and the limited duration of permits (2 years, maximum) would ensure that none of the activities contemplated in the ordinance amendments would have an impact on the environment.



**9. HYDROLOGY AND WATER QUALITY**

Would the project:

	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Violate any water quality standards, conflict with water quality objectives, fail to meet waste discharge requirements, significantly degrade any surface water body or groundwater, or adversely affect the beneficial uses of such waters, including public uses and aquatic, wetland and riparian habitat?		<input checked="" type="checkbox"/>		
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?		<input checked="" type="checkbox"/>		
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site (i.e. within a watershed)?				<input checked="" type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff (e.g., due to increased impervious surfaces) in a manner which would result in flooding on- or off-site (i.e. within a watershed)?				<input checked="" type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems due to changes in runoff flow rates or volumes?				<input checked="" type="checkbox"/>
f) Result in a significant increase in pollutant discharges to receiving waters (marine, fresh, and/or wetlands) during or following construction (considering water quality parameters such as temperature, dissolved oxygen, turbidity, and typical stormwater pollutants such as heavy metals, pathogens, petroleum derivatives, synthetic organics, sediment, nutrients, oxygen-demanding substances, and trash)?		<input checked="" type="checkbox"/>		

**9. HYDROLOGY AND WATER QUALITY**

Would the project:

	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
g) Result in an increase in any pollutant for which a water body is listed as impaired under Section 303(d) of the Clean Water Act?		<input checked="" type="checkbox"/>		
h) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				<input checked="" type="checkbox"/>
i) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				<input checked="" type="checkbox"/>
j) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				<input checked="" type="checkbox"/>
k) Inundation by seiche, tsunami, or mudflow?				<input checked="" type="checkbox"/>

**9a, g and f): Less Than Significant Impact.** The project will not violate any water quality standards or waste discharge requirements of the Alameda County Clean Water Program. The County has existing permit regulations for the review of development applications that implement these control measures including for grading, erosion control, and urban stormwater quality management. The County, in compliance with State and Regional Water Board requirements, reviews all applications for development to ensure that appropriate permits and standards are met that protect water quality for future beneficial uses. The subject ordinance amendments will require permits that trigger this review. To prevent water quality problems, waste discharge restrictions will be implemented through Water Quality Certification, National Pollutant Discharge Elimination System (NPDES) permits, waste discharge requirements/permits (WDRs), discharge prohibitions, enforcement actions, and/or "Best Management Practices."

Additionally, Section 17.52.585 of the draft cultivation ordinance states that no Conditional Use Permit for cultivation shall be issued unless the Board of Zoning Adjustments finds that:

*The discharge into any public sewer, private sewage disposal system or stream or into the ground shall not occur except in accordance with the standards approved by the State Department of Health, of any materials of such nature or temperature as to contaminate*

*any water supply, interfere with bacterial processes and sewage treatment, or in any way cause the emission of dangerous or offensive elements;*

Based on required compliance with all applicable state and local laws and regulations pertaining to wastewater disposal and stormwater management and additional findings pursuant to the proposed ordinance amendments, the project would not result in significant impacts related to wastewater treatment or construction of necessary storm water facilities

Regulations are also included in the draft ordinance amendments that aid in protecting water quality including restrictions on storing fertilizers and pesticides.

**9b): Less Than Significant Impact** Consistent with the license types established in the Medical Cannabis Regulation and Safety Act (MCRSA), the subject ordinance amendments specifically provide permitting of medical cannabis dispensary, delivery and cultivation activities and operations by the County's Community Development Agency. Issuance of permits is a "project" under CEQA and would require an assessment of potential water supply impacts as part of the review and approval process. The review and permitting process to which all cannabis related activities would be subject, pursuant to the terms of the proposed ordinance amendments, will assure that the activities would have a less than significant impact on groundwater supplies and would introduce no new impacts related to the depletion of the groundwater supply.

**9c, d and e): No Impact.** The proposed ordinance amendments would not substantially alter the existing drainage pattern of any affected site or area. This includes the alteration of the course of a stream or river in a manner that would result in substantial erosion or siltation on or off-site, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or offsite or create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff. Under the proposed pilot program, medical cannabis cultivation would be allowed subject to a discretionary Conditional Use Permit that would be issued for only up to four (4) sites in the Agricultural (A) zoning district. Cultivation would be allowed to happen only in legal structures in which the cannabis would not be visible from the exterior of the premises. The limitations attached to the pilot program, including the low number of cultivation permits, the limited duration of the permit and all other restrictions, taken together, provide a high level of assurance that the proliferation of greenhouses and cultivation activities that might otherwise have the potential of substantial alterations to existing drainage and runoff will not occur because of the project.

**9h, i, j and k): No Impact.** For new cultivation sites, the Performance Standards and Standard Conditions for pilot program cultivation sites requires each medical cannabis cultivation permit site to comply with performance standards and standard conditions, including compliance with local law and compliance with all applicable requirements established by the Alameda County Public Works Agency, the Alameda County Planning Department, and the Zone 7 Water Agency or other agency having jurisdiction over flood control. With compliance with these laws and regulations, the proposed project would not expose people or property to flood hazards or increasing any risks associated with flood exposure. No flood related impacts would occur.

A risk of seiche can occur if development occurs adjacent to an inland body of water and a seismic event, such as an earthquake, causes significant water displacement. The proposed project consists of ordinance amendments and a pilot program that clarifies and codifies regulations for medical cannabis dispensaries, delivery and cultivation in certain zoning districts and does not include any land use changes that would introduce elevated risk of tsunami or seiche.

**10. LAND USE AND PLANNING**

Would the project:

	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Physically divide an established community.				<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				<input checked="" type="checkbox"/>
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?				<input checked="" type="checkbox"/>

**10a): No Impact.** All activities related to the cultivation and establishment of new dispensaries of medical cannabis products would be subject to review and approval of discretionary permits by the Director of the Alameda County Community Development Agency. Permits are limited in number and are issued only after careful scrutiny of the individuals who would be involved and after vetting the applicant(s) and applications for compliance with all applicable requirements of the County’s zoning code, general plan policies, any applicable specific plans, and environmental regulations. There is no evidence to indicate that issuance of a permit pursuant to the ordinance amendments would have the potential to divide an established community.

**10b): No Impact:** All new medical cannabis dispensaries and cultivation sites must comply with all local ordinances, regulations, guidelines, standards and requirements of all local agencies and departments. Permittees must obtain and maintain any permit, license, certification or registration required by a local agency or department. Compliance with all applicable requirements established by the Alameda County Public Works Agency and/or Alameda County Planning Department for the purpose of avoiding or mitigating an environmental effect is specifically required.

**10c): No Impact.** There are no habitat conservation plans (HCPs) or natural community conservation plans (NCCP) operative within Alameda County and therefore there is no possibility of a conflict with such plans.

**11. MINERAL RESOURCES**

Would the project:

	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				<input checked="" type="checkbox"/>

**11a, b): No Impact.** Alameda County does have numerous existing mineral resource extraction sites, primarily sand and gravel quarries that are generally located in two primary geographical locations; in the Sunol Valley, and within the area known as the Chain of Lakes between the cities of Pleasanton and Livermore. Each of these quarries operate under the provisions of a Surface Mining Permit issued by the County, and the boundaries of these quarries are well established. Nearly all of these quarry sites have a General Plan land use designation and commensurate zoning designation of Water Management, reflecting their ultimate reclamation use as beneficial to various water management objectives. No new dispensaries or cultivation sites would be permitted pursuant to the proposed project in areas designated for Water Management, and thus the project will not result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state or in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan.

Furthermore, pursuant to ECAP Policy 155, “except to the extent required by State law, no new quarry or other open-pit mine may be approved by the County outside the Urban Growth Boundary, unless approved by the voters of Alameda County.” As such, any new cultivation site that may be established pursuant to the project on an Agricultural zoned site would not preclude mineral resource extraction beyond that already precluded by ECAP. The project would have no impact on mineral resources.

**12. NOISE**

Would the project result in:

	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?				<input checked="" type="checkbox"/>
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?				<input checked="" type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				<input checked="" type="checkbox"/>
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?				<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				<input checked="" type="checkbox"/>

**12a – f): No Impact.** The proposed ordinance amendments establish permit requirements and regulations for medical cannabis dispensaries, delivery and cultivation activities in Alameda County. Permitted sales and cultivation operations would occur indoors; cultivation would be permitted only within an agriculturally designated area and within a structure such as a greenhouse. Dispensaries would be permitted only in commercial or agricultural zoning districts. In all regards, compliance will be required with applicable noise limits and regulations already operative under the County’s General Plan and Noise Ordinance.

In addition, the ordinance amendments include the following performance standard requirement:

*Noise or vibration, other than that related to transportation activities and temporary construction work, shall not be discernible without instruments at any lot line of the site;*

As a result, the project would not result in exposure of persons to or generation of noise levels in excess of standards established in the General Plan or the County’s noise ordinance, nor would the activities authorized under the ordinance amendments result in generation of excessive groundborne vibration or

noise levels or have a substantial permanent increase in ambient noise levels or have a substantial temporary or periodic increase in ambient noise levels. The uses and activities that would be permitted by the proposed ordinance amendments are not sensitive to noise, are not anticipated to create a new source of noise and would not be located near sensitive noise receptors due to limitations on locations within the ordinances.



**13. POPULATION AND HOUSING**

Would the project:

	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?				<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				<input checked="" type="checkbox"/>

**13a - c): No Impact.** The project consists of ordinance amendments that would establish permit requirements and regulations for medical cannabis dispensaries, delivery and cultivation activities in the unincorporated areas of Alameda County. No form of subdivision is considered, no new housing or infrastructure that could induce housing growth is contemplated and no housing would be demolished. As a result, the project will not induce population growth in the area or displace existing housing or people necessitating the construction of housing elsewhere.

**14. PUBLIC SERVICES**

Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the following public services:

	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a. Fire protection?				<input checked="" type="checkbox"/>
b. Police protection?		<input checked="" type="checkbox"/>		
c. Schools?				<input checked="" type="checkbox"/>
d. Parks and Recreation?				<input checked="" type="checkbox"/>
e. Other public facilities?				<input checked="" type="checkbox"/>

**14a): No Impact:** The ordinance amendments clarify and require compliance with all local laws of all local agencies and departments, including those of the Alameda County Planning Department and the Alameda County Fire Department. With compliance with these applicable laws and regulation, impacts related to fire protection would be less than significant.

**14b): Less than Significant.** It should be noted that the County’s Sheriff’s Office has stated its position early in the process and remains concerned about the prospect of additional dispensaries, and cultivation sites in the East County. Concerns about providing adequate resources to ensure public safety, additional delivery services, quantity limitations (or lack thereof) and general concern about the potential for strain on existing resources remain. However, the project would not result in substantial adverse physical impacts associated with the provision of new or physically altered Sheriff’s facilities in order to maintain acceptable service ratios, response times or other performance objectives, the construction of which could cause significant environmental impacts.

For new cultivation sites, the Performance Standards and Standard Conditions for pilot program cultivation sites requires each medical cannabis cultivation permit site to comply with the following performance standards and standard conditions:

**15. Safety and security.** Permittees shall provide adequate security on the premises, including lighting and alarms, to insure the safety of persons and to protect the premises from theft.

In addition, the Performance Standards require submittal of an Operations Plan including a Site Security Plan. Other obligations regarding security are provided in Chapter 6.108 for dispensaries and deliveries and cultivation sites.<sup>7</sup>

It is likely that unpermitted cultivation of cannabis is currently occurring in unincorporated areas of Alameda County. Such cultivation activities often occur in remote areas where public services are not readily accessible and emergency service response times are longer. Regulatory enforcement actions of the County for unpermitted cannabis activities often require involvement by the County Sheriff due to the nature of these operations. Unpermitted activities may, and are likely to continue even with adoption of the proposed ordinance amendments. However, the clarification and codification of permitted cannabis operations as proposed could result in a reduction in unpermitted activities.

**14c, d and e): No Impact.** The project does not include any form of subdivision or residential uses that would necessitate new school facilities, and the project would not generate any public school students. Similarly, the project does not include any new park or recreational facilities, and the project would not generate any increased demands for parks or recreational facilities.

As drafted, the ordinances (Ordinance § 6.108.030(E)(2) and Ordinance § 17.52.585(C)(9)(c)) prohibit dispensary locations and cultivation sites closer than one thousand (1000) feet from any school, public park or playground, drug recovery facility or recreation center. For operations attempting to get permitted under the subject ordinances, a Conditional Use Permit will be required. Permit standards would include consideration for adequate public services and facilities on a case by case basis. Enforcement and permitting activities will be addressed through existing service locations and no new or expanded public service facilities are proposed or anticipated to address the contemplated uses.

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<sup>7</sup> See Alameda County General Ordinance Code at §6.108.060(11), §6.108.120(A)(13), §6.108.125(A)(12), §6.108.110 and §6.106.080(A)(11).

**16. TRANSPORTATION**

Would the project:

	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?		<input checked="" type="checkbox"/>		
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?		<input checked="" type="checkbox"/>		
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?			<input checked="" type="checkbox"/>	
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?			<input checked="" type="checkbox"/>	
e) Result in inadequate emergency access?			<input checked="" type="checkbox"/>	
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?		<input checked="" type="checkbox"/>		

**16a, b and f): Less than Significant.** The project includes consideration of ordinance amendments that would lead to the permitting of up to five medical cannabis retail outlets in areas zoned for commercial or agricultural uses and up to four cultivation operations in areas zoned for agricultural uses. Traffic effects related to the operation of these facilities would result from employee commutes, retail sales, delivery of supplies and materials related to the cultivation of cannabis products and delivery to qualified patient users. Traffic generated by these activities would be comparable to other commercial retail business or agricultural operation and the limited number of potential facilities suggests that the combined traffic for all possible operations, dispersed geographically in accordance with the proposed ordinance, would have an imperceptible effect on traffic circulation and would be consistent with transportation policies in the three General Plans and Specific Plans applicable in the areas where the facilities would be permitted – the Eden Area Plan, the Castro Valley General Plan and East County Area Plan and the Fairview Area Specific Plan. Controls for traffic related impacts are tied to analysis of traffic impacts from development. A dispensary permit will be required for all retail dispensaries and a Conditional Use Permit will be required for each of the four potential cultivation sites in East County. Traffic impacts associated with any

of these potential facilities will be assessed prior to the issuance of any permit. Evaluation will include any requirements for circulation improvements or fair-share contributions to ensure that adequate levels of services are maintained at intersections and on streets, roads, and highways. The project will not conflict with transportation policies of the East County Area Plan, the Castro Valley General Plan or the Eden Area Plan or other plans including Specific Plans adopted to ensure adequate transportation facilities in the County.

**16c): No Impact.** The project does not include significant changes in population or require any changes to air traffic patterns. Business-related air travel associated with the medical cannabis activities contemplated would likely use existing airports with existing air traffic patterns and are not anticipated to result in a significant increase in demand that would necessitate changes in air traffic. Therefore the project will have no impact on air traffic patterns or levels that might result in a substantial safety risk.

**16d and e): No Impact.** The project does not include permitting of any new improvements that might change traffic patterns or circulation. Each application made pursuant to the ordinances would be evaluated through a Conditional Use Permit review and approval process. The evaluation would include any improvements associated with the requested medical cannabis activity including driveway encroachments, new roads or road improvements, site distance, and adequate access and turn-around space for emergency vehicles. In general, the uses contemplated in the ordinance amendments would be located within buildings. Any construction of new structures or roads would be subject to regulations and permitting requirements including review by County Planning, Public Works, the applicable Fire Districts, and responsible agencies. Therefore the project would not create hazards or result in inadequate emergency access.

**17. UTILITIES AND SERVICE SYSTEMS**

Would the project:

	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				<input checked="" type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?		<input checked="" type="checkbox"/>		
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				<input checked="" type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste?				<input checked="" type="checkbox"/>

**17a, b, c and e): No Impact.** The project consists of ordinance amendments that establish permit requirements and regulations for commercial medical cannabis activities. A dispensary permit and delivery permit will be required prior to allowing any new dispensary or delivery operation. All improvements to land and structures for a dispensary permit will be subject to existing regulations and permit requirements. The ordinance amendments for dispensary permits would apply only in commercially and agricultural zoned districts in the unincorporated areas of the West County, and in the agricultural zoned areas of East County. Depending on the specifics of each site, dispensaries would most likely be served by existing municipal wastewater systems or, in East County sites, potentially by on-site septic systems. Storm water facilities would be provided on-site and would likely connect to existing infrastructure in commercial zoning districts. Each application for a dispensary or delivery permit made pursuant to the ordinance amendments will include consideration, through the permit process, of the method of wastewater disposal, the capacity of the system to accommodate the intended use, and the need to address storm water runoff. In general, the dispensary uses considered in the ordinance amendments are additive to a list of uses already allowed in the applicable zones or areas. Medical cannabis dispensary activities are not likely to generate more wastewater or storm water runoff than uses of a similar nature

already provided by the County Code without the project. Therefore, there will be no impact as a result of wastewater treatment or construction of storm water facilities.

For new cultivation sites, the Performance Standards and Standard Conditions for pilot program cultivation sites requires each medical cannabis cultivation permit site to comply with the following performance standards and standard conditions:

*29. Waste. Solid and liquid wastes generated during cannabis production and processing must be stored, managed, and disposed of in accordance with applicable state and local laws and regulations. Wastewater generated during cannabis production and processing must be disposed of in compliance with applicable state and local laws and regulations.*

Additionally, Section 17.52.585 of the draft cultivation ordinance states that no Conditional Use Permit for cultivation shall be issued unless the Board of Zoning Adjustments finds that:

*The discharge into any public sewer, private sewage disposal system or stream or into the ground shall not occur except in accordance with the standards approved by the State Department of Health, of any materials of such nature or temperature as to contaminate any water supply, interfere with bacterial processes and sewage treatment, or in any way cause the emission of dangerous or offensive elements;*

Based on required compliance with all applicable state and local laws and regulations pertaining to wastewater disposal and stormwater management, the project would not result in significant impacts related to wastewater treatment or construction of necessary storm water facilities.

**17d): Less than Significant.** The source of water for each permitted activity will depend on the location and whether or not municipal water services are available. Dispensary operations located within commercial areas of the West County will likely rely on water from existing water service providers. The operation of dispensaries and related medical cannabis activities (such as delivery) will be similar in nature to other land uses already permitted in the applicable zoning districts (e.g. transportation/distribution and dispensaries/retail stores) and would not represent an unique water demand requirement.

Any dispensaries located in the agricultural districts will likely rely on the same sources as are used for rural residences or commercial uses including domestic wells using groundwater and water from water service providers such as Zone 7. The limited number of potential dispensaries in the East County area would not present a significant increase in demand or impact on groundwater resources or require water service providers to seek ways to increase available water resources.

Cultivation operations, which would be permitted only in areas zoned for agriculture, primarily located in East County, may rely on ground water from private wells or on water from existing water service providers. There are no definitive studies regarding water consumption of indoor-grown cannabis plants, or a comparison of water needed for cannabis plants against other crops that are typically found in greenhouses or grown indoors. Available studies report wide variations in water demands, ranging from 6 gallons of water per day per cannabis plant, to approximately 1 gallon of water per day per cannabis plant. Most sources recognize that the water demand of cannabis cultivation is not standardized, and that many

factors including location, plant maturity and soils affect the water needed to grow a cannabis plant. However, the Mills research paper presents a well-documented, if conservative estimate for water demands associated with an indoor hydroponic cannabis cultivation grow room.<sup>8</sup> According to this paper, a 22 square-meter hydroponic grow room requires approximately 151 liters of water per day. Converting this water demand ratio to a structure or greenhouse that contains 22,000 square feet of cannabis canopy cover results in a water demand of approximately 14,133 liters per day, or approximately 3,734 gallons per day, or 1.36 million gallons of water per year. This is roughly equivalent to the water demands associated with approximately 18 or 19 single family homes, assuming a water demand of approximately 200 gallons per day/dwelling unit. This level of water application is again conservative (i.e., worst-case) and much higher than traditional soil-grown water applications.

Water management staff at the Zone 7 Water Agency indicates that wine growers in eastern Alameda County use between 0.7 – 0.9 acre feet (AF<sup>9</sup>) of water per year for grape cultivation, and that olive growing requires between 1.0 and 1.5 AF. Zone 7 delivers between 5,500 and 6,000 AF of water for agricultural uses in East County annually.<sup>10</sup> Using the worst case estimate from above, a 22,000 square foot cannabis cultivation operation would require approximately 4.2 AF of water per year, and all 4 cultivation sites would require 16.8 AF. This amount equates to approximately 0.3 percent of the annual Zone 7 agricultural water usage.

CEQA Guidelines section 15155 requires a Water Supply Assessment (WSA) for any “high water-demand project,” which is defined as any project that would demand an amount of water equivalent to or greater than the amount of water required by a 500 dwelling unit project. Thus, a new cultivation site (even under a conservative, worst case scenario) would not be considered a high water-demand project for which a WSA would be needed, and would likely be able to be served by the existing water purveyor (Zone 7) from existing water supplies. Cannabis cultivation activities that rely on ground water demand may be restricted if the water quality is not acceptable for crop irrigation (e.g., has too high of a salinity level).

In all cases, permittees of cultivation sites must comply with all local ordinances, regulations, guidelines, standards and requirements of all local agencies and departments, must obtain and maintain any permit, license, certification or registration required by a local agency or department, and must pay all local taxes and fees – including those of the Alameda County Public Works Agency, the Alameda County Fire Department and the Zone 7 Water Agency or other agency having jurisdiction over water supply. Thus, whenever State-wide or regional drought conditions are present, as in recent years, and when mandatory

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<sup>8</sup> Elsevier Ltd., “The Carbon Footprint of Indoor Cannabis Production”, by Evan Mills of Energy Associates, March 2012

<sup>9</sup> One acre foot is the amount of water that would cover an acre of land to a depth of 1 foot, = 43,560 cubic feet, approximately 325,851 U.S. gallons.

<sup>10</sup> Telephone conversation with Sal Segura, Zone 7 Water Agency, February 9, 2017.



conservation efforts are applied to water service providers such as Zone 7, prohibitions and restrictions intended to prevent waste and unreasonable use of water are instituted and applied against water consumers. Cannabis cultivation operations using Zone 7 water or otherwise subject to Zone 7 regulations and restrictions would be subject to water use cutbacks and conservation measures along with all other agricultural water users.

As indicated above, cannabis cultivation permittees' demand for water is estimated to represent a small (less than 1 percent) percentage of Zone 7 water that is available to East County agricultural users. For this reason, Zone 7 would not need to expand its access to water supplies or entitlements or modify or expand its existing service system infrastructure to meet the demands of cultivation sites. Cannabis cultivation water customers would be subject to system-wide restrictions and cut-backs during drought conditions. For all of these reasons, potential impacts to water resources resulting from cannabis cultivation sites would be less than significant.

**17 f and g): No Impact.** Solid waste generated from the up to five possible medical cannabis dispensaries and four cultivation sites would be addressed through permitting requirements and will likely be handled at permitted landfills regulated by the Alameda County Waste Management Authority (ACWMA). The major landfill in Alameda County is the Altamont Landfill and Resource Recovery facility located at 10850 Altamont Pass Road, Livermore which has over 60 million cubic yards of remaining capacity that is anticipated to be sufficient to accommodate solid waste disposal through 2025. The other operating landfill is the Vasco Road Sanitary Landfill, located at 4001 North Vasco Road, Livermore. It has remaining capacity of over 7 million cubic yards and is expected to cease operations in 2022.

For new cultivation sites, the Performance Standards and Standard Conditions for pilot program cultivation sites requires each medical cannabis cultivation permit site to comply with the following performance standards and standard conditions:

*29. Waste. Solid and liquid wastes generated during cannabis production and processing must be stored, managed, and disposed of in accordance with applicable state and local laws and regulations. Wastes from the production and processing of cannabis plants must be evaluated against the state's hazardous waste regulations to determine if those wastes classify as hazardous waste. It is the responsibility of each waste generator to properly evaluate their waste to determine if it is designated as a hazardous waste. If a generator's waste does qualify as a hazardous waste, then that waste is subject to the applicable management and disposal standards. A cannabis plant, usable cannabis, trim and other plant material in itself is not considered hazardous waste unless it has been treated or contaminated with a solvent. d. Cannabis wastes that do not qualify as hazardous including but not limited to trim, roots, stalks, leaves, and stems must be rendered unusable prior to leaving the cultivation site.*

*30. Required Operations Plan. All applicants shall, at the time of the application for a conditional use permit, include an Operations Plan with their application materials that addresses the following elements in sufficient detail for the County to evaluate the*

*proposed cultivation operation against the requirements, [including] a Waste Disposal Plan.*

Approval of the ordinance amendments would not substantially affect the ability of solid waste collection and disposal services to accommodate waste disposal within existing capacity limits particularly in view of the County's ongoing mandate to meet waste diversion requirements of the California Integrated Waste Management Act of 1989 including composting, recycling, public education, and other programs to promote waste diversion goals. Therefore, no significant impacts to utilities and services would occur as a result of the proposed project's implementation.

18. MANDATORY FINDINGS OF SIGNIFICANCE	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?			<input checked="" type="checkbox"/>	
b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)			<input checked="" type="checkbox"/>	
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?			<input checked="" type="checkbox"/>	

No potentially significant effects on the environmental have been identified in the preceding sections of this Initial Study.

**18a): No Impact.** As drafted, the proposed ordinance amendments would allow commercial medical cannabis dispensaries in commercial and agricultural zoning districts and cultivation in agricultural zoned areas in East County. As discussed in the preceding sections of this Initial Study, the ordinance amendments would have a less than significant impact on biological resources and would have no impact on cultural resources given the limitations on the zones where medical cannabis activities could be permitted.

**18b): No Impact.** CEQA Guidelines (Section 15355[b]) defines cumulative impacts as those resulting from closely related past, present, and reasonably foreseeable projects. CEQA Guidelines (Section 15125[a]) also defines the analytical baseline as the conditions on the ground at the time that the Initial Study is prepared. Impacts of past projects are generally considered as part of these baseline conditions. As drafted, the proposed ordinance amendments contain regulatory requirements that ensure that a variety of environmental concerns are addressed on a cumulative basis. Individually, each project will require discretionary review to ensure that applicable policies and regulations protective of environmental resources are addressed and a finding must be made prior to approving any commercial medical cannabis activities that such approval will not result in a significant impact on the environment. The project plus

cumulative development would not result in any significant and unmitigated effects on these resources. Project implementation would not involve cumulatively significant impacts.

**18c): No Impact.** The subject ordinances contain regulations that address potential impacts on humans such as odor, air quality, water and wastewater controls, light and glare, noise and other potential impact topics. Discretionary review of each application is required which will ensure appropriate measures are taken to address health and safety concerns.

## **E. SOURCES**

1. Proposed Ordinance amending Chapter 6.108 of the Alameda General Code to Conform the Medical Marijuana Dispensaries Ordinance to the California Medical Cannabis Regulatory and Safety Act, and to Permit and Regulate the Delivery of Medical Cannabis in the Unincorporated Areas of Alameda County, and Regulate the Sale, Dispensing and Delivery of Edibles.
2. Proposed Ordinance Amending Title 17 of the Alameda County General Code (Zoning) to Conditionally Permit Medical Cannabis Dispensaries in Specified Districts within The Unincorporated Area Of Alameda County
3. Proposed Ordinance Amending Chapter 6.106 of the Alameda County General Code to Implement a pilot program Authorizing and Regulating the Cultivation of Medical Cannabis in the Unincorporated Area of Alameda County
4. Proposed Ordinance Amending Title 17 of the Alameda County General Code to Implement a pilot program Authorizing and Regulating the Cultivation of Medical Cannabis in the Unincorporated Area of Alameda County
5. Proposed Performance Standards and Standard Conditions for the pilot program Cultivation Sites.
6. The Medical Cannabis Regulation and Safety Act (codified as Chapter 3.5 of Division 8 of the California Business and Professions Code)
7. Geographic Information Systems (GIS) software and maps. Alameda County, 1994.
8. East County Area Plan. A Portion of the Alameda County General Plan, adopted May 1994, and amended to include Measure D amendments 2000.
9. Castro Valley General Plan, March 2012.
10. Eden Area General Plan County, March 2010
11. East Alameda County Conservation Strategy (Draft).

## **F. REPORT PREPARATION**

This Initial Study and Mitigated Negative Declaration was prepared by the Alameda County Community Development Agency, Planning Department, under the guidance of Elizabeth McElligott, Assistant Planning Director, with assistance from the County's environmental consultant, Lamphier-Gregory.

ORDINANCE NO. 2017-\_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 6.108 OF THE ALAMEDA COUNTY GENERAL ORDINANCE CODE TO REGULATE MEDICAL CANNABIS DISPENSARIES, TO PERMIT AND REGULATE THE DELIVERY OF MEDICAL CANNABIS IN THE UNINCORPORATED AREA OF THE COUNTY OF ALAMEDA, AND TO REGULATE THE SALE, DISPENSING AND DELIVERY OF EDIBLES

SECTION 1

The Board of Supervisors makes the following findings of fact in support of this ordinance:

1. In 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code section 11362.5 and titled the "Compassionate Use Act of 1996"); and
2. The intent of Proposition 215 was to enable persons who are in need of cannabis for medical purposes to be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances; and
3. In 2004, Senate Bill 420 was enacted (codified as California Health and Safety Code section 11362.7 *et seq.* and titled the "Medical Marijuana Program Act") to clarify the scope of the Compassionate Use Act of 1996. The Medical Marijuana Program Act allows counties to adopt and enforce rules and regulations consistent with its provisions; and
4. In 2011, Assembly Bill 2650 was enacted (codified as California Health and Safety Code section 11362.768). This law affirms that counties can adopt ordinances that restrict the location and establishment of medical cannabis collectives and cooperatives; and
5. In 2015, Assembly Bill 243, Assembly Bill 266 and Senate Bill 643 were enacted (codified in part as California Business and Professions Code section 19300 *et seq.* and titled the "Medical Marijuana Regulation and Safety Act"). These bills also amended provisions of the Medical Marijuana Program Act related to the cultivation of medical cannabis; and
6. In 2016, Senate Bill 837 was enacted to change all references to medical marijuana or marijuana to medical cannabis or cannabis, including changing the name of the Medical Marijuana Regulation and Safety Act to the Medical Cannabis Regulation and Safety Act; and
7. The Medical Cannabis Regulation and Safety Act establishes a comprehensive framework to license and regulate commercial medical cannabis cultivation, manufacturing, distribution, transportation, sales, and testing; and
8. Pursuant to California Business and Professions Code section 19315(a), nothing in the Medical Cannabis Regulation and Safety Act shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local permit or licensing requirements; and
9. This Ordinance is enacted, consistent with the Compassionate Use Act of 1996, the Medical

Marijuana Program Act, and the Medical Cannabis Regulation and Safety Act to protect the public health, safety, and welfare of residents of the County of Alameda in relation to the distribution and delivery of medical cannabis; and

10. In *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4th 729, the California Supreme Court concluded that nothing in the Compassionate Use Act nor the Medical Marijuana Program Act precludes a local jurisdiction from regulating or prohibiting facilities that distribute medical cannabis; and
11. Although not authorized by the County, it is believed that the delivery of medical cannabis has been occurring in the unincorporated area of the County; and
12. Permitting the delivery of medical cannabis provides an important service to those who are seriously ill, elderly, and persons with disabilities who are otherwise unable to easily access "brick and mortar" dispensaries; and
13. Absent appropriate regulation, the delivery of medical cannabis in the unincorporated area of the County poses a potential threat to the public peace, health, and safety; and
14. Medical cannabis dispensaries have been dispensing food products containing cannabis, commonly referred to as "edibles", that may constitute a unique health hazard to the public because, unlike other ingestible items, edibles are not presently regulated, inspected, or analyzed for concentration by state or federal government; and
15. The County intends to proceed with further study and public meetings to consider additional ordinances that most effectively regulate and license all facets of medical cannabis activities, including cultivation and manufacturing; and
16. The County has a compelling interest in protecting the public health, safety, and welfare of its residents, visitors and businesses, in preserving the peace and quiet of the neighborhoods within the unincorporated areas of the County by regulating the distribution and delivery of medical cannabis and the production and packaging of edibles; and
17. On November 8, 2016, the voters of the State of California approved Proposition 64 (codified, in part, as California Business and Professions Code sections 2600 *et seq.* and titled the "Control, Regulate and Tax Adult Use of Marijuana Act"), which decriminalizes the adult use of cannabis for non-medical purposes and establishes a regulatory scheme at the state level; and
18. This Ordinance regulates the dispensing and delivery of medical cannabis and medical cannabis products in the unincorporated areas of the County and does not address the dispensing or delivery of cannabis for non-medical use under Proposition 64 or otherwise;
19. Nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. § 801 *et seq.* or to license any activity that is prohibited under said Act except as mandated by State law; and
20. Nothing in this Ordinance shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) allow the use of cannabis for non-medical purposes; (3) exempt dispensaries or delivery operations from compliance with zoning and land use regulations, or, (4) allow any activity relating to the cultivation, distribution, or

consumption of cannabis that is illegal under state or federal law.

## SECTION 2

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of the County of Alameda, as follows:

Chapter 6.108 of the Alameda County General Ordinance Code is hereby amended to read as follows:

### **Chapter 6.108 – Medical Cannabis Dispensaries, Delivery Operations and Edibles**

#### **6.108.010 - Purpose and intent.**

The purpose and intent of this chapter is to implement state law by providing a means for regulating the operation of medical cannabis dispensaries, the delivery of medical cannabis, and the preparation, packaging and labeling of medical cannabis edibles in a manner that is consistent with state law and which promotes the health, safety and general welfare of the residents and businesses within the unincorporated portions of the county.

#### **6.108.020 - Definitions.**

The following words and phrases shall have the following meanings when used in this chapter:

- A. "Applicant" means a person who shall seek a permit under this chapter by filing an application as provided for in this chapter. "Application" means that form provided by the director in accordance with this chapter for the purpose of seeking a permit.
- B. "Bureau" means the Bureau of Medical Cannabis Regulation within the California Department of Consumer Affairs.
- C. "Brick and mortar" dispensary means a dispensary with a permanent physical location for which a license or permit to dispense medical cannabis from a store-front retail premise for direct physical access to qualified patients and primary caregivers has been issued by the state and, when required by the jurisdiction in which the dispensary is located, by the host local government.
- D. "Cannabis" shall have the same definition as in Business and Professions Code section 19300.5(f), which defines "cannabis" as all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" also means marijuana as defined by Section 11018 of the California Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For purposes of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.



- E. "Cannabis concentrate" or "Concentrate" shall have the same definition as in Business and Professions Code section 19300.5(g), which defines "cannabis concentrate" to mean manufactured cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this chapter. A cannabis concentrate is not considered food, as defined by Section 109935 of the California Health and Safety Code, or a drug, as defined by Section 109925 of the California Health and Safety Code.
- F. "Community Development Agency" means the community development agency of the County of Alameda.
- G. "County" means the County of Alameda.
- H. "Cultivate" or "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of medical cannabis.
- I. "Delivery" means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined by the Bureau of Medical Cannabis Regulation or, until the Bureau establishes an allowed amount, the amount allowed by California Health and Safety Code Section 11362.77, to a primary caregiver or qualified patient as defined in Section 11362.7 of the California Health and Safety Code, or a testing laboratory. "Delivery" also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed by the Bureau, which enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.
- J. "Delivery Operator" means a person holding a permit under this Chapter to engage in the delivery of medical cannabis or medical cannabis products.
- K. "Director" means the director of the Community Development Agency or his designee.
- L. "Dispensing" means any activity involving the retail sale of medical cannabis or medical cannabis products from a dispensary.
- M. "Dispensary" means a premises where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to Business and Professions Code Section 19340, medical cannabis and medical cannabis products as part of a retail sale under the authority of the California Compassionate Use Act, the Medical Marijuana Program Act, or the California Medical Cannabis Regulation and Safety Act and as regulated by this chapter; provided, however, that the following facilities are exempt from the requirement of a permit:
  1. A clinic that is licensed under Chapter 1 of Division 2 of the California Health and Safety Code.
  2. A health care facility that is licensed under Chapter 2 of Division 2 of the California Health and Safety Code.
  3. A residential care facility for persons with chronic life-threatening illness that is licensed under Chapter 3.01 of Division 2 of the California Health and Safety Code.
  4. A residential care facility for the elderly that is licensed under Chapter 3.2 of Division 2 of the California Health and Safety Code.
  5. A residential hospice or a home health agency that is licensed under Chapter 8 of Division 2 of the California Health and Safety Code.

- N. "Distribution" means the procurement, sale, and transport of medical cannabis and medical cannabis products between entities licensed pursuant to Chapter 3.5 of the California Business and Professions Code.
- O. "Edible cannabis product", "Edible" or "Edibles" shall have the same definition as in Business and Professions Code section 19300.5(s), which defines "edible cannabis product" as manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the California Food and Agricultural Code. An edible medical cannabis product is not considered food, as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code.
- P. "Eligible application" means an application that complies with the requirements of the initial review and is submitted for final selection, as provided for in Section 6.108.110.
- Q. "Identification card" has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended.
- R. "Labeling" means any label or other written, printed, or graphic matter upon a medical cannabis product, or upon its container or wrapper, or that accompanies any medical cannabis product.
- S. "Manufactured cannabis" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.
- T. "Medical cannabis," "medical cannabis product," or "cannabis product" means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code. For the purposes of this chapter, "medical cannabis" does not include "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.
- U. "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of medical cannabis.
- V. "Permit" means a permit issued by the county to a medical cannabis dispensary or delivery operator under this chapter. "Permittee" means a person who holds an effective and current permit under this chapter.
- W. "Person" means any human being or an incorporated or unincorporated business entity or association established under the laws of the state.
- X. "Person with an identification card" means an individual who is a qualified patient who has applied for and received a valid identification card pursuant to Article 2.5 of the California Health and Safety Code
- Y. "Premises" means the building in which a medical cannabis dispensary is operated and, in addition, any accessory structures and appurtenant areas.
- Z. "Primary caregiver" means the individual, designated by a qualified patient or a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, and may include those persons identified in subdivision (e) of Section 11362.5 of the California Health and Safety Code, as it may be amended.

- AA. "Qualified patient" means a person who is entitled to the protections of Section 11362.5 of the California Health and Safety Code, but who does not have an identification card issued pursuant to Article 2.5 of the California Health and Safety Code.
- BB. "School" means an institution of learning for minors, whether public or private, that offers a regular course of instruction.
- CC. "Sheriff" means the sheriff of the County of Alameda and his or her authorized representatives.
- DD. "State" means the state of California.

**6.108.030 – Dispensary permit required.**

- A. It shall be unlawful for any person to conduct, engage in or allow to be conducted or engaged in, the operation of a medical cannabis dispensary in the unincorporated portion of Alameda County, unless such medical cannabis dispensary has been granted a legally effective permit issued under this chapter. Notwithstanding the above, the permits issued under this chapter do not provide any protection or immunity for any person from state or federal laws, or from prosecution pursuant to any applicable state or federal laws.
- B. The owner, managing partner, officer of a corporation or such other person who shall be primarily responsible for the operation of a proposed medical cannabis dispensary shall apply for a permit under this chapter and, if granted, shall maintain the operation of the medical cannabis dispensary in conformity with the terms of this chapter and of the permit.
- C. The fact that an applicant possesses other types of state or county permits or licenses other than those identified in Section 6.108.020 shall not exempt the applicant from obtaining a permit under this chapter, nor shall the terms and conditions of any other such permit or license modify the requirements of a permit granted under this chapter.
- D. At no time shall the county have in effect more than five permits, which shall not exceed a maximum of two permits in any one of the two areas and one permit in the other area shown in Exhibit A (West County) or a maximum of two permits in the area shown in Exhibit B (East County) at the end of this chapter. In no event shall the total number of permits for all areas shown in Exhibit A (West County) exceed three or the total number of permits for all areas shown in Exhibit B (East County) exceed two. No permit shall be issued in any portion of the unincorporated area that is not within one of the areas delineated in Exhibit A or Exhibit B.
- E. Notwithstanding subsection D of this section, each medical cannabis dispensary shall comply with all zoning requirements in Title 17 of the Alameda County General Ordinance Code, the Alameda County General Plan, and any Specific Plan applicable to the location of the dispensary, including the requirement to obtain any conditional use permits, and shall also meet all of the following locational standards:
  - 1. No dispensary may be closer than one thousand (1000) feet from any other dispensary.
  - 2. No dispensary may be closer than one thousand (1000) feet from any school, any licensed child or day care facility, public park or playground, drug recovery facility or recreation center.
  - 3. No dispensary shall be located in a residential zone or its equivalent.

**6.108.035 – Delivery permit required.**

- A. It shall be unlawful for any person, including a legally permitted medical cannabis dispensary, to conduct, engage in or allow to be conducted or engaged in the delivery of medical cannabis or medical cannabis products in the unincorporated portion of Alameda County, unless such person has been granted a legally effective delivery permit issued under this chapter. Notwithstanding the above, the permits issued under this chapter do not provide any protection or immunity for any person from state or federal laws, or from prosecution pursuant to any applicable state or federal laws.
- B. The owner, managing partner, officer of a corporation or such other person who shall be primarily responsible for the operation of a proposed medical cannabis delivery operation shall apply for a permit under this chapter and, if granted, shall maintain the operation of the medical cannabis delivery operation in conformity with the terms of this chapter and of the permit.
- C. The fact that an applicant possesses other types of state or county permits or licenses shall not exempt the applicant from obtaining a delivery permit under this chapter, nor shall the terms and conditions of any other such permit or license modify the requirements of a permit granted under this chapter.
- D. A medical cannabis delivery permit shall be issued only to a “brick and mortar” dispensary holding a valid license or permit to dispense medical cannabis issued by the State of California or by a California city, county, or city and county. Mobile dispensaries that do not have a permanent physical dispensary location (a “brick and mortar” dispensary) are not eligible for and shall not be issued a delivery permit.
- E. A delivery permit shall automatically expire, be suspended or revoked when the permit holder’s dispensary license or permit expires, is suspended or revoked. The expiration, suspension or revocation of a delivery permit will not automatically affect the status of the delivery permit holder’s dispensary license.

**6.108.040 - Term of permits and renewals.**

- A. Each dispensary permit shall expire two years after the date of its issuance.
- B. The term of each delivery permit shall run concurrent with the term of the delivery permit holder’s dispensary permit, but in no event longer than two years after the date of its issuance.
- C. Any permit may be renewed by the director for successive two-year periods upon the submission of a renewal application by the permittee. At the time of consideration of a renewal application, the county shall consider compliance with conditions in the prior term.
- D. Any application for renewal shall be filed at least forty-five (45) days before expiration of the permit.
- E. Any application for renewal shall be rejected if:
  - 1. The application is filed less than forty-five (45) days before its expiration.
  - 2. The permit is suspended or revoked at the time of the application; provided, however, that an application for renewal may be filed within ten days after the granting of a permittee’s appeal of the suspension or revocation of a permit.
  - 3. The dispensary authorized by the dispensary permit has not been in regular operation in the four months prior to the renewal application.

4. The dispensary fails to conform to the criteria set forth in Section 6.108.100 or, for a delivery permit, the dispensary fails to conform to the criteria set forth in Section 6.108.125.

**6.108.050 – Dispensary permit application and renewal procedures.**

- A. When one or more dispensary permits authorized by Section 6.108.030 is available for award, the director will initiate a process to solicit applications for the establishment of a dispensary within an area where a dispensary could be established based upon the provisions of Section 6.108.030.
- B. Each application for the establishment of a dispensary or renewal of an existing dispensary permit shall be filed with the director and the director shall be responsible for administering the application solicitation and renewal application processes as set forth in this chapter.
- C. The director shall adopt such forms and procedures as are necessary to implement this chapter with respect to the initial selection, future selection, renewal, revocation and suspension of permits.
- D. Wherever this chapter requires the county to give notice to an applicant, appellant or permittee, such notice shall be given by the director, in writing, and shall be delivered either by personal delivery or by certified U.S. mail, postage prepaid, return receipt requested. In addition, any such notice shall be posted at the address of the dispensary on the date of the mailing of notice.
- E. No person or facility that purports to have distributed or delivered cannabis prior to the enactment of this chapter shall be deemed to have been a legally established dispensary or delivery operation under the provisions of this chapter, and such person or facility shall not be entitled to claim a legal nonconforming status.

**6.108.060 - Contents of dispensary permit application.**

- A. In response to a solicitation for applications initiated by the director, each application for a dispensary permit shall set forth or incorporate by reference the following information and such other relevant information determined by the director to be reasonably required, all in a standard form adopted by the director:
  1. Address of the proposed dispensary and the name and address of the owner of the premises.
  2. The full name, date of birth, social security number, present address and telephone number of the applicant.
  3. The address to which notice of action on the application is to be mailed.
  4. All residential addresses of the applicant for the five years immediately prior to the date of the application.
  5. Written proof that the applicant is eighteen (18) years of age or older (i.e., California driver's license, California identification card or birth certificate).
  6. The height and weight and the color of eyes and hair of the applicant.
  7. Photographs of the applicant for identification purposes to be taken by the sheriff.
  8. The names and addresses of all businesses operated by and the employment of the applicant for the five years immediately prior to the date of the application.

9. The address of any dispensaries that had previously been operated by the applicant and a statement of whether the authorization for any such operation had been revoked or suspended and, if so, the reason therefor.
10. The names and telephone numbers of the person or persons to be regularly engaged in the operation of the proposed dispensary, whether an employee, volunteer or contractor. The application shall also identify those persons, including telephone numbers (i.e., emergency contact), having management and supervisory responsibilities for the proposed dispensary. Every person listed as owner, manager, supervisor or employee must submit fingerprints and other necessary information for a background check to the Alameda County sheriff's office, and be photographed for identification purposes. In addition, any new employees, independent contractors, other persons and/or volunteers who will work at the proposed medical cannabis dispensary must submit their information to the sheriff's office within five days prior to their employment.
11. A security plan containing a detailed description of the proposed security arrangements for ensuring the safety of persons from theft and robbery and protection of the premises from theft and burglary. The security plan shall be approved by the Sheriff, and shall include a lighting plan showing existing and proposed exterior premises and interior lighting levels, alarms and security surveillance cameras. Security video shall be maintained for 30 business days and shall be made available to the Sheriff upon request. The video system for security cameras must be located in a locked, tamper-proof compartment. A professionally monitored robbery alarm system shall be installed and maintained in good working condition. The security plan shall include the provision of a suitable locked safe on the premises for after-hours storage of medical cannabis.
12. A floor plan, consisting of a sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the dispensary. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus twelve (12) inches. The dispensary must have a lobby waiting area at the entrance to receive clients, and a separate and secure designated area for dispensing medical cannabis to qualified patients or designated caregivers. The primary entrance shall be located and maintained clear of barriers, landscaping or similar obstructions so that it is clearly visible from public streets, sidewalks, or site driveways.
13. A description of external appearance of the dispensary, including a precise depiction of any signage, which shall not obstruct the entrance or windows of the dispensary. All signage shall comply with the County Zoning Ordinance.
14. A description of products to be sold or dispensed by the dispensary.
15. The mission statement of the dispensary with respect to meeting the medical needs of patients in its area, as delineated by subsection D of Section 6.108.030.
16. A description of the methods by which the applicant will mitigate any potentially adverse impacts, such as loitering, odors or noise, on surrounding property owners. The dispensary shall be designed to provide sufficient odor absorbing ventilation and exhaust systems to that any odor generated inside the dispensary is not detected outside the building in which it operates, on adjacent public rights-of-way, or within other units located within the same building as the dispensary if it occupies only a portion of the building.

17. Authorization for the county, its agents and employees to seek verification of the information contained in the application.
  18. Written certification that the applicant has reviewed and understands and accepts the standard conditions that are set forth in Section 6.108.120.
  19. Certification, under penalty of perjury, that all the information contained in the application is true and correct.
  20. A statement by the applicant that it has the ability to comply with all laws regulating businesses in the state of California and that it shall maintain compliance during the term of the permit.
  21. An operating plan specifically describing how the dispensary will operate consistent with State and local law, including but not limited to: the minimum staffing levels for operation of the dispensary, policies and procedures for record keeping, specific details of the dispensary's track and trace program, specific details of the dispensary's product testing, specific details of the dispensary's proposed odor absorbing ventilation and exhaust systems, and other relevant information regarding the operation of the proposed dispensary and including a copy of the dispensary's labor peace agreement when the dispensary is required by California Business & Professions Code Section 19322(a)(6) to enter into or abide by a labor peace agreement.
- B. The filing of an application shall be deemed complete upon the submission of an application in conformance with this section and payment of the application fees required by Section 6.108.070.
- C. An application may be reviewed and copied by any member of the public in accordance with the California Public Records Act.

**6.108.065 – Delivery permit application and renewal procedures; contents of delivery permit application.**

- A. The owner, managing partner, officer of a corporation of a licensed or permitted medical cannabis dispensary or such other person who shall be authorized by the licensed or permitted medical cannabis dispensary may apply for a delivery permit or for renewal of a delivery permit under this chapter and, if granted, shall maintain the operation of the medical cannabis delivery operation in conformity with the terms of this chapter and of the permit.
- B. Each application for a delivery permit or renewal of a delivery permit shall set forth or incorporate by reference the information required for a dispensary permit in Section 6.108.060 and such other information as the director may require in a standard form adopted by the director.
- C. The filing of an application for a delivery permit or renewal of a delivery permit shall be deemed complete upon the submission of an application in conformance with this section and payment of the application fees required by Section 6.108.070.
- D. An application may be reviewed and copied by any member of the public in accordance with the California Public Records Act.

**6.108.070 - Fees.**

- A. Every application or renewal of a dispensary or delivery permit shall be accompanied by a nonrefundable fee, as established by the board of supervisors, in order to reimburse the county for the cost of reviewing and acting upon the application.

- B. In addition, each dispensary and delivery operator shall pay an annual fee, as established by the board of supervisors, for the administration of the permit, including monitoring and enforcing compliance with terms of the permit.
- C. The board of supervisors may enact such other fees as may be necessary to recover the county's costs of inspection and corrective actions in relation to dispensaries and delivery operations.

**6.108.090 - Initial review of application.**

- A. The director shall commence review of any application immediately upon its filing and shall complete such initial review within the time period established in the solicitation process for dispensary permits, but in no event shall the initial review exceed one hundred and twenty (120) days, and within forty-five (45) days for delivery permits, delivery permit renewal applications, and dispensary renewal applications. In conducting this review, the following county agencies shall comment on specific portions of the application:
  - 1. The sheriff shall be responsible for verifying factual information in the application, including names, addresses and other information on the applicant operator and its employees of the proposed dispensary or delivery operation.
  - 2. The sheriff shall comment upon the adequacy of security measures that are described in the application, the security plan, the floor plan, and other relevant aspects of the application.
  - 3. The community development agency shall comment upon the proposed location's compliance with the requirements of subsections D and E of Section 6.108.030, the general responsiveness to the solicitation process in Section 6.108.050, and conditions that are needed to mitigate adverse impacts on surrounding uses.
  - 4. The health care services agency shall comment upon the services to be provided and the mission statement set forth in the application.
  - 5. The department of environmental health shall comment upon the application's compliance with the requirements of Section 6.108.230.
- B. Within twenty (20) business days after the filing of an application, the director shall reject any application and so notify the applicant, if the application has been improperly completed or if it is incomplete. The applicant may amend and refile the application within ten days after such rejection.
- C. At the conclusion of the initial review, the director shall notify the applicant of the results of the initial review of the application.

**6.108.100 - Action upon completion of initial review.**

- A. Upon completion of the initial review, the director shall reject any permit application that meets any of the following criteria:
  - 1. The proposed dispensary or delivery operation does not comply with requirements of this chapter.
  - 2. The applicant has knowingly made a false statement of material fact or has knowingly omitted a material fact from the application.
  - 3. The operation of the proposed dispensary at the proposed location is prohibited by any state or local law or regulation.



4. Any person who is listed on the application pursuant to subsection (A)(10) of Section 6.108.060 or pursuant to Section 6.108.065 has been convicted of a felony within the past ten (10) years. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
  5. The applicant or the operator listed in the application is less than eighteen (18) years of age.
  6. The health care services agency has determined that the application for a dispensary has failed to state a health care purpose that fulfills the purposes of Section 11362.5 et seq. of the California Health and Safety Code.
- B. Any application that is not rejected upon completion of the initial review shall be deemed an eligible application and submitted to the final selection phase of the solicitation process.

**6.108.110 - Final selection of medical cannabis dispensaries.**

- A. The final selection phase of the solicitation process shall be comprised of selection of which eligible applications shall be submitted for final selection and the establishment of operating conditions of any permits issued under this chapter. The final selection process shall not exceed one hundred and twenty (120) days in the absence of an appeal.
- B. The final selection process for dispensaries shall commence with the separation of all eligible applications into the areas that are delineated in subsection D of Section 6.108.030. If an area has a number of eligible applications that is the same as or less than the allowable number of medical cannabis dispensaries for such area, then all applications for that area shall be submitted for establishment of operating conditions as set forth in subsection C of this section. If any area has a number of eligible applications that exceeds the maximum number of dispensaries for such area, the eligible applications to be submitted for final selection shall be designated by a competitive evaluation process in which applicants are scored and ranked with the director recommending issuance of a permit to the highest ranked, eligible applicants in each geographic area where dispensary permits are available.
- C. The sheriff and the director shall establish operating conditions, in addition to the standard conditions contained in Section 6.108.120 for dispensaries and in Section 6.108.125 for delivery operations, for each eligible application that has been submitted for final review. The operating conditions shall be limited to those that are necessary to carry out the purposes of this chapter and to mitigate specific and foreseeable adverse impacts on properties in the vicinity.
- D. At the conclusion of the final selection, the director shall give notice to the dispensary permit applicant of the operating conditions that would attach to the permit. Within ten days after notice, the applicant shall either:
  1. Certify acceptance of the operating conditions and the standard conditions of the permit, and the permit shall thereupon issue immediately.
  2. If the applicant refuses or fails to certify agreement with any operating condition or standard condition, the application shall be denied. The applicant may appeal any condition within ten days after notice of the conditions. Upon either the failure to file a timely appeal or the rejection of the appeal, the application shall be deemed denied.
- E. The operating conditions established by the director shall include the requirement for each eligible applicant to obtain (1) any required state permits or licenses for the operation of a dispensary and delivery operation, if applicable, and (2) all land use entitlements required to

operate a dispensary and delivery operation, if applicable. No dispensary or delivery permit shall be effective until these conditions of approval are satisfied.

**6.108.120 - Standard conditions for medical cannabis dispensaries.**

A. Throughout the term of the medical cannabis dispensary permit, each permittee shall not violate this chapter and shall comply with the following standard conditions:

1. It shall be a violation of this chapter for a dispensary to distribute, provide or allow to be provided cannabis to any person except those persons who are primary caregivers or qualified patients who are in possession of an identification card which is in compliance with the regulations established by the California Department of Health or health care services agency or have a verifiable written recommendation from a licensed physician for medical cannabis. All distribution that does not strictly comply with Section 11362.5 of the California Health and Safety Code and the terms of the permit and this chapter is prohibited. It shall be the responsibility of the permittee to ensure that a good faith effort be made to verify the validity of any identification card and written recommendation provided to the dispensary.
2. Each dispensary shall maintain records of persons who have received cannabis from the dispensary. These records shall set forth only the identification card number issued pursuant to California Health and Safety Code Section 11362.71 et seq., as a protection of the confidentiality of the cardholders or a copy of such documentation that authorizes such distribution under this chapter.
3. No dispensary shall be open for business between the hours of 12:00 a.m. and 9:00 a.m. or between the hours of 9:00 p.m. and 11:59 p.m. on any day. Additionally, to avoid conflict with the travel of students to and from the school, no dispensary located within one thousand (1,000) feet of any school shall be open during the one and one-half hour period immediately following the cessation of classes. No activities that are undertaken in the operation of the dispensary shall be conducted outside the interior premises of the dispensary.
4. Unless and until a local and state nursery or cultivation license or permit or a state producing dispensary license (type 10A) has been issued for the dispensary location, cannabis may not be grown or cultivated on the premises.

A dispensary shall actively regulate and monitor its purchasing limits, such that no qualified patient is permitted to purchase in excess of eight ounces of cannabis in any calendar month.

A dispensary shall actively regulate and monitor its inventory, such that at no time the amount of cannabis on the premises exceeds 100 pounds.

5. No cannabis shall be smoked, ingested or otherwise consumed on the premises of a dispensary, other than by dispensary management as reasonably necessary for dispensary operations such as purchasing, pricing and quality control.
6. A dispensary shall ensure that its products are in tamper-evident packages and labeled as required by California Business and Professions Code Section 19347, regulations established by the Bureau, and requirements of the California Department of Food and Agriculture and by stating the name of the dispensary and the weight of cannabis. Any edible cannabis product must be contained in a package that is labeled to indicate the ingredients, including the amount of cannabis contained in the package, identify the product, state who is responsible for the product, and such other information as may be required by state or local law.

7. Medical cannabis may be provided by a dispensary in an edible form, provided that the edibles meet all applicable state and county requirements, including but not limited to the provisions in Section 6.108.230.
8. No person who is less than eighteen (18) years of age may be employed or otherwise engaged in the operation of the dispensary. No person under the age of eighteen (18) shall be allowed on the premises. It shall be unlawful for any dispensary to provide medical cannabis to any person under the age of eighteen (18) unless that person is a qualified patient or a primary caregiver with a valid identification card in accordance with California Health and Safety Code section 11362.7 or have a verifiable written recommendation from a licensed physician for medical cannabis.
9. The entrance to a dispensary shall be posted with a notice that states the restrictions on the presence of persons under the age of eighteen (18) and that smoking, ingesting or consuming cannabis on the premises is prohibited. In addition, each dispensary shall conspicuously display the permit.
10. No dispensary may hold a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, nor may it include a business that sells alcoholic beverages. No alcohol may be stored, sold, dispensed or used on the premises.
11. Each permittee shall maintain a current registry of persons, including, but not limited to, employees, contractors and volunteers, who are engaged in the operation of the dispensary. The registry shall be provided to the director and the sheriff at any time upon request. The registry shall include the name, current residential address, telephone number, date of birth and the height, weight and color of eyes and hair of each such person.
12. No person who has been convicted of a felony within the past ten years may be actively engaged in the operation of any dispensary. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
13. A dispensary shall provide adequate security on the premises, including lighting and alarms, to ensure the safety of persons and to protect the premises from theft.
14. The permittee shall provide the director with the name, telephone number and facsimile number of a community relations contact to whom one can provide notice of problems associated with the dispensary. The permittee shall make a good faith effort to resolve problems without the need for intervention by the county.
15. A dispensary shall provide litter removal services twice each day of operation on and in front of the premises and, if necessary, on public sidewalks within one hundred (100) feet of the premises.
16. A dispensary shall comply with county building, zoning and health codes, and shall allow inspections to ensure conformance with such regulations.
17. A dispensary shall not be delinquent in the payment of fees required by this chapter.
18. All activities of the dispensary must take place within the interior of the building
19. A dispensary must have appropriate restroom facilities that will accommodate both male and female customers.
20. Once the Bureau begins issuing licenses to testing laboratories, a dispensary shall ensure that a representative sample of its cannabis and cannabis products have been submitted for analytical testing at a licensed testing laboratory, as defined in Business

and Professions Code section 19300.5(ak), before the cannabis and cannabis products are delivered to the dispensary.

21. A dispensary shall package all cannabis flowers sold on its premises in child resistant packaging.
  22. A dispensary shall implement a track and trace program with a unique identifier for every product, both for inventory stored in a safe and inventory packaged for sale, pursuant to Section 11362.777 of the California Health and Safety Code and in compliance with Section 19335 of the California Business and Professions Code and all applicable regulations.
  23. A dispensary shall use devices that meet the standards of the California Department of Food and Agriculture's Division of Measurement Standards for all weighing and measuring devices, including but not limited to scales and scanners; register with Alameda County Sealer of Weights of Measures; allow inspections and sealing of all weighing and measuring devices, including scanners or POS systems; and comply with all other requirements in Division 5 of California Business and Professions Code related to weights and measures, Title 4 Division 9 of the California Code of Regulations, and any relevant Alameda County ordinance.
  24. No dispensary shall (a) enter into any agreement with or employ a physician for the purpose of evaluating patients for the issuance of a medical cannabis recommendation or identification card; (b) allow a physician to locate on the dispensary premises at any time for the purpose of issuing a medical cannabis recommendation or identification card; (c) give or offer to give any form of remuneration to a physician if the physician or his or her immediate family have a financial interest (as that term is defined in California Business and Professions Code section 650.01) in the dispensary; and (d) not distribute any form of advertising for physician recommendations for medical cannabis in California unless the advertisement bears the notice to consumers contained in California Business and Professions Code section 2525.5.
  25. Each dispensary shall fully comply with the terms of its approved security plan, floor plan and operating plan.
- B. In order to minimize any adverse impacts on surrounding properties or residents, the standard operating conditions that are set forth in this section may be modified upon the issuance of the permit or upon ten days' notice during the term of the permit.
  - C. During the term of each permit, the county shall require the permittee to comply with the standard operating conditions that are set forth in this section or as they may be modified in accordance with subsection B of this section and, in addition, any such operating conditions that may be established pursuant to subsections C and D of Section 6.108.110.
  - D. At any time during the operation of a dispensary and without notice, the director or sheriff, acting in conjunction with other appropriate county officials, may enter the premises for the purpose of observing compliance of the dispensary with the conditions of its permit.
  - E. Release of the county from liability. The owner and permittee of each dispensary and delivery operation shall release the county, and its agents, officers, elected officials, and employees from any injuries, damages, or liabilities of any kind that result from any arrest or prosecution of dispensary or delivery operator owners, operators, employees, or clients for violation of state or federal laws in a form satisfactory to the director.
  - F. County indemnification. The owners and permittee of each dispensary and delivery operator shall indemnify and hold harmless the county and its agents, officers, elected

officials, and employees for any claims, damages, or injuries brought by adjacent or nearby property owners or other third parties due to the operations at the dispensary or by the delivery operator, and for any claims brought by any of their clients for problems, injuries, damages or liabilities of any kind that may arise out of the distribution, delivery and/or on- or off-site use of cannabis provided at the dispensary or delivered by the delivery operator in a form satisfactory to the director.

**6.108.125 - Standard conditions for delivery operations.**

- A. Throughout the term of the medical cannabis delivery permit, each permit holder shall not violate this chapter and shall comply with the following standard conditions:
1. It shall be a violation of this chapter for a delivery operation to distribute, provide or allow to be provided cannabis to any person except those persons who are primary caregivers or qualified patients who are in possession of an identification card that is in compliance with the regulations established by the California Department of Health or the Alameda County Public Health Department or have a verifiable written recommendation from a licensed physician for medical cannabis. All deliveries that do not strictly comply with Section 11362.5 of the California Health and Safety Code and the terms of the permit and this chapter are prohibited. It shall be the responsibility of the permit holder to ensure that a good faith effort is made to verify the validity of any identification card or the written recommendation from a licensed physician provided to the delivery operator.
  2. All employees of a delivery operator delivering medical cannabis or medical cannabis products shall carry a copy of the dispensary's current dispensary license or permit and the dispensary's current delivery permit authorizing those services with them during deliveries and the employee's government-issued identification, and shall present that license, permit and identification upon request to state and local law enforcement, employees of regulatory authorities, and other state and local agencies enforcing this chapter.
  3. During any delivery, the permittee shall maintain a physical copy of the delivery request and shall make it available upon request of the director or law enforcement officers. The delivery request documentation shall comply with state and federal law regarding the protection of confidential medical information.
  4. No delivery vehicle shall contain a quantity of cannabis in excess of an amount equal to the total of all orders shown on the delivery requests for qualified patients and primary caregivers to whom that the vehicle is then making a delivery. No delivery vehicle shall contain a quantity of edibles in excess of the total amount of all orders for edibles shown on the delivery requests for qualified patients and primary caregivers to whom that the vehicle is then making a delivery.
  5. The qualified patient or primary caregiver requesting the delivery shall maintain a copy of the delivery request and shall make it available, upon request, to the director or law enforcement officers.
  6. No deliveries shall be made between the hours of 12:00 a.m. and 9:00 a.m. or between the hours of 9:00 p.m. and 11:59 p.m. on any day.
  7. No person who is less than eighteen (18) years of age may be employed or otherwise engaged in the delivery of medical cannabis.

8. It shall be unlawful for any delivery operation to provide medical cannabis to any person under the age of eighteen (18) unless that person is a qualified patient or a primary caregiver with a valid identification card in accordance with California Health and Safety Code section 11362.7 or has a verifiable written recommendation from a licensed physician for medical cannabis.
9. Each permittee shall maintain a current registry of persons, including, but not limited to, employees, contractors and volunteers, who are engaged in delivery operations. The registry shall be provided to the director and sheriff at any time upon request. The registry shall include the name, current residential address, telephone number, date of birth and the height, weight and color of eyes and hair of each such person. Every person listed as owner, manager, supervisor or employee must submit fingerprints and other necessary information for a background check to the Alameda County sheriff's office, and be photographed for identification purposes. In addition, any new employees, independent contractors, other persons and/or volunteers who will work at or for the delivery operation must submit their information to the sheriff's office within five days prior to their employment.
10. No person who has been convicted of a felony within the past ten years may be actively engaged in delivery operations. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
11. Delivery vehicles shall not include signage or markings that identify the vehicle as a cannabis delivery vehicle.
12. Delivery operators shall provide adequate security for their delivery personnel and vehicles, to ensure the safety of persons and to protect the vehicle operators from theft.
13. The delivery permit holder will satisfy the release of liability and county indemnification requirements in subdivision E and F of Section 6.108.120.

**6.108.130 - Appeal from administrative determinations.**

- A. An appeal may be filed by an applicant, permittee or the owner or occupant of property within one thousand (1,000) feet of any existing or proposed dispensary or by an applicant, permittee or owner or occupant of property within the unincorporated area of the County for any existing or proposed delivery operation.
- B. Any appellant may appeal an administrative determination that is made in relation to any of the following actions:
  1. Finding that an application is incomplete;
  2. Determination that an application does not comply with the requirements of Section 6.108.100;
  3. Establishment or modification of operating conditions;
  4. Denial of a permit; or
  5. Suspension or revocation of a permit.
- C. Any appeal shall be filed with the director within ten days after the date of the notice of any such administrative determination.

- D. Within ten days after the filing of an appeal, notice shall be given in accordance with Section 6.108.050. Such notice shall set forth the grounds for the appeal, the method of submitting comments to the county regarding the appeal and the date and location of the hearing of the appeal.
- E. Any appeal that is not timely filed will be deemed ineffective and the administrative determination that is being appealed will become final.

**6.108.140 - Administrative review of appeal.**

- A. Within thirty (30) days after the filing of an appeal of an administrative determination, the director shall convene a panel consisting of one or more representatives of the county administrator, community development agency, health care services agency, and the sheriff at which the appeal shall be heard in public session. The appellant and any interested parties will be allowed to address the panel regarding the appeal.
- B. Within ten days after conclusion of the hearing of the appeal by the administrative panel, the director shall give notice of the decision of the panel.
- C. Any appellant may file an appeal of the determination of the administrative panel within ten days after the date of the notice of the decision of the administrative panel.

**6.108.150 - Hearing by the board of supervisors.**

- A. Within ninety (90) days after the filing of an appeal of the administrative panel's decision, the board of supervisors shall conduct a hearing of the appeal.
- B. At least ten days prior to the hearing of the appeal by the board of supervisors, notice shall be given in accordance with Section 6.108.050. Such notice shall set forth the grounds for the appeal, the method of submitting comments to the county regarding the appeal and the date and location of the hearing of the appeal by the board of supervisors. The board of supervisors may give such additional notice of hearing as it deems appropriate in a particular case.
- C. The board of supervisors may take any appropriate action upon the original administrative action that was appealed pursuant to Section 6.108.130, including granting or denying the appeal or imposing, deleting or modifying operating conditions of the permit. The decision of the board of supervisors shall be final.

**6.108.160 - Suspension and revocation.**

- A. The sheriff or the director may initiate the revocation or suspension of a permit when it shall appear that the permittee has committed any of the following actions:
  - 1. Violates the operating or standard conditions of the permit or the requirements of state or local laws.
  - 2. Fails to take reasonable measures to control disturbances, loitering or such other problems on the premises.
- B. No permit shall be revoked or suspended by virtue of this section until a hearing has been held in the same manner as described in Section 6.108.140. Notice of the hearing shall contain a brief statement of the grounds for revoking or suspending the permit and the time and date for the hearing.
- C. The decision of the administrative panel may include suspension, revocation or the modification of the permit by adding conditions that are designed to reduce or remove the problems that caused the proposed revocation or suspension of the permit.

- D. Within ten days after conclusion of the hearing of the appeal by the administrative panel, the director shall give notice of the decision of the panel.
- E. Any appellant may appeal the determination of the administrative panel to the board of supervisors within ten days after the date of the notice of the decision of the administrative panel. The board of supervisors shall act upon the appeal in accordance with Section 6.108.150.

**6.108.170 - Transfer of the permit.**

- A. No permittee may transfer a permit without authorization by the county, granted in accordance with this section.
- B. A permittee shall apply for transfer of a dispensary permit by submitting an application that complies with Section 6.108.060. The director shall verify information in the application and shall approve the transfer unless it fails to comply with the standards set forth in Section 6.108.100.
- C. A permittee shall apply for transfer of a delivery permit by submitting an application that complies with Section 6.108.065. The director shall verify information in the application and shall approve the transfer unless it fails to comply with the standards set forth in Section 6.108.100.
- D. Before a transfer of a permit may become effective, the transferee shall certify acceptance of the operating conditions and the standard conditions of the permit.

**6.108.180 - Prohibited operations.**

The permittee and or his or her agents shall at all times comply with Section 11326.5 et seq. of the California Health and Safety Code and this chapter in the operation of the dispensary and the delivery operation. This includes, but is not limited to, the prohibition of sales, transportation and delivery of medical cannabis off the site of the dispensary premises unless the dispensary holds a valid delivery permit.

**6.108.190 - Misdemeanor violation.**

Any person violating any of the provisions or failing to comply with Section 6.108.120(A)(2)—(6), (8)) or (11) or Section 6.108.125(A)(4)-(8) of this chapter shall be guilty of a misdemeanor. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter or the permit is committed, continued or allowed in conjunction with the operation of a dispensary and shall be punishable accordingly.

**6.108.200 - Civil injunction.**

In addition to the penalties provided in this chapter, any condition caused or allowed to exist in violation of any of the provisions of this chapter shall be deemed a public nuisance and shall, at the discretion of county, create a cause of action for injunctive relief.

**6.108.210 - Severability.**

The provisions of this chapter are hereby declared to be severable. If any provision, clause, word, sentence or paragraph of this chapter or the application thereof to any person, establishment or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter.



### **6.108.220 - Judicial review.**

Judicial review of a final decision made under this chapter may be had by filing a petition for a writ of mandate with the Superior Court in accordance with the provisions of Section 1094.5 of the California Code of Civil Procedure. Any such petition or any other action seeking judicial review shall be filed within ninety (90) days after the day the decision becomes final.

### **6.108.230 – Sale, Distribution and Dispensing Edibles.**

The sale, distribution and delivery of edibles shall be conducted in a manner that complies with all applicable food safety laws for the protection of consuming medical cannabis patients. It shall be unlawful for any dispensary or delivery operation to sell, distribute or deliver edibles not prepared, packaged or labeled as required by this Section.

#### **A. Preparation of Edibles.**

1. A facility, such as a commercial kitchen, that proposes to prepare, store, dispense, and distribute edibles must comply with the relevant provisions of all state and local laws regarding the preparation, distribution, labeling and sale of food. No food production will be allowed in the same facility to avoid the unintentional contamination of food with cannabis. Facilities shall be constructed, permitted, operated and inspected in accordance with the applicable building code and applicable food safety requirements by the Alameda County Department of Environmental Health.
2. Individuals involved in the production or distribution of edibles shall thoroughly wash their hands before commencing production and before handling the finished product. Gloves must be worn when packaging edibles.
3. To reduce the likelihood of foodborne disease transmission, individuals who are suffering from symptoms associated with acute gastrointestinal illness or are known to be infected with a communicable disease that is transmissible through foodstuffs are prohibited from preparing edibles until they are free of that illness or disease, or are incapable of transmitting the illness or disease through foodstuffs. Individuals who have sores or cuts on their hands must use gloves when preparing and handling edibles.
4. Producers of edibles must be state certified food handlers. The valid certificate must be onsite at the facility where the edible is produced and made available during inspections.
5. Hand-washing facilities shall be adequate and convenient and be furnished with 100F hot running water. Hand washing facilities shall be located in the facility in edible preparation areas and where good sanitary practices require employees to wash their hands and provide effective hand-cleaning (liquid soap) and disposable paper towel or suitable drying devices.

#### **B. Packaging and Labeling of Edibles.** Edibles shall be labeled and packaged in accordance with Sections 19347 and 19347.5 of the California Business and Professions Code and all applicable regulations and as provided in this subdivision.

1. All edibles shall be individually wrapped at the original point of preparation. Labeling shall be distinctly and clearly legible on the front of the package and must include: (a) a warning if nuts or other known allergens are used in the manufacturing of the edibles; (b) a warning that the item is a medication containing cannabis and the total weight (in ounces or grams) and amount of active ingredients in the package; (c) the cultivation and manufacture date and source; (d) a statement that the contents are not a food product; and (e) information indicating any caloric impact on the consumer. The

package label must have a warning clearly legible emphasizing that the product is to be kept away from children.

2. Labels of edibles that are not tested for contaminants (baked goods) shall include a statement that the cannabis used in the product was tested for contaminants.
  3. Packaging of edibles shall be opaque (non see-through), and may not make it appear as if the edible is a food product. Packaging that makes the product attractive to children or imitates candy is prohibited.
  4. Packaging of edibles shall be tamper proof and child resistant.
- C. Edible Product Log. Producers of edibles that are tested for contaminants shall maintain a written or computerized log documenting:
1. The source of the cannabis used in each batch of product;
  2. The contaminant testing date; and
  3. The testing laboratory that analyzed the sample of the medical cannabis product.

Chapter 6.108 of the Alameda County General Ordinance Code is hereby further amended as follows:

Delete Exhibit A, including the list of Assessor parcel numbers for each area, and insert the revised Exhibit A attached to this Ordinance.

Delete Exhibit B and insert the revised Exhibit B attached to this Ordinance.

### SECTION 3

This ordinance shall take effect and be in force thirty (30) days from and after the date of passage and before the expiration of fifteen (15) days after its passage it shall be published once with the names of the members voting for and against the same in the Inter-City Express, a newspaper published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on the \_\_\_ day of \_\_\_\_\_, 2017, by the following called vote:

AYES:

NOES:

EXCUSED:

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WILMA CHAN  
President of the Board of Supervisors

**ATTEST:**

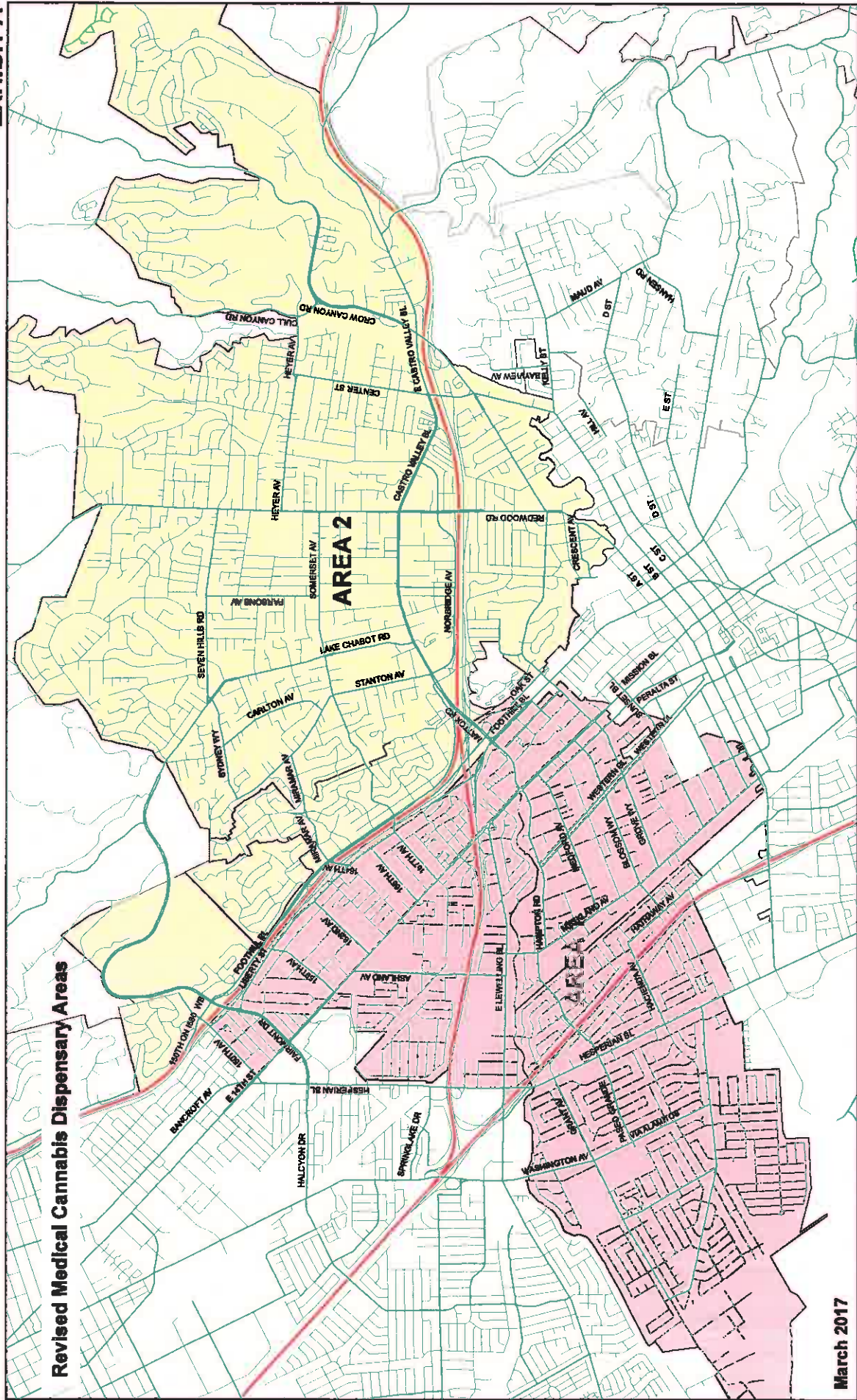
**Clerk of the Board of Supervisors,**

**By:** \_\_\_\_\_  
Deputy Clerk

**APPROVED AS TO FORM:**

**DONNA R. ZIEGLER, COUNTY COUNSEL**

**By:** \_\_\_\_\_  
Heather Littlejohn  
Deputy County Counsel



Revised Medical Cannabis Dispensary Areas






AREA 2

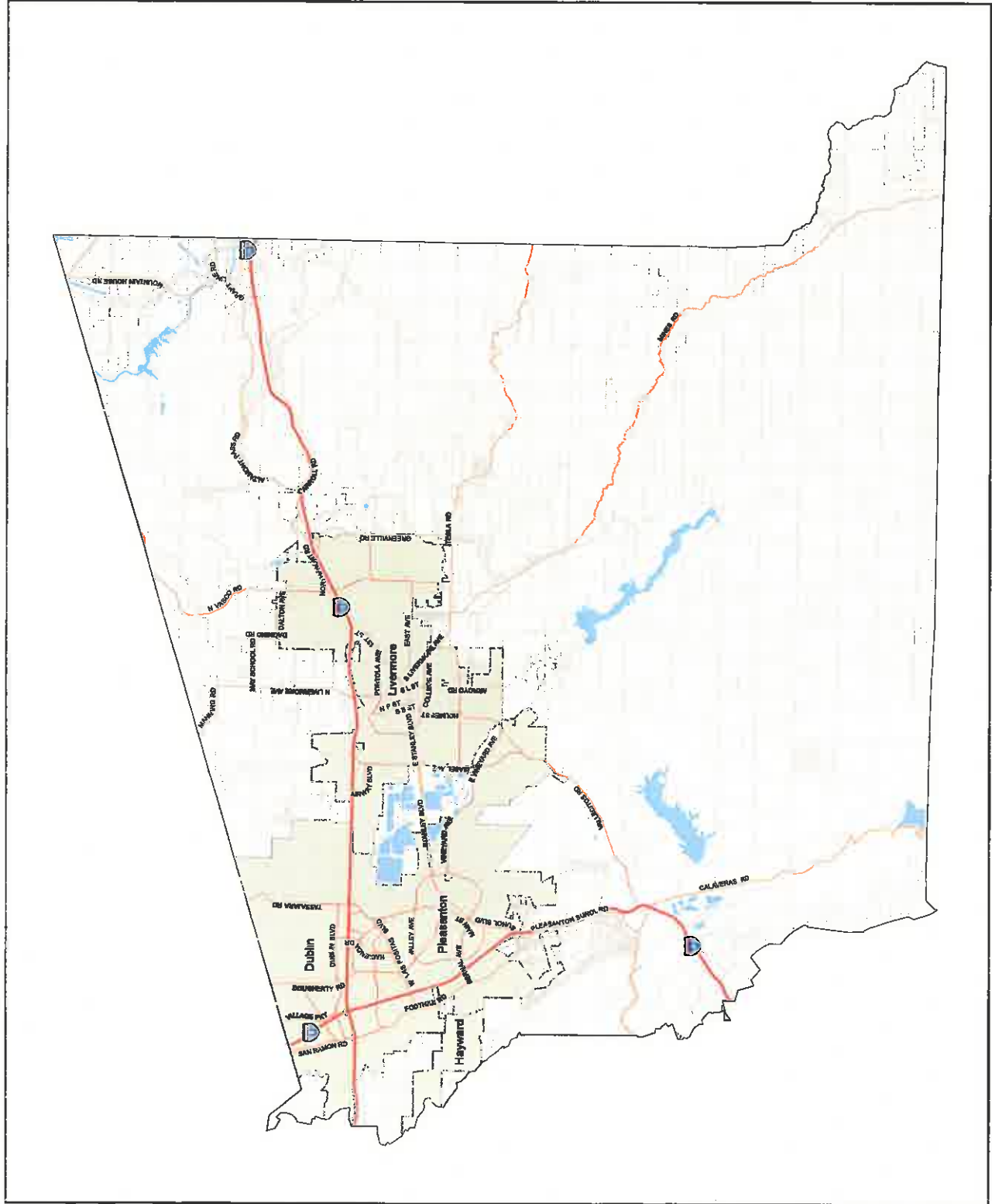
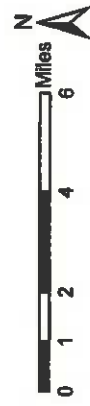
AREA 1



# Exhibit B - East County (as defined in the East County Area Plan)

## Legend

-  Interstates
-  Major Roads
-  Waterbodies
-  Cities
-  Unincorporated





ORDINANCE NO. 2017-\_\_\_\_\_

AN ORDINANCE AMENDING TITLE 17 OF THE ALAMEDA COUNTY GENERAL ORDINANCE CODE TO CONDITIONALLY PERMIT MEDICAL CANNABIS DISPENSARIES IN SPECIFIED DISTRICTS WITHIN THE UNINCORPORATED AREA OF THE COUNTY OF ALAMEDA

SECTION 1

The Board of Supervisors makes the following findings in support of this ordinance:

1. In 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code section 11362.5 and titled the "Compassionate Use Act of 1996"); and
2. The intent of Proposition 215 was to enable persons who are in need of cannabis for medical purposes to be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances; and
3. In 2004, Senate Bill 420 was enacted (codified as California Health and Safety Code section 11362.7 *et seq.* and titled the "Medical Marijuana Program Act") to clarify the scope of the Compassionate Use Act of 1996. The Medical Marijuana Program Act allows counties to adopt and enforce rules and regulations consistent with its provisions; and
4. In 2011, Assembly Bill 2650 was enacted (codified as California Health and Safety Code section 11362.768). This law affirms that counties can adopt ordinances that restrict the location and establishment of medical cannabis collectives and cooperatives; and
5. In 2015, Assembly Bill 243, Assembly Bill 266 and Senate Bill 643 were enacted and subsequently revised by Assembly Bill 21 in 2016 (codified in part as California Business and Professions Code sections 19300 *et seq.* and titled the "Medical Marijuana Regulation and Safety Act"). These bills also amended provisions of the Medical Marijuana Program Act related to the cultivation of medical cannabis; and
6. In 2016, Senate Bill 837 was enacted to change all references to medical marijuana or marijuana to medical cannabis or cannabis, including changing the name of the Medical Marijuana Regulation and Safety Act to the Medical Cannabis Regulation and Safety Act; and
7. The Medical Cannabis Regulation and Safety Act establishes a comprehensive framework to license and regulate commercial medical cannabis cultivation, manufacturing, distribution, transportation, sales, and testing; and
8. Pursuant to California Business and Professions Code section 19315(a), nothing in the Medical Cannabis Regulation and Safety Act shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local permit or licensing requirements; and
9. This Ordinance is enacted, consistent with the Compassionate Use Act of 1996, the Medical Marijuana Program Act, and the Medical Cannabis Regulation and Safety Act to protect the



public health, safety, and welfare of residents of the County of Alameda in relation to the distribution and delivery of medical cannabis; and

10. In *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4th 729, the California Supreme Court concluded that nothing in the Compassionate Use Act nor the Medical Marijuana Program Act preclude a local jurisdiction from regulating or prohibiting facilities that distribute medical cannabis; and
11. Although not authorized by the County, it is believed that the delivery of medical cannabis has been occurring in the unincorporated area of the County; and
12. Permitting the delivery of medical cannabis provides an important service to those who are seriously ill, elderly, and persons with disabilities who are otherwise unable to easily access "brick and mortar" dispensaries; and
13. Absent appropriate regulation, the delivery of medical cannabis in the unincorporated area of the County poses a potential threat to public peace, health, and safety; and
14. Medical cannabis dispensaries have been dispensing food products containing cannabis, commonly referred to as "edibles", that may constitute a unique health hazard to the public because, unlike other ingestible items, edibles are not presently regulated, inspected, or analyzed for concentration by state or federal government; and
15. The County has a compelling interest in protecting the public health, safety, and welfare of its residents, visitors and businesses, in preserving the peace and quiet of the neighborhoods within the unincorporated areas of the County by regulating the distribution and delivery of medical cannabis and the production and packaging of edibles; and
16. Concurrent with this ordinance, the County is considering amending Chapter 6.108 of the General Ordinance Code which regulates cannabis dispensaries, including increasing the number of allowable dispensaries in the unincorporated areas of the County from three to five, with three allowable in the western, urban portions of the County and two allowable in the eastern, rural portions of the County; and
17. Concurrent with this ordinance, the County is considering adoption of an ordinance that would establish a pilot program to temporarily allow limited cultivation of medical cannabis while the County further studies a potential permanent cultivation ordinance; and
18. The County of Alameda intends to proceed with further study and public meetings to consider additional ordinances that most effectively regulate and license all facets of medical cannabis activities, including cultivation and manufacturing; and
19. In adopting the East County Area Plan (ECAP) in 1994 and Measure D in 2000, the Board of Supervisors and the voters established an urban growth boundary and associated goals and policies to protect agricultural and open space uses while allowing some limited development, including "agriculture enhancing commercial uses" that can demonstrate an economic connection to agricultural use and production and "visitor-serving commercial uses" that promote agriculture and are subordinate and directly related to the area's agricultural production; and

20. The County's General Ordinance Code currently regulates medical cannabis dispensaries, but does not include provisions in the Zoning Ordinance authorizing or regulating land uses for such dispensaries; and
21. The Board of Supervisors has determined that, with appropriate conditions, dispensaries may be appropriately located in certain commercial districts; and
22. The Board of Supervisors has determined that, although cultivation of medical cannabis shares some similarities with other agricultural activities, and as identified by recent state legislation, cultivation of medical cannabis raises health, safety and welfare concerns not raised by other traditional agricultural products and therefore, medical cannabis is not a permitted agricultural use by right for the purposes of land use and zoning; and
23. The Board of Supervisors has determined that, with appropriate conditions, cultivation of medical cannabis may be an appropriate conditionally permitted use in the agricultural districts and outside of the urban growth boundary established by Measure D; and
24. The Board of Supervisors has determined that, with appropriate conditions, a dispensary may be an appropriate conditionally permitted use in the agricultural district and outside of the urban growth boundary established by Measure D as an "agriculture enhancing commercial use" and a "visitor-serving commercial use" that is economically related and supports the area's cannabis cultivation.
25. On November 8, 2016, the voters of the State of California approved Proposition 64 (codified, in part, as California Business and Professions Code sections 2600 et seq. and titled the "Control, Regulate and Tax Adult Use of Marijuana Act"), which decriminalizes the adult use of cannabis for non-medical purposes and establishes a regulatory scheme at the state level; and
26. This Ordinance regulates the dispensing of medical cannabis in the unincorporated areas of the County and does not address the dispensing of marijuana for non-medical use under Proposition 64 or otherwise;
27. The Board of Supervisors acknowledges that regulation of cannabis activities is an evolving field at the state level, as evidenced by the recent adoption and revision of the Medical Cannabis Regulation and Safety Act, passage of Proposition 64 and the related regulations being drafted by various state agencies that are not expected to be finalized and implemented until 2018. As a result, the field of local regulation is also expected to continue to evolve over the next several years including possible further revisions to the County ordinances, policies and performance standards; and
28. Nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. § 801 et seq. or to license any activity that is prohibited under said Act except as mandated by State law; and
29. Nothing in this Ordinance shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) allow cannabis uses for non-medical purposes; (3) exempt cultivation, dispensary or delivery operations from compliance with permitting regulations pursuant to other titles in this code, or, (4) allow any activity relating to the cultivation, distribution, or consumption of cannabis that is illegal under state or federal law;

## SECTION 2

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of the County of Alameda, as follows:

Section 17.04.010 of the Alameda County General Ordinance Code is hereby amended to add the following definitions, inserted in alphabetical order into the existing text of the section:

“Cannabis” shall have the same definition as in Business and Professions Code section 19300.5(f), which defines “cannabis” as all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” also means marijuana as defined by Section 11018 of the California Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For purposes of this chapter, “cannabis” does not mean “industrial hemp” as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

“Cannabis Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming, including any associated storage, of Medical Cannabis.

“Medical Cannabis Dispensary” or “Dispensary” means a premises where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to Business and Professions Code Section 19340, medical cannabis and medical cannabis products as part of a retail sale under the authority of the California Compassionate Use Act, the Medical Marijuana Program Act, or the California Medical Cannabis Regulation and Safety Act and as regulated by chapter 6.108 of this Code.

Section 17.06.040 of the Alameda County General Ordinance Code, regarding the Agricultural district, is amended to read as follows:

**17.06.040 - Conditional uses—Board of zoning adjustments.**

In addition to the uses listed in Sections 17.52.480 and 17.52.580, the following are conditional uses and shall be permitted in an A district only if approved by the board of zoning adjustments, as provided in Sections 17.54.130 and 17.06.010:

- A. Additional dwellings for persons employed in the agricultural use of subject property and the families of those persons, and/or living quarters for farm laborers, when found by the board of zoning adjustments to be necessary to the farming operation;
- B. Outdoor recreation facility;
- C. Animal hospital, kennel;
- D. Killing and dressing of livestock, except when accessory as specified in Section 17.06.050;
- E. Public or private hunting of wildlife or fishing, and public or private hunting clubs and accessory structures;

- F. Packing house for fruit or vegetables, but not including a cannery, or a plant for food processing or freezing;
- G. Flight strip when accessory or incidental to a permitted or conditional use;
- H. Hog ranch;
- I. Drilling for and removal of oil, gas or other hydrocarbon substances;
- J. Radio and television transmission facilities;
- K. Public utility building or uses, excluding such uses as a business office, storage garage, repair shop or corporation yard;
- L. Administrative offices accessory to the principal use on the premises including activities by the same occupancy which are not related to the principal use providing such activities not so related are accessory to the administrative office activity;
- M. Occupancy of one mobile home by persons directly related to an on-site agricultural pursuit on a parcel containing a minimum of one hundred (100) acres where there is no single-family dwelling or on a parcel containing a minimum of two hundred (200) acres where it can be demonstrated that security cannot be obtained by existing single-family dwelling occupancy; provided, however, that no such conditional use permit shall be issued for a period to exceed three years;
- N. Administrative support and service facilities of a public regional recreation district;
- O. Privately owned wind-electric generators;
- P. Remote testing facility;
- Q. Winery or olive oil mill related uses;
- R. Medical cannabis dispensary.

Section 17.38.030 of the Alameda County General Ordinance Code, regarding the Retail Business commercial district, is amended to read as follows:

**17.38.030 - Conditional uses—Board of zoning adjustments.**

The following are conditional uses in C-1 districts and shall be permitted only if approved by the board of zoning adjustments as provided in Section 17.54.130:

- A. Community facility;
- B. Animal hospital, kennel;
- C. Clubhouse, or rooms used by members of an organized club, lodge, union or society;
- D. Mortuary;
- E. Commercial recreation facility other than a theater, if within a building;
- F. Storage garage, and storage lots for recreational vehicles and boats;
- G. Theater, drive-in theater;
- H. Drive-in business;
- I. Hotel, motel, boarding house;
- J. Automobile sales lot;
- K. Service station, Type A; or a facility retailing automotive parts and supplies which are installed and serviced on the site but does not include, engine, transmission or differential rebuilding or body repair;
- L. Plant nursery including the sale of landscaping materials, excluding wet-mix concrete sales providing all equipment, supplies, and merchandise other than plant materials are kept within a completely enclosed building;
- M. Tavern;
- N. Massage parlor;
- O. Recycling centers, when operated in conjunction with a permitted use on the same premises;

- P. Advertising signs, provided that no single sign shall be flashing or intermittent, contain moving parts or be located so as to be directed towards lands in any adjacent R district, except pursuant to Section 17.52.515(A)(3) and in conformance with Section 17.54.226;
- Q. In-patient and out-patient health facilities as licensed by the State Department of Health Services;
- R. Tattoo studio;
- S. Alcohol outlet;
- T. Firearms sales;
- U. Beauty school or business school; and
- V. Unattended collection box(es) placed in conjunction with an approved community facility as defined in Section 17.04.010;
- W. Medical cannabis dispensary.

Section 17.40.030 of the Alameda County General Ordinance Code, regarding the General Commercial district, is amended to read as follows:

**17.40.030 - Conditional uses—Board of zoning adjustments.**

In addition to the uses listed in Sections 17.52.480 and 17.52.580, the following are conditional uses in C-2 districts and shall be permitted only if approved by the board of zoning adjustments as provided in Section 17.54.130:

- A. Animal hospital, kennel;
- B. Mortuary;
- C. Community facility;
- D. Drive-in theater, drive-in business; recreation facility;
- E. Service station, Type A and Type B;
- F. Automobile, camper, boat and trailer sales, storage or rental lot;
- G. Plant nursery including the sale of landscaping materials, excluding wet-mix concrete sales, providing all equipment supplies and merchandise other than plant materials are kept within a completely enclosed building;
- H. Auto sales and service agency;
- I. Advertising sign, provided that no single sign shall exceed three hundred (300) feet in area and no sign shall be flashing or intermittent, contain moving parts or be located so as to be directed towards lands in any adjacent R district, except pursuant to Section 17.52.515(A)(3) and in conformance with Section 17.54.226;
- J. Tavern;
- K. In-patient and out-patient health facilities as licensed by the State Department of Health Services;
- L. Tattoo studio;
- M. Alcohol outlets;
- N. Firearms sales;
- O. Trade school; and
- P. Unattended collection box(es) placed in conjunction with an approved community facility as defined in Section 17.04.010;
- Q. Medical cannabis dispensary.

SECTION 3

This ordinance shall take effect and be in force thirty (30) days from and after the date of passage and before the expiration of fifteen (15) days after its passage it shall be published once with the names of the members voting for and against the same in the Inter-City Express, a newspaper published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on the \_\_\_\_ day of \_\_\_\_\_, 2017, by the following called vote:

AYES:

NOES:

EXCUSED:

\_\_\_\_\_  
WILMA CHAN  
President of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors,

By: \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM:

DONNA R. ZIEGLER, COUNTY COUNSEL

By: \_\_\_\_\_  
Heather Littlejohn  
Deputy County Counsel



ORDINANCE NO. 2017-\_\_\_\_\_

AN ORDINANCE ADDING CHAPTER 6.106 TO THE ALAMEDA COUNTY GENERAL  
ORDINANCE CODE TO IMPLEMENT A PILOT PROGRAM AUTHORIZING AND  
REGULATING THE CULTIVATION OF MEDICAL CANNABIS IN THE  
UNINCORPORATED AREA OF THE COUNTY OF ALAMEDA

SECTION 1

The Board of Supervisors makes the following findings of fact in support of this ordinance:

1. In 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code section 11362.5 and titled the "Compassionate Use Act of 1996"); and
2. The intent of Proposition 215 was to enable persons who are in need of cannabis for medical purposes to be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances; and
3. In 2004, Senate Bill 420 was enacted (codified as California Health and Safety Code section 11362.7 *et seq.* and titled the "Medical Marijuana Program Act") to clarify the scope of the Compassionate Use Act of 1996. The Medical Marijuana Program Act allows counties to adopt and enforce rules and regulations consistent with its provisions; and
4. In 2011, Assembly Bill 2650 was enacted (codified as California Health and Safety Code section 11362.768). This law affirms that counties can adopt ordinances that restrict the location and establishment of medical cannabis collectives and cooperatives; and
5. Pursuant to the Medical Marijuana Program Act, patients and caregivers may provide and acquire medical cannabis in a cooperative or collective manner wherein caregiver members may cultivate cannabis for the use of patient members, with costs and revenues of the cooperative or collective allocated accordingly; and
6. In 2015, Assembly Bill 243, Assembly Bill 266, Senate Bill 643 were enacted and subsequently revised by Assembly Bill 21 in 2016 (codified, in part, as California Business and Professions Code section 19300 *et seq.* and titled the "Medical Marijuana Regulation and Safety Act"). These bills also amended provisions of the Medical Marijuana Program Act related to the cultivation of medical cannabis; and
7. In 2016, Senate Bill 837 was enacted to change all references to medical marijuana or marijuana to medical cannabis or cannabis, including changing the name of the Medical Marijuana Regulation and Safety Act to the Medical Cannabis Regulation and Safety Act; and



8. The Medical Cannabis Regulation and Safety Act establishes a comprehensive framework to license and regulate commercial medical cannabis cultivation, manufacturing, distribution, transportation, sales, and testing; and
9. Pursuant to California Business and Professions Code section 19315(a), nothing in the Medical Cannabis Regulation and Safety Act shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local permit or licensing requirements; and
10. The County adopted an ordinance prohibiting delivery and cultivation of cannabis on January 16, 2016 (Ordinance No. 2016-6, codified as Chapter 6.106 of the County General Ordinance Code) in response to a provision of the Medical Cannabis Regulation and Safety Act that included a March 1, 2016 deadline for local jurisdictions to act, which provision was repealed by Assembly Bill 21 on February 3, 2016; and
11. Ordinance No. 2016-6 provided, "This Ordinance shall be repealed by its own terms upon the adoption of state legislation repealing or eliminating the March 1, 2016 deadline in Health and Safety Code section 11362.777(c)(4)" and accordingly, Chapter 6.106 of the Alameda County General Ordinance Code was repealed on February 3, 2016.
12. This Ordinance is enacted, consistent with the Compassionate Use Act of 1996, the Medical Marijuana Program Act, and the Medical Cannabis Regulation and Safety Act, to protect the public health, safety, and welfare of residents of the County of Alameda in relation to the cultivation of medical cannabis; and
13. The cultivation of medical cannabis in appropriate locations will help ensure that medical cannabis will be available to the patients in need of it while preserving the character, health and safety of the surrounding area; and
14. Absent appropriate regulation, the cultivation of medical cannabis in the unincorporated area of the County poses a potential threat to public peace, health, and safety; and
15. The County of Alameda intends to proceed with further study and public meetings to consider a permanent, countywide ordinance that effectively regulates and licenses cultivation of medical cannabis, including commercial cultivation; and
16. The County has a compelling interest in protecting the public health, safety, and welfare of its citizens, residents, visitors and businesses, in preserving the safety, peace and quiet of the neighborhoods and agricultural districts within the unincorporated areas of the County by regulating the cultivation of medical cannabis; and
17. Pursuant to the Medical Cannabis Regulation and Safety Act, the California Department of Food and Agriculture is responsible for promulgating regulations governing

commercial cannabis cultivation and issuing cultivation licenses, which are anticipated to become effective in or around the year 2018; and

18. The adoption of a pilot program allowing the short-term, small-scale cultivation of medical cannabis will allow the County to evaluate appropriate districts, performance standards and prohibitions prior to consideration of a permanent, countywide ordinance regulating all aspects of cannabis cultivation and implementing state regulations; and
19. Participants in the pilot cultivation program would be permitted to cultivate medical cannabis through the duration of the pilot program only and would have no right to continue cultivation beyond the expiration of the pilot program or the expiration or revocation of the permit; and
20. The existing dispensaries operating in the County have demonstrated an ability to operate secure and responsible medical cannabis dispensary establishments and to comply with existing county and state laws concerning the dispensing of medical cannabis; and
21. Allowing these dispensaries to expand operations to limited cultivation in an approved location will allow the County to study cultivation-specific issues, including any effects on neighboring uses and mechanisms to track the product from cultivation through ultimate sale with a consistent, responsible entity at both the beginning and end of the supply in a vertically integrated structure; and
22. Allowing limited additional cultivation operations during this pilot program will allow the County to study cultivation-specific issues, including any effects on neighboring uses and mechanisms to track the product from cultivation through ultimate sale with multiple parties participating in the supply chain outside of a vertically integrated structure; and
23. During the term of the pilot program, the County will retain the authority to modify the terms, duration or requirements of the pilot program, including the authority to cancel the pilot program, revoke or modify permits issued, adopt a moratorium on cultivation, and take any other actions within its power to protect the health, safety and welfare of County residents.
24. On November 8, 2016, the voters of the State of California approved Proposition 64 (codified, in part, as California Business and Professions Code sections 2600 *et seq.* and titled the "Control, Regulate and Tax Adult Use of Marijuana Act"), which decriminalizes the adult use of cannabis for non-medical purposes and establishes a regulatory scheme at the state level; and

25. This Ordinance regulates the cultivation of medical cannabis in the unincorporated areas of the County and does not address the cultivation of cannabis for non-medical use under Proposition 64 or otherwise;
26. The Board of Supervisors acknowledges that regulation of cannabis activities is an evolving field at the state level, as evidenced by the recent adoption and revision of the Medical Cannabis Regulation and Safety Act, passage of Proposition 64 and the related regulations being drafted by various state agencies that are not expected to be finalized and implemented until 2018. As a result, the field of local regulation is also expected to continue to evolve over the next several years including possible further revisions to the County ordinances, policies and performance standards; and
27. Nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. §§ 801 *et seq.* or to license any activity that is prohibited under said Act except as mandated by state law; and
28. Nothing in this Ordinance shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) allow the cultivation of cannabis for non-medical purposes; (3) exempt cultivation operations from compliance with zoning and land use regulations, or, (4) allow any activity relating to the manufacturing, distribution, or consumption of cannabis that is illegal under state or federal law.

## SECTION 2

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of the County of Alameda, as follows:

Chapter 6.106 is hereby added to the Alameda County General Ordinance Code and reads as follows:

### **Chapter 6.106 – Medical Cannabis Cultivation Pilot Program**

#### **6.106.010 Purpose.**

The purpose and intent of this chapter is to provide a means for permitting and regulating the operation of a limited number of medical cannabis cultivation sites on a pilot basis in a manner that is consistent with state law and which promotes the health, safety and general welfare of the residents and businesses within the unincorporated areas of the County of Alameda.

#### **6.106.020 Definitions.**

The following words and phrases shall have the following meanings when used in this chapter:

- A. "Applicant" means a person who shall seek a permit under this chapter by filing an application as provided for in this chapter. "Application" means that form provided by the Director in accordance with this chapter for the purpose of seeking a permit.
- B. "Cannabis" shall have the same definition as in Business and Professions Code section 19300.5(f), which defines "cannabis" as all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" also means marijuana as defined by Section 11018 of the California Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For purposes of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.
- C. "Community Development Agency" means the community development agency of the County of Alameda.
- D. "County" means the County of Alameda.
- E. "Cannabis cultivation" or, as used in this chapter, "Cultivation" or "Cultivate", means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming, including any associated storage, of medical cannabis.
- F. "Cultivation area" means the portion of the premises used for cultivation activities including all buildings, accessory structures, storage and parking areas, other than as may be required for security purposes.
- G. "Director" means the director of the Community Development Agency or his designee.
- H. "Manufacture" means the process by which the raw agricultural cannabis product is transformed into a concentrate, an edible product, or a topical product. Manufacturing includes producing, preparing, propagating, or compounding manufactured cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.

- I. "Medical cannabis," "medical cannabis product," or "cannabis product" means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code. For the purposes of this chapter, "medical cannabis" does not include "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.
- J. "Permitted dispensary" means a facility in possession of a permit issued pursuant to Chapter 6.108 where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, under the authority of the California Compassionate Use Act, the Medical Marijuana Program Act, and/or the California Medical Cannabis Regulation and Safety Act and as regulated by chapter 6.108.
- K. "Permit" means a cultivation permit issued by the county to operate a cultivation site under this chapter.
- L. "Permittee" means a person who holds an effective and current permit under this chapter.
- M. "Person" means any human being or an incorporated or unincorporated business entity or association established under the laws of the state.
- N. "Premises" means the parcel or parcels containing a medical cannabis cultivation site, including any buildings, greenhouses, accessory structures and appurtenant areas.
- O. "Sheriff" means the sheriff of the County of Alameda and his or her authorized representatives.
- P. "State" means the State of California.

**6.106.030** General requirements and program terms.

- A. It shall be unlawful for any person to conduct, engage in or allow to be conducted or engaged in, cannabis cultivation in the unincorporated portion of the County of Alameda, unless such cannabis cultivation operation has been granted a legally effective permit issued under this chapter. Permits to cultivate medical cannabis under this chapter shall be issued on a temporary basis until such time as the county adopts a permanent ordinance regulating or banning cannabis cultivation in the unincorporated area of the county. Notwithstanding the above, the permits issued under this chapter do not provide any protection or immunity for any person from state or federal laws, or from prosecution pursuant to any applicable state or federal laws.

- B. The county shall have in effect no more than four cannabis cultivation permits throughout the duration of the pilot program, to be selected pursuant to sections 6.106.060 through 6.106.110 herein.
- C. Each cannabis cultivation permit shall expire two years after the date of its issuance or upon the sunset and termination of this pilot program pursuant to section 6.106.180 herein, whichever is earlier.
- D. The fact that an applicant possesses other types of state or local permits or licenses shall not exempt the applicant from obtaining a cannabis cultivation permit under this chapter.
- E. A permittee may cultivate medical cannabis during the term of the permit only. A permittee shall have no right to cultivate medical cannabis before or after the expiration of the permit.
- F. Each medical cannabis cultivation site shall comply with all requirements in the Alameda County General Plan, including Measure D (Save Agriculture and Open Space Lands), any applicable specific plans, and Title 17 of the Alameda County General Ordinance Code.

**6.106.040** Land use approval.

Prior to commencement of cannabis cultivation activities, a permittee must obtain a conditional use permit pursuant to Section 17.52.585 of the Alameda County Zoning Ordinance for operation of a cannabis cultivation site.

**6.106.050** Cannabis cultivation permit application procedures – vertically integrated operations.

- A. Each application for a cultivation permit by a permitted dispensary in the unincorporated area of the county shall set forth or incorporate by reference the following information:
  1. The full name, date of birth, social security number, present address and telephone number of the applicant.
  2. Name and location of applicant's permitted dispensary.
  3. The address to which notice of action on the application is to be mailed.
  4. A statement by the applicant that it has the ability to comply with all laws regulating businesses in the state of California and that it shall maintain compliance during the term of the permit.
  5. The names of each person with an ownership interest of more than 10 percent in the proposed cultivation operation.
  6. Certification, under penalty of perjury, that all the information contained in the application is true and correct.

7. Authorization for the county, its agents and employees to seek verification of the information contained in the application.
  8. The applicant's agreement to hold harmless and indemnify the county from all costs and expenses, including attorney's fees, that the county incurs or that is held to be the liability of the county in connection with the county's defense of its actions in any proceeding challenging the county's actions with respect to the permit or cultivation project.
- B. The filing of an application shall be deemed complete upon the submission of an application in conformance with this section and payment of the application fees required by Section 6.106.130 and any fee schedule adopted by the County.
- C. An application may be reviewed and copied by any member of the public in accordance with the California Public Records Act.

**6.106.060 Application review and action – vertically integrated operations.**

- A. The director shall commence review of any application upon its filing. Within thirty business days after the filing of an application, the director shall reject any application and so notify the applicant if the application has been improperly completed or if it is incomplete. The applicant may amend and refile the application within thirty days after such rejection.
- B. Upon receipt of a complete application, the director shall approve the application and grant the cultivation permit if each of the following conditions are met:
1. The applicant operates a permitted dispensary;
  2. The applicant's permitted dispensary has a record of good standing with the county for at least one year. For the purposes of this section, "good standing" means that the dispensary permit has not been suspended or revoked and that there are no pending proceedings for the suspension or revocation of the dispensary permit.
  3. No person who is listed on the application pursuant to subsection (1) or (5) of Section 6.106.050(A) has been convicted of a felony within the past ten years. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
  4. The applicant or the operator listed in the application is at least eighteen (18) years of age.
- C. Upon receipt of a complete application, the director shall deny the application if one or more of the conditions set forth in subsection (B) above are not met.

**6.106.070 Cannabis cultivation permit application procedures – cultivation only.**

- A. The director will initiate a process to solicit applications for the establishment of one or more cultivation sites that need not be affiliated with a permitted dispensary.
- B. Each application for the establishment of a cultivation site pursuant to this section shall be filed with the director and the director shall be responsible for administering the application solicitation and renewal application processes as set forth in this chapter.
- C. The director shall adopt such forms and procedures as are necessary to implement this chapter with respect to the selection, revocation and suspension of permits.
- D. Wherever this chapter requires the county to give notice to an applicant, appellant or permittee, such notice shall be given by the director, in writing, and shall be delivered either by personal delivery or by certified U.S. mail, postage prepaid, return receipt requested.
- E. No person or facility that purports to have cultivated cannabis prior to the enactment of this chapter shall be deemed to have been a legally established cultivation operation under the provisions of this chapter, and such person or facility shall not be entitled to claim a legal nonconforming status.

**6.106.080 Contents of cannabis cultivation permit application – cultivation only.**

- A. In response to a solicitation for applications initiated by the director, each application for a cultivation permit pursuant to section 6.106.070 shall set forth or incorporate by reference the following information in a standard form adopted by the director:
1. Address of the proposed cultivation site and the name and address of the owner of the premises.
  2. The full name, date of birth, social security number, present address and telephone number of the applicant.
  3. The address to which notice of action on the application is to be mailed.
  4. All residential addresses of the applicant for the five years immediately prior to the date of the application.
  5. Written proof that the applicant is eighteen (18) years of age or older (i.e., California driver's license, California identification card or birth certificate).
  6. The height and weight and the color of eyes and hair of the applicant.
  7. Photographs of the applicant for identification purposes to be taken by the sheriff.
  8. The names and addresses of all businesses operated by and the employment of the applicant for the five years immediately prior to the date of the application.
  9. The address of any cultivation sites or dispensaries that currently is or previously had been operated by the applicant and a statement of whether the authorization for any such operation had been revoked or suspended and, if so, the reason therefor.



10. The names and telephone numbers of the person or persons to be regularly engaged in the operation of the proposed cultivation site, whether an employee, volunteer or contractor. The application shall also identify those persons, including telephone numbers (i.e., emergency contact), having management and supervisory responsibilities for the proposed cultivation site. Every person listed as owner, manager, supervisor or employee must submit fingerprints and other necessary information for a background check to the Alameda County sheriff's office, and be photographed for identification purposes. In addition, any new employees, independent contractors, other persons and/or volunteers who will work at the proposed medical cannabis cultivation site must submit their information to the sheriff's office within five days prior to their employment.

11. A security plan containing a detailed description of the proposed security arrangements for ensuring the safety of persons from theft and robbery and protection of the premises from theft and burglary. The security plan shall be approved by the Sheriff, and shall include a lighting plan showing existing and proposed exterior premises and interior lighting levels, alarms and security surveillance cameras. Security video shall be maintained for 30 business days and shall be made available to the Sheriff upon request. The video system for security cameras must be located in a locked, tamper-proof compartment. A professionally monitored robbery alarm system shall be installed and maintained in good working condition. The security plan shall include the provision of a suitable locked safe on the premises for after-hours storage of medical cannabis.

12. A site plan, consisting of a sketch or diagram showing the entire parcel and the area designated for cultivation activities, including the interior configuration of the greenhouse or other structure housing cultivation activities, including a statement of the floor area occupied by each structure at the cultivation site. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus twelve (12) inches.

13. A description of the external appearance of the cultivation site, including a precise depiction of any signage and access roads. All signage shall comply with the County Zoning Ordinance.

14. A description of products to be cultivated on the premises.

15. The mission statement of the cultivation site with respect to meeting the medical needs of patients.

16. A description of the methods by which the applicant will mitigate any potentially adverse impacts, such as traffic, light, odors or noise, on surrounding property owners. The cultivation site shall be designed to provide sufficient odor absorbing ventilation and exhaust systems so that any odor generated on the premises is not detected outside property on which it operates.

17. Authorization for the county, its agents and employees to seek verification of the information contained in the application.

18. Written certification that the applicant has reviewed and understands and accepts any performance standards for cannabis cultivation that may be adopted by the director.

19. Certification, under penalty of perjury, that all the information contained in the application is true and correct.

20. A statement by the applicant that it has the ability to comply with all laws regulating businesses in the state of California and that it shall maintain compliance during the term of the permit.

21. An operating plan specifically describing how the cultivation site will operate consistent with state and local law, including but not limited to: the minimum staffing levels for operation of the cultivation site, policies and procedures for record keeping, specific details of the cultivation operation's track and trace program, specific details regarding product testing, and other relevant information regarding the operation of the proposed cultivation site and including a copy of the cultivation operation's labor peace agreement when required by California Business & Professions Code Section 19322(a)(6) to enter into or abide by a labor peace agreement.

B. The filing of an application shall be deemed complete upon the submission of an application in conformance with this section and payment of the application fees required by Section 6.106.130. An application may be reviewed and copied by any member of the public in accordance with the California Public Records Act.

**6.106.090** Initial review of application – cultivation.

A. The director shall commence review of any application received pursuant to section 6.106.080 immediately upon its filing and shall complete such initial review within the time period established in the solicitation process for cannabis cultivation permits, but in no event shall the initial review exceed sixty (60) days. In conducting this review, the following county agencies shall comment on specific portions of the application:

1. The sheriff shall be responsible for verifying factual information in the application, including names, addresses and other information on the applicant operator and its employees of the proposed cultivation operation.
2. The sheriff shall comment upon the adequacy of security measures that are described in the application, the security plan, the site plan, and other relevant aspects of the application.
3. The community development agency shall comment upon the proposed location's compliance with zoning regulations and conditions that are needed to mitigate adverse impacts on surrounding uses.
4. The health care services agency shall comment upon the services to be provided and the mission statement set forth in the application.
5. The department of environmental health shall comment upon the application's compliance with the requirements of Section 6.108.230.

B. Within twenty (20) business days after the filing of an application, the director shall reject any application and so notify the applicant, if the application has been improperly completed or if it is incomplete. The applicant may amend and refile the application within ten days after such rejection.

C. At the conclusion of the initial review, the director shall notify the applicant of the results of the initial review of the application.

**6.106.100 - Action upon completion of initial review – cultivation only.**

A. Upon completion of the initial review, the director shall reject any permit application that meets any of the following criteria:

1. The proposed cultivation operation does not comply with requirements of this chapter.
2. The applicant has knowingly made a false statement of material fact or has knowingly omitted a material fact from the application.
3. The proposed cultivation operation at the proposed location is prohibited by any state or local law or regulation.
4. Any person who is listed on the application pursuant to subsection (A)(10) of Section 6.106.080 has been convicted of a felony within the past ten (10) years. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
5. The applicant or the operator listed in the application is less than eighteen (18) years of age.
6. The health care services agency has determined that the application for a cultivation site has failed to state a health care purpose that fulfills the purposes of Section 11362.5 *et seq.* of the California Health and Safety Code.
7. The applicant is delinquent in the payment of any applicable state or County taxes and fees.

B. Any application that is not rejected upon completion of the initial review shall be deemed an eligible application and submitted to the final selection phase of the solicitation process.

**6.106.110 - Final selection of medical cannabis cultivation sites – cultivation only.**

A. The final selection phase of the solicitation process shall include selection from the eligible applications and the establishment of operating conditions for any permits issued under this chapter to the selected eligible applicants. The final selection process shall not exceed sixty (60) days in the absence of an appeal.

B. If the number eligible applications is the same as or less than the allowable number of cannabis cultivation sites allowed pursuant to section 6.106.030, then all applications shall be submitted for establishment of operating conditions as set forth in subsection C of this section. If the number of eligible applications exceeds the maximum number of cultivation sites pursuant to 6.106.030, then a competitive evaluation process shall be conducted in which applicants are scored and ranked with the director recommending issuance of a permit to the highest ranked, eligible applicants.

C. The sheriff and the director shall establish operating conditions for cultivation sites for each eligible application that has been submitted for final selection. The operating conditions shall be limited to those that are necessary to carry out the purposes of this chapter and to mitigate specific and foreseeable adverse impacts on properties in the vicinity.

D. At the conclusion of the final selection process outlined above, the director shall give notice to the cultivation permit applicant of the operating conditions that would attach to the permit. Within ten days after notice, the applicant shall either:

1. Certify acceptance of the operating conditions and the standard conditions of the permit, and the permit shall thereupon issue immediately.
2. If the applicant refuses or fails to certify agreement with any operating condition, the application shall be denied. The applicant may appeal any condition within ten days after notice of the conditions. Upon either the failure to file a timely appeal or the rejection of the appeal, the application shall be deemed denied.

E. The operating conditions established by the director shall include the requirement for each eligible applicant to obtain (1) any required state permits or licenses for the operation of a cultivation operation, if and when applicable, and (2) all land use entitlements required to operate a cultivation operation, if and when applicable. No cultivation permit shall be effective unless and until these conditions of approval are satisfied.

#### **6.106.120 Appeal.**

- A. An applicant aggrieved by the decisions described in Section 6.106.060 or Section 6.106.110 may appeal that decision to the board of supervisors within ten (10) days following the date of issuance of that decision by filing with the clerk of the board of supervisors or the director a notice of appeal specifying the grounds for such appeal. Filing such notice shall stay all proceedings in furtherance of the decision appealed from. The director is designated as an agent of the clerk of the board for purposes of receiving a notice of appeal.
- B. The board of supervisors shall give written notice of the time and place for hearing any appeal filed pursuant this section. Such notice shall be given to the applicant and to the agency which made the order appealed, and to any other person requesting such notice and depositing with the clerk of the board a self-addressed, stamped envelope to be used for that purpose.
- C. The board of supervisors may hear additional evidence and may sustain, modify, or overrule any order brought before it on appeal, and may make such findings and decisions as are not inconsistent with state law and county ordinances. The board of supervisors may also remand the decision to the director for reconsideration of his or her decision in light of new information not previously presented to the director. If no motion relative to the order appealed attains a majority vote of the board of supervisors within thirty (30) days from the date of the hearing by said board thereon, said order of the director shall stand sustained and be final.

#### **6.106.130 Fees.**

Each applicant shall reimburse the county for all staff costs, any consultant costs and any direct costs attributable to reviewing the application, conducting any required

studies, acting upon the application, and verifying and enforcing compliance. The board of supervisors may establish a nonrefundable fee in order to reimburse the county for such costs.

**6.106.140 Prohibited operations.**

A permittee shall not conduct any manufacturing of cannabis on the premises. A permittee shall not dispense or deliver cannabis from the premises unless separately permitted by a dispensary or delivery permit.

**6.106.150 Limitations.**

Nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. §§ 801 et seq. or to license any activity that is prohibited under said Act except as mandated by state law; and

Nothing in this Ordinance shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) allow the cultivation of cannabis or cannabis for non-medical purposes; (3) exempt cannabis cultivation operations from compliance with zoning and land use regulations, or, (4) allow any activity relating to the manufacturing, distribution, or consumption of cannabis that is illegal under state or federal law.

**6.106.160 Severability.**

The provisions of this chapter are hereby declared to be severable. If any provision, clause, word, sentence or paragraph of this chapter or the application thereof to any person, establishment or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter.

**6.106.170 Judicial review.**

Judicial review of a final decision made under this chapter may be had by filing a petition for a writ of mandate with the Superior Court in accordance with the provisions of Section 1094.5 of the California Code of Civil Procedure. Any such petition or any other action seeking judicial review shall be filed within ninety (90) days after the day the decision becomes final.

**6.106.180 Sunset and termination.**

The pilot program for cultivation of marijuana shall terminate on December 31, 2018. Any rights or privileges granted to a permittee pursuant to this Chapter existing on that date shall also terminate on that date. Unless an ordinance is adopted to amend this provision, this Chapter shall be repealed automatically on December 31, 2018.

SECTION 3

This ordinance shall take effect and be in force thirty (30) days from and after the date of passage and before the expiration of fifteen (15) days after its passage it shall be published once with the names of the members voting for and against the same in the Inter-City Express, a newspaper published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on the \_\_\_\_ day of \_\_\_\_\_, 2017, by the following called vote:

AYES:

NOES:

EXCUSED:

\_\_\_\_\_  
WILMA CHAN  
President of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors,

By: \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM:

DONNA R. ZIEGLER, COUNTY COUNSEL

By: \_\_\_\_\_  
Heather Littlejohn  
Deputy County Counsel



ORDINANCE NO. 2017-\_\_\_\_\_

AN ORDINANCE AMENDING TITLE 17 OF THE ALAMEDA COUNTY GENERAL ORDINANCE CODE TO IMPLEMENT A PILOT PROGRAM AUTHORIZING AND REGULATING THE CULTIVATION OF MEDICAL CANNABIS IN THE UNINCORPORATED AREA OF THE COUNTY OF ALAMEDA

SECTION 1

The Board of Supervisors makes the following findings of fact in support of this ordinance:

1. In 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code section 11362.5 and titled the "Compassionate Use Act of 1996"); and
2. The intent of Proposition 215 was to enable persons who are in need of cannabis for medical purposes to be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances; and
3. In 2004, Senate Bill 420 was enacted (codified as California Health and Safety Code section 11362.7 *et seq.* and titled the "Medical Marijuana Program Act") to clarify the scope of the Compassionate Use Act of 1996. The Medical Marijuana Program Act allows counties to adopt and enforce rules and regulations consistent with its provisions; and
4. In 2011, Assembly Bill 2650 was enacted (codified as California Health and Safety Code section 11362.768). This law affirms that counties can adopt ordinances that restrict the location and establishment of medical cannabis collectives and cooperatives; and
5. Pursuant to the Medical Marijuana Program Act, patients and caregivers may provide and acquire medical cannabis in a cooperative or collective manner wherein caregiver members may cultivate cannabis for the use of patient members, with costs and revenues of the cooperative or collective allocated accordingly; and
6. In 2015, Assembly Bill 243, Assembly Bill 266, Senate Bill 643 and Senate Bill 837 were enacted and subsequently revised by Assembly Bill 21 in 2016 (codified, in part, as California Business and Professions Code sections 19300, *et seq.* and titled the "Medical Cannabis Regulation and Safety Act"). These bills also amended provisions of the Medical Marijuana Program Act related to the cultivation of medical cannabis; and
7. The Medical Cannabis Regulation and Safety Act establishes a comprehensive framework to license and regulate commercial medical cannabis cultivation, manufacturing, distribution, transportation, sales, and testing; and



8. The County adopted an ordinance prohibiting delivery and cultivation of cannabis on January 16, 2016 (Ordinance No. 2016-6, codified as Chapter 6.106 of the County General Ordinance Code) in response to a provision of the Medical Cannabis Regulation and Safety Act that included a March 1, 2016 deadline for local jurisdictions to act, which provision was repealed by Assembly Bill 21 on February 3, 2016; and
9. Ordinance No. 2016-6 provided, "This Ordinance shall be repealed by its own terms upon the adoption of state legislation repealing or eliminating the March 1, 2016 deadline in Health and Safety Code section 11362.777(c)(4)" and accordingly, Chapter 6.106 of the Alameda County General Ordinance Code was repealed on February 3, 2016.
10. Pursuant to California Business and Professions Code section 19315(a), nothing in the Medical Cannabis Regulation and Safety Act shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local permit or licensing requirements; and
11. This Ordinance is enacted, consistent with the Compassionate Use Act of 1996, the Medical Marijuana Program Act, and the Medical Cannabis Regulation and Safety Act, to protect the public health, safety, and welfare of residents of the County of Alameda in relation to the cultivation of medical cannabis; and
12. The Alameda County Zoning Ordinance (codified as Alameda County General Ordinance Code, Title 17) is a permissive zoning ordinance, enumerating permitted uses in the various zoning districts of the unincorporated county and thereby prohibiting those uses not specifically permitted, under a principle known as "permissive zoning"; and
13. The cultivation of cannabis is not explicitly addressed by the Alameda County Zoning Ordinance and therefore has previously been considered a prohibited illegal activity under the principles of permissive zoning; and
14. The cultivation of medical cannabis in appropriate locations will help ensure that medical cannabis will be available to the patients in need of it while preserving the character, health and safety of the surrounding area; and
15. Absent appropriate regulation, the cultivation of medical cannabis in the unincorporated area of the County poses a potential threat to public peace, health, and safety; and
16. The County intends to proceed with further study and public meetings to consider a permanent, countywide ordinance that effectively regulates and licenses cultivation of medical cannabis, including commercial cultivation; and
17. The County has a compelling interest in protecting the public health, safety, and welfare of its citizens, residents, visitors and businesses, in preserving the safety, peace and

quiet of the neighborhoods and agricultural districts within the unincorporated areas of the County by regulating the cultivation of medical cannabis; and

18. Pursuant to the Medical Cannabis Regulation and Safety Act, the California Department of Food and Agriculture is responsible for promulgating regulations governing commercial cannabis cultivation and issuing cultivation licenses, which are anticipated to become effective in or around the year 2018; and
19. The adoption of a pilot program allowing the short-term, small-scale cultivation of medical cannabis will allow the County to evaluate appropriate districts, performance standards and prohibitions prior to consideration of a permanent, countywide ordinance regulating all aspects of cannabis cultivation and implementing state regulations; and
20. Participants in the pilot cultivation program would be permitted to cultivate medical cannabis through the duration of the pilot program only and would have no right to continue cultivation beyond the expiration of the pilot program or the expiration or revocation of the permit; and
21. During the term of the pilot program, the County will retain the authority to modify the terms, duration or requirements of the pilot program, including the authority to cancel the pilot program, revoke or modify permits issued, adopt a moratorium on cultivation, and take any other actions within its power to protect the health, safety and welfare of County residents.
22. On November 8, 2016, the voters of the State of California approved Proposition 64 (codified, in part, as California Business and Professions Code sections 2600, *et seq.* and titled the "Control, Regulate and Tax Adult Use of Marijuana Act" also referred to as "AUMA"), which decriminalizes the adult use of cannabis for non-medical purposes and establishes a regulatory scheme at the state level; and
23. This Ordinance regulates the cultivation of medical cannabis in the unincorporated areas of the County and does not address the cultivation of cannabis for non-medical use under Proposition 64 or otherwise;
24. Nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. sections 801, *et seq.* or to license any activity that is prohibited under said Act except as mandated by state law; and
25. Nothing in this Ordinance shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) allow the cultivation of cannabis for non-medical purposes; (3) exempt cultivation operations from compliance with zoning and land use regulations, or, (4) allow any activity relating to the manufacturing, distribution, or consumption of cannabis that is illegal under state or federal law.

## SECTION 2

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of the County of Alameda, as follows:

Section 17.04.010 of the Alameda County General Ordinance Code is hereby amended to add the following definitions, inserted in alphabetical order into the existing text of the section:

"Cannabis" shall have the same definition as in Business and Professions Code section 19300.5(f), which defines "cannabis" as all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" also means marijuana as defined by Section 11018 of the California Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For purposes of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

"Cannabis Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming, including any associated storage, of Medical Cannabis.

"Medical Cannabis," "Medical Cannabis Product," or "Cannabis Product" means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code. For the purposes of this chapter, "medical cannabis" does not include "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

Section 17.52.585 is hereby added to the Alameda County General Ordinance Code and shall read as follows:

### **17.52.585 Conditional use—Pilot Program for Cultivation of Medical Cannabis.**

- A. Cannabis Cultivation shall be permitted as a conditional use in the A district only if approved by the board of zoning adjustments as provided in Section 17.54.130 and only to the extent required to implement the county's pilot program for Cannabis Cultivation established by Chapter 6.106 of this code.

- B. A Cannabis Cultivation permit must be issued and any appeals finally determined in accordance with Chapter 6.106 of this code prior to the hearing on an application for a conditional use permit pursuant to this section. A conditional use permit issued pursuant to this section shall be effective only during such time as the permittee also holds a valid and effective Cannabis Cultivation permit or license pursuant to Chapter 6.106 or a subsequent ordinance permitting or licensing Cannabis Cultivation and a valid and effective state license permitting Cannabis Cultivation, once such licenses become available.**
- C. Cannabis Cultivation uses approved pursuant to this section shall meet the criteria established by section 17.54.130, section 17.54.140 and any criteria established for the district. In addition, no conditional use permit for Cannabis Cultivation shall issue unless the following additional findings are made by the board of zoning adjustments based on sufficient evidence:**
- 1. The applicant has demonstrated an ability to provide effective security for the Cannabis Cultivation site and to provide a safe environment for people working at the site;**
  - 2. Theft and diversion of Cannabis cultivated on the premises is prevented;**
  - 3. Artificial light shall not escape structures used for Cannabis Cultivation (e.g. greenhouses) at a level that is visible from neighboring properties between sunset and sunrise. Lighting that is visible from the exterior of the Cannabis Cultivation area is prohibited, except such lighting as is reasonably utilized for the security of the premises;**
  - 4. Any direct or sky-reflected glare or heat shall not be perceptible at any point outside of the Cannabis Cultivation site;**
  - 5. Noise or vibration, other than that related to transportation activities and temporary construction work, shall not be discernible without instruments at any lot line of the site;**
  - 6. Odorous gases or odorous matter shall not be emitted in quantities such as to be perceptible outside of the Cannabis Cultivation site;**
  - 7. The discharge into any public sewer, private sewage disposal system or stream or into the ground shall not occur except in accordance with the standards approved by the State Department of Health, of any materials of such nature or temperature as to contaminate any water supply, interfere with bacterial processes and sewage treatment, or in any way cause the emission of dangerous or offensive elements;**
  - 8. Any dust, dirt or particulate matter shall not be discharged into the air from any activity or from any products stored on the site;**
  - 9. The areas of the site to be actively used for Cannabis Cultivation activities are set back as follows:**

- a. At least fifty (50) feet from any property line shared with an adjacent property with different ownership, unless waived in writing by the adjacent owner;
  - b. At least three hundred (300) feet from any residence on an adjacent property with different ownership, unless waived in writing by the adjacent owner; and
  - c. At least one thousand (1000) feet from any school for pre-K to 12th grade students, licensed child or day care facility, public park or playground, drug or alcohol recovery facility or public recreation center.
- D. The Planning Director may establish additional performance standards and standard conditions providing detailed guidance for applicants and permittees. Permittees shall be required to comply with the performance standards and any conditions of approval applicable to a permit issued pursuant to this chapter.

Section 17.54.130 of the Alameda County General Ordinance Code is hereby amended to read as follows:

**17.54.130 - Conditional uses.**

Certain uses, referred to in this title as conditional uses, are hereby declared to possess characteristics which require special review and appraisal in each instance, in order to determine whether or not the use:

- A. Is required by the public need;
- B. Will be properly related to other land uses and transportation and service facilities in the vicinity;
- C. If permitted, will under all the circumstances and conditions of the particular case, materially affect adversely the health or safety of persons residing or working in the vicinity, or be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood; and
- D. Will be contrary to the specific intent clauses or performance standards established for the district, in which it is to be located.

A use in any district which is listed, explicitly or by reference, as a conditional use in the district's regulations, or in Section 17.52.580 or 17.52.585 shall be approved or disapproved as to zoning only upon filing an application in proper form and in accordance with the procedure governing such uses set forth hereinafter.

**SECTION 3**

This ordinance shall take effect and be in force thirty (30) days from and after the date of passage and before the expiration of fifteen (15) days after its passage it shall be published

once with the names of the members voting for and against the same in the Inter-City Express, a newspaper published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on the \_\_\_\_ day of \_\_\_\_\_, 2017, by the following called vote:

AYES:

NOES:

EXCUSED:

\_\_\_\_\_  
WILMA CHAN  
President of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors,

By: \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM:

DONNA R. ZIEGLER, COUNTY COUNSEL

By: \_\_\_\_\_  
Heather Littlejohn  
Deputy County Counsel



## **Performance Standards and Standard Conditions for Pilot Program Cultivation Sites**

A person holding an effective medical cannabis cultivation permit site shall comply with the following performance standards and standard conditions:

1. **Limited Authorization**. Permittee may conduct activities involving the planting, growing, harvesting, drying, curing, grading, or trimming and associated storage of cannabis only at a site approved pursuant to a conditional use permit.
2. **Indoor or Mixed-Light Cultivation Only**. All planting, growing, harvesting, drying, curing, grading, or trimming and associated storage of cannabis must occur within the interior of an enclosed, secured structure, such as a greenhouse. Cannabis must not be visible from the exterior of the premises.
3. **Maximum Cultivation Area**. The maximum area permitted for growing cannabis plants, including both mature and immature plants, is limited to 22,000 square feet, inclusive, of total canopy size. The canopy includes all areas occupied by any portion of a cannabis plant, inclusive of all vertical planes, whether contiguous or noncontiguous on any one site.
4. **Operations Plan Required**. All applicants shall, at the time of the application for a conditional use permit, include an Operations Plan with their application materials that addresses the following elements in sufficient detail for the County to evaluate the proposed cultivation operation against the requirements included herein:
  - a. Site Plan
  - b. Site Security Plan
  - c. Track and Trace Plan
  - d. Cultivation Operations Plan
  - e. Worker Safety Plan
  - f. Cannabis Processing Plan
  - g. Waste Disposal Plan
5. **No Dispensing**. Permittee shall not dispense cannabis at the site, unless and until a dispensary permit is issued by the County permitting a dispensary to operate at the site.
6. **Track and Trace**. Permittee shall institute a track and trace program to be approved by the director to ensure that cannabis cultivated at the site is dispensed only at permittee's permitted dispensary. Unique identifiers shall be attached at the base of each plant and shall be traceable through the supply chain back to the cultivation site. Each permittee shall maintain records of each plant cultivated at the site and its ultimate destination.
7. **No Manufacturing**. Permittee shall not manufacture cannabis products at the cultivation site.
8. **Testing**. A cultivation site shall submit its Cannabis Products for analytical testing at an accredited testing laboratory, as defined in Business and Professions Code section 19300.5(z).
9. **Lighting**. Permittees using artificial lighting shall shield structures, including greenhouses, so that little to no light escapes. Light shall not escape at a level that is



visible from neighboring properties between sunset and sunrise. Lighting that is visible from the exterior of the cultivation area is prohibited, except such lighting as is reasonably utilized for the security of the premises.

10. Minimum Age. No person who is less than eighteen (18) years of age may be employed or otherwise engaged in the cultivation operation. No person under the age of eighteen (18) shall be allowed on the premises. The entrance to the building area of the cultivation site shall be posted with a notice that states the restrictions on the presence of persons under the age of eighteen (18).
11. Limited Ingesting Permitted. No cannabis shall be smoked, ingested or otherwise consumed on the cultivation site, other than by management as reasonably necessary for cultivation operations such as research and development, quality control, and pricing.
12. Display Cultivation Permit. Each cultivation site shall conspicuously display the cultivation permit.
13. Registry of Employees. Each permittee shall maintain a current registry of persons, including, but not limited to, employees, contractors and volunteers, who are engaged in the operation of the dispensary. The registry shall be provided to the director and the sheriff at any time upon request. The registry shall include the name, current residential address, telephone number, date of birth and the height, weight and color of eyes and hair of each such person.
14. Criminal Background Checks. No person who has been convicted of a felony within the past ten years may be actively engaged in the operation of any cultivation site. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
15. Safety and Security. Permittees shall provide adequate security on the premises, including lighting and alarms, to ensure the safety of persons and to protect the premises from theft.
16. Compliance with State Law. Permittees must comply with all state statutes, regulations and requirements. Permittees must obtain and maintain any permit, license, certification or registration required by the state. Permittees must pay all required state taxes and fees. Compliance with all applicable requirements established by the following agencies is specifically required:
  - a. California Department of Food and Agriculture
  - b. California Department of Fish & Wildlife
  - c. California Water Quality Control Board
  - d. Bay Area Air Quality Management District
  - e. CALFIRE
  - f. California Department of Pesticide Regulation
  - g. California Environmental Protection Agency
  - h. California Franchise Tax Board

17. **Compliance with Local Law.** Permittees must comply with all local ordinances, regulations, guidelines, standards and requirements of all local agencies and departments. Permittees must obtain and maintain any permit, license, certification or registration required by a local agency or department. Permittees must pay all local taxes and fees. Compliance with all applicable requirements established by the following agencies and departments is specifically required:
  - a. Alameda County Public Works Agency
  - b. Alameda County Planning Department
  - c. Alameda County Treasurer-Tax Collector
  - d. Alameda County Fire Department
  - e. Alameda County Agricultural Commissioner
  - f. Alameda County Environmental Health Department
  - g. Alameda County Sheriff's Office
  - h. Zone 7 Water Agency or other agency having jurisdiction over water supply and/or flood control
18. **Inspections.** Permittees must consent to periodic on-site compliance inspections to be conducted by appropriate officials.
19. **Fees.** Permittees must timely remit payment for all application, program, and inspection fees.
20. **Conditions.** Permittees must comply with any special conditions or conditions of approval applicable to the permit, parcel, or project.
21. **Fuels and Agricultural Additives.** Storage, use and handling of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide shall be in compliance with applicable state and local laws and regulations, and in such a way that prevents spillage.
22. **Noise.** Permittees must comply with the County Noise Ordinance.
23. **Water.** Water is to be sourced locally (on-site) and trucked water shall not be allowed for general cultivation purposes, but may be used for emergencies (e.g., fire).
24. **Employer Certification.** Pursuant to the Medical Cannabis Regulation and Safety Act, Health and Safety Code section 19322(a)(9), an applicant seeking a cultivation license shall "provide a statement declaring the applicant is an 'agricultural employer,' as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law."
25. **Labor Conditions.** Permittees shall comply with all applicable federal, state, and local laws and regulations governing California agricultural employers, which may include: federal and state wage and hour laws, CAL/OSHA, OSHA, California Agricultural Labor Relations Act, and the County General Ordinance Code. Permittees shall provide a copy of its labor peace agreement when the dispensary is required by California Business & Professions Code Section 19322(a)(6) to enter into and abide by a labor peace agreement. A cultivation site must have restroom facilities that will accommodate both male and female staff.
26. **Cultivation Liaison.** The permittee shall provide the director with the name, telephone number and facsimile number of a community relations contact to whom one can provide

notice of problems associated with the cultivation site. The permittee shall make a good faith effort to resolve problems without the need for intervention by the county.

**27. Processing Safety.**

- a. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment.
- b. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis.
- c. Employees handling cannabis in processing operations must have access to facemasks and gloves in good operable condition as applicable to their job function.
- d. Employees must wash hands sufficiently when handling cannabis or use gloves.

**28. Employee Safety Practices.**

- a. Cultivation operations and processing operations must implement safety protocols and provide all employees with adequate safety training relevant to their specific job functions, which may include:
  - 1) Emergency action response planning as necessary;
  - 2) Employee accident reporting and investigation policies;
  - 3) Fire prevention;
  - 4) Hazard communication policies, including maintenance of material safety data sheets (MSDS);
  - 5) Materials handling policies;
  - 6) Job hazard analyses; and
  - 7) Personal protective equipment policies, including respiratory protection.
- b. Cultivation operations and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:
  - 1) Operation manager contacts;
  - 2) Emergency responder contacts; and
  - 3) Poison control contacts.
- c. At all times, employees shall have access to safe drinking water and toilets and handwashing facilities that comply with applicable federal, state, and local laws and regulations. Plumbing facilities and water source must be capable of handling increased usage without adverse consequences to neighboring properties or the environment.
- d. On site-housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.

- e. All permittees shall, at the time of the application for a conditional use permit, include a Cannabis Processing Plan with all of the following:
  - 1) Summary of processing practices.
  - 2) Description of location where processing will occur.
  - 3) Estimated number of employees, if any.
  - 4) Summary of Employee Safety Practices.
  - 5) Description of toilet and handwashing facilities.
  - 6) Description of plumbing and/or septic system and whether or not the system is capable of handling increased usage.
  - 7) Description of source of drinking water for employees.
  - 8) Description of increased road use resulting from processing and a plan to minimize that impact.
  - 9) Description of on-site housing, if any.

**29. Waste.**

- a. Solid and liquid wastes generated during cannabis production and processing must be stored, managed, and disposed of in accordance with applicable state and local laws and regulations.
- b. Wastewater generated during cannabis production and processing must be disposed of in compliance with applicable state and local laws and regulations.
- c. Wastes from the production and processing of cannabis plants must be evaluated against the state's hazardous waste regulations to determine if those wastes classify as hazardous waste. It is the responsibility of each waste generator to properly evaluate their waste to determine if it is designated as a hazardous waste. If a generator's waste does qualify as a hazardous waste, then that waste is subject to the applicable management and disposal standards. A cannabis plant, usable cannabis, trim and other plant material in itself is not considered hazardous waste unless it has been treated or contaminated with a solvent.
- d. Cannabis wastes that do not qualify as hazardous including but not limited to trim, roots, stalks, leaves, and stems must be rendered unusable prior to leaving the cultivation site.



RESOLUTION NO. 17-06 - AT MEETING HELD APRIL 3, 2017

**RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF ALAMEDA  
REGARDING  
ORDINANCES AMENDING CHAPTERS 6.106 AND 6.108, AND TITLE 17 OF THE ALAMEDA  
COUNTY GENERAL ORDINANCE CODE TO REGULATE MEDICAL CANNABIS  
DISPENSARIES, TO PERMIT AND REGULATE THE DELIVERY OF MEDICAL CANNABIS  
IN THE UNINCORPORATED AREA OF ALAMEDA COUNTY, TO REGULATE THE SALE,  
DISPENSING AND DELIVERY OF EDIBLES; AND TO IMPLEMENT A PILOT PROGRAM  
AUTHORIZING AND REGULATING THE CULTIVATION OF MEDICAL CANNABIS IN THE  
UNINCORPORATED AREA OF ALAMEDA COUNTY**

**Introduced by Commissioner Moore  
Seconded by Commissioner Gin**

**WHEREAS**, the Alameda County Planning Commission did hold four public hearings on the proposed Medical Cannabis Dispensary Ordinances (comprised of an amendment to Chapter 6.108 and amendments to Sections 17.04.010, 17.06.040, 17.38.030, and 17.40.030 of Title 17), Cultivation Ordinances (comprised of the addition of Chapter 6.106 and amendments to Sections 17.04.010, 17.52.585, and 17.54.130 of Title 17)(collective, "Ordinances") on September 19, 2016, and on February 6, February 21, and March 20, 2017 in the Public Hearing Room of the Alameda County Administration Building, 224 West Winton Avenue, Hayward, California, for which notice was given as required by law, and at which time the Commission took public testimony; and

**WHEREAS** a draft Initial Study/Mitigated Negative Declaration ("IS/MND") was prepared by the County. The draft IS/MND in its entirety was circulated for public review as required by the California Environmental Quality Act ("CEQA") for a period of 21 days, beginning March 7, 2017; and

**WHEREAS** this Planning Commission held a duly noticed public hearing to consider the draft IS/MND for the Ordinances at the hour of 3:00 p.m. on Monday, March 20, 2017, in the Public Hearing Room of the Alameda County Administration Building, 224 West Winton Avenue, Hayward, California; and

**WHEREAS** this Planning Commission held a duly noticed public hearing to consider the Ordinances and the IS/MND for the Ordinances at the hour of 6:00 p.m. on Monday, April 3, 2017, in the Public Hearing Room of the Alameda County Administration Building, 224 West Winton Avenue, Hayward, California; and

**WHEREAS**, that the Planning Commission has reviewed the IS/MND and on the basis of the record before the Planning Commission, the Planning Commission finds that there is no substantial evidence that the proposed Ordinances will have a significant effect on the environment.

**WHEREAS**, proposed addition of Chapter 6.106 to the General Ordinance Code, attached hereto as Exhibit A, will implement a medical cannabis cultivation pilot program and establish requirements for the program; and

**WHEREAS**, proposed amendments to Chapter 6.108 of the General Ordinance Code, attached hereto as Exhibit B, will regulate medical cannabis dispensaries, permit and regulate the delivery of medical cannabis in the unincorporated area of Alameda County, and regulate the sale, dispensing and delivery of edibles; and

**WHEREAS**, proposed amendments to Title 17 of the General Ordinance Code, attached hereto as Exhibits C and D, will allow medical cannabis dispensaries as a conditional use in the “A” (Agricultural) District and in specified commercial zoning districts, and the cultivation of medical cannabis as a conditional use in the “A” (Agricultural) District; and

**WHEREAS**, the Planning Commission is authorized and obligated to make recommendations to the Board of Supervisors on matters related to planning and zoning; and

**WHEREAS**, the testimony submitted in writing and at the public hearing and items in the public record have been considered by the Planning Commission prior to this action; and

**WHEREAS**, the complete record for this process is in the custody of the Alameda County Planning Department, and may be found at Room 111, 224 West Winton Avenue, Hayward, California 94544.

**NOW, THEREFORE,**

**BE IT RESOLVED**, that an Initial Study/Mitigated Negative Declaration is the appropriate and proper environmental analysis for the proposed medical cannabis ordinance amendment, was duly prepared by the County and complies with the requirements of CEQA; and

**BE IT FURTHER RESOLVED** that this Commission does hereby recommend that the Board of Supervisors approve the Final Initial Study/Mitigated Negative Declaration; and

**BE IT FURTHER RESOLVED** that this Commission does hereby recommend that the Board of Supervisors adopt the proposed amendments to the Alameda County General Ordinance Code regulating medical cannabis dispensaries, delivery, and cultivation sites as provided in Exhibits A through D (Draft Ordinances) with the addition of “places of worship” to the list of uses from which dispensaries are required to locate at least 1,000 feet in Section 6.108.030.E.2 of the dispensary ordinance, and with “places of worship” also added to the list of uses from which cultivation sites are required to locate at least 1,000 feet in Section 17.52.585.C.9.c of the Zoning Ordinance amendment pertaining to cultivation sites.

**ADOPTED BY THE FOLLOWING VOTE:**

**AYES:** Commissioners Gin; Kastriotis; Moore; Rhodes, Vice-Chair and Ratto, Chair.

**NOE:** Commissioner Goff

**EXCUSED:** Commissioner Kelley

**ABSENT:**

**ABSTAINED:**

**ALBERT LOPEZ, PLANNING DIRECTOR AND SECRETARY,  
ALAMEDA COUNTY PLANNING COMMISSION**



April 3, 2017

Elizabeth McElligott, Assistant Planning Director  
Alameda County Planning Department  
224 West Winton Avenue, Room 111  
Hayward, CA 94544

RE: Proposed Medical Cannabis Dispensary and Cultivation Ordinance

Dear Ms. McElligott:

Thank you for allowing general public and public agency input on the draft Alameda County Medical Cannabis Dispensary and Cultivation Ordinance. We look forward to continued collaboration and dialogue with you on this important ordinance.

The City of Livermore (City) has reviewed the proposed ordinance amendments presented in the Memorandum from the Medical Cannabis Interdepartmental Work Group to the Board of Supervisors' Unincorporated Services Committee dated March 16, 2017 (Memorandum) and the most recent versions of those policies in the April 3 Alameda County Planning Commission packet. The City's understanding is that draft policies for East Alameda County will permit up to two stand-alone dispensaries and four cultivation sites and that the dispensaries may either be stand-alone facilities or co-located with the cultivation sites. With strategically preserved agricultural and open space land to the north and south of the City's Urban Growth Boundaries and City limits, the City has particular concern regarding potential development of urban uses in areas of East Alameda County surrounding the City.

The following comments summarize the City's concern about the County's draft Medical Cannabis Dispensary and Cultivation Ordinance:

1. The City is concerned that stand-alone dispensaries are inconsistent with East County Area Plan policies. For example, stand-alone dispensaries appear inconsistent with the definition of "agricultural enhancing commercial" in the East County Area Plan below.



***Agricultural Enhancing Commercial Uses:*** *These uses include stables, fruit stands, feed stores, sampling rooms, bed and breakfasts, and other uses which can demonstrate an economic connection to agricultural use or production.*

Since the proposed Zoning Ordinance Amendments for Dispensaries would not require the dispensary to be directly tied to the agricultural use of the land, the City does not find that a stand-alone dispensary would constitute an agriculture-enhancing use. Rather, a medical cannabis dispensary appears to be an urban use involving the sale of medical products to patients, much like a pharmacy. If the product is not grown and manufactured on site, it seems inappropriate to characterize it as an agricultural use. As shown in Attachment B, Section 2.17.06.040(R) of the Memorandum, the previously proposed requirement that dispensaries be accessory to a permitted cannabis cultivation operation has since been removed. As a result, the City suggests that a stand-alone medical cannabis dispensary would be more appropriately located in a commercial zone.

2. As stated in Attachment A, Section 6.108.030(E)2 of the Memorandum, the current dispensary ordinance text states, "No dispensary may be closer than one thousand (1,000) feet from any school, child or day care facility, public park or playground, drug recovery facility or recreation center." Please confirm or include in the draft policies that this 1,000 foot buffer would apply to sensitive receptors within Livermore City limits as well. In addition, the City recommends including churches and places of worship into the 1,000 foot buffer. As stated in Section 6.108.030(E)3 of the Memorandum, the current dispensary ordinance text states, "No dispensary shall be located in a residential zone or its equivalent." The City recommends that a 1,000 foot buffer be applied to this locational standard, such that the standard prohibits a dispensary from being closer than 1,000 feet from any residential zone or its equivalent. Please confirm or include draft policies that this revised standard would apply to the City's residential zones or their equivalent as well.
3. The City is also concerned about the number of dispensaries that could be located near the City. The City's understanding is that dispensaries permitted in West County are required to be geographically distributed. The City requests that the County consider applying this approach to dispensaries permitted in East County to ensure a more even distribution. This will ensure that all Alameda County residents have

Proposed Medical Cannabis Dispensary and Cultivation Ordinances

April 3, 2017

Page 3 of 3

equal access to these facilities and the potential traffic and public safety impacts are not all concentrated in one geographic County area.

Thank you for this opportunity to comment and I would be happy to further discuss our letter with you.

If you have any questions, please call me at (925) 960-4468 or email me at [scstewart@cityoflivermore.net](mailto:scstewart@cityoflivermore.net). You may also contact Senior Planner Scott Lee at 960-4473 or [sslee@cityoflivermore.net](mailto:sslee@cityoflivermore.net).

Sincerely,



Steve Stewart

Planning Manager

Cc:

Paul Spence, Community Development Director

Steve Riley, Principal Planner

Scott Lee, Senior Planner

Ashley McBride, Assistant Planner





## SAN LORENZO VILLAGE HOMES ASSOCIATION

377 Paseo Grande ▪ San Lorenzo CA 94580  
(510) 276-4554 ▪ [www.slvha.com](http://www.slvha.com)

April 3, 2017

Albert Lopez, Director  
Alameda County Planning  
224 W. Winton Ave. Rm. 111  
Hayward, CA 94544

Dear Mr. Lopez,

We recently were presented with an update by Assistant Planning Director, Liz McElligott, on the changes to the Medical Marijuana Ordinance at our March 16, 2017 Board Meeting. The Board was very pleased with many of the changes to this ordinance but still has some concerns that it wanted addressed. At this meeting it voted unanimously to recommend that you include the following language within the final draft of this ordinance:

- 1) That none of these dispensaries allowed under the ordinance, be located and/or operated within any Specific Plan Area; and
- 2) Any funds or fees generated or collected from these permitted dispensaries be distributed back to the area from which they were collected in.

Thank you for updating our membership and the Association Board about these most recent changes to the ordinance. We appreciate your time and attention to this matter and our concerns.

Sincerely,

Eugene Osipov  
Administrator

cc: Supervisor Wilma Chan  
Liz McElligott, Asst. Planning Director  
Rodrigo Orduna, Asst. Planning Director  
Sandi Rivera, Asst. Planning Director  
Eileen Dalton, Director Eco & Civic Dev. Dept.

---

Board Members: Diane Wydler- President, Kathie Ready-Vice President  
Steve Kirk- Secretary/Treas.  
Michelle Clowser, Emmanuel M. S. Robinson  
Administrator: Eugene Osipov



I am opposed to an increase in the number of medical marijuana dispensaries in Castro Valley, an unincorporated area in western Alameda County. I have lived here for 27 years. Since we do not have our own police force, we are less able to provide citizens' with protection from the negative effects of businesses such as these. The Alameda County Sheriff's Department (who provides us with police protection) is also against increased medical marijuana businesses in the unincorporated areas.

I am also a mental health professional, and have seen the deleterious effects of marijuana (with current high levels of THC) upon individuals' mental health. The young are especially vulnerable to serious resultant effects. I ask the Planning Commission to consider health and mental health above a potential increase in tax dollars.

Sincerely,  
Mary O'Neill

\*\*\*\*\*

Dear Board,

We are very concerned citizens of Castro Valley and have been here for nearly 40 years and actually grew up here as children.

We are AGAINST any medical marijuana cultivation or dispensaries going up IN or AROUND the Castro Valley area for several reasons a few of which are:

1. It is a GATEWAY drug, that LEADS to other hard narcotics. Having experienced the death of a son who BEGAN experimenting with Marijuana which led to hard narcotics. We KNOW this is a pathway to developing true addiction of hard narcotics
2. Marijuana, even though not as debilitating as narcotics, DESTROYS BRAIN CELLS and neurologically AFFECTS the brain adversely. This has been proven.
3. Lastly, we have drivers using ALCOHOL and causing deaths to many, and to have people smoking weed recreationally will lead to MANY "stoned" drivers ON THE ROAD which can cause deaths of many lives. as well.

As a concerned citizen of Castro Valley PLEASE LISTEN to those of us who live here who DO NOT WANT Marijuana to be in Castro Valley AT ALL. with dispensaries OR cultivation.

Sincerely  
Richard and Karen Crane

\*\*\*\*\*

Richard and I are also against having a marijuana dispensary in Castro Valley. It does not belong in a bedroom community such as this. In fact, I can't think of any place in Castro Valley that a dispensary could go that would be far enough from a school.

I have heard that a possibility would be to put it at Fairmont Hospital. That, to us, would be acceptable. I think it's important that we not only voice our opposition, but that we also make a suggestion for an alternate site. Fairmont Hospital property makes sense as a way to keep a dispensary out of Castro Valley proper.

Please feel free to share our comments. Mr. Crawford has been cc'd on this email. We most likely will not be able to attend the meeting. Please represent us!

Thank you,  
Peggy Maurer  
Richard Maurer  
(Castro Valley residents)

\*\*\*\*\*

I agree that Castro Valley is not a good place for marijuana dispensaries (it's too easy for students to walk anywhere here in CV). Unfortunately I will not be able to attend the meeting. Hope all is well with you and your family!

Suzie Leonardo

\*\*\*\*\*

A number of years ago, a dispensary went in on the other side of George's Automotive Shop on the corner of Foothill and 164<sup>th</sup>. They ran havoc in the neighborhood. And they were only 2 blocks from a school! What were they thinking?

Donna Fernsten

\*\*\*\*\*

Thanks for bringing this to our attention. Unfortunately we will not be able to attend and voice our opposition because my Dad is dying and we are leaving early tomorrow for Utah. If there is a petition we can sign at some point, let us know.

Leslie and Dennis Hall

\*\*\*\*\*

. The thought that our government is in the drug pushing business sickens me. If this was truly for medical needs, they would make it into a pill and dispense it. I have seen the devastating outcomes of weed in not only my community, but in my own family.

Nora

\*\*\*\*\*

Alameda County Planning-

To whom this may concern,

Please note my feelings as a longtime citizen of Castro Valley pertaining to the issue of allowing the cultivation and sales of any Marijuana products in Castro Valley.

I am vehemently opposed to allowing this to be permitted in this community. It serves NO useful purpose and only compromises the youth and safety of our community.

A NO VOTE would be greatly appreciated.

Thanks,

Jim Willits





## Medical Marijuana Stakeholders Group

**To:** ALBERT LOPEZ – PLANNING DIRECTOR

**Cc:** Supervisor Scott Haggerty, Chair & Supervisor Miley, Co-Chair,  
Transportation & Planning Committee & Liz McElligott, Assistant Planning Director

**From:** Jack Norton, submitting on behalf of the Medical Marijuana Stakeholders Group

**Date:** April 1, 2017

**Re:** Recommendations for the final Dispensary and Cultivation Ordinances

The Medical Marijuana Stakeholders (MMJ) group, after working as an advisory group for well over a year with Supervisors Haggerty & Miley, hereby request the following recommended changes to the current draft ordinances.

Subject Area	Recommendation	Resource
<ul style="list-style-type: none"> <li>• <b>Agricultural Advisory Committee:</b> In consideration of the work that the Agricultural Advisory Committee has done, in providing the necessary guidance and advice with an eye towards the needs and concerns of the agricultural community as it relates to MCRSA.</li> </ul>	<ul style="list-style-type: none"> <li>• MMJ Stakeholders recommend adoption and consideration of the Ag Committee recommendations.</li> </ul>	<ul style="list-style-type: none"> <li>• Agricultural Advisory Committee Recommendations submitted to planning commission on January 30, 2017. (Attachment "A")</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Green House Cultivation:</b> ✓ The most important item that needs clarification from the T&amp;P is what method of cultivation will be allowed in Alameda County. The current pilot program attempted to build hard-walled greenhouses in Alameda County and was</li> </ul>	<ul style="list-style-type: none"> <li>• Adopt the best practice model provided by Calaveras County.</li> <li>• Consult with subject matter experts in greenhouse construction.</li> </ul>	<ul style="list-style-type: none"> <li>• Calaveras County Planning Department for Greenhouses</li> </ul>

<p>unsuccessful due to current building regulations.</p> <p>✓ If we want a model and a competitive cultivation program in ALCO, we need to revisit/revise our current building and code standards/definition of a greenhouse. A model and guide is Calaveras County's greenhouse regulations. If there is to be a thriving cultivation program, cold frame greenhouses, commonly referred to as hoop-houses need to be included in ALCO building codes. In the attachment, modeled after Calaveras County an Agricultural driven environment, there are three options. (See Attachment "B" pages 1-5)</p>		
<ul style="list-style-type: none"> <li>• <b>Buffers between Medical Cannabis Facilities and Sensitive Receptors</b></li> </ul>	<ul style="list-style-type: none"> <li>• The buffer should not be increased to 1,000 feet and should be consistent with CA state law and Oakland's ordinance of 600 feet.</li> </ul>	<ul style="list-style-type: none"> <li>• Gov. Schwarzenegger signed bill AB 2650 (Buchanan), which prohibits medical marijuana collectives from operating within 600 feet of a school as of Jan 1, 2011. It covers all activities by dispensaries or other providers that have a storefront location or mobile outlet and are required to have a business license.</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Sale of edibles</b></li> </ul>	<ul style="list-style-type: none"> <li>• Allowing the sale of edibles should not be delayed until applicable state health and safety regulations are in place. The largest edible manufacturers are operating here in the incorporated areas of the county.</li> </ul>	<ul style="list-style-type: none"> <li>• To allow dispensaries in the incorporated area to sell edibles and restrict those in the unincorporated areas does not address the health and safety concerns of the patients and puts those patients at discriminatory disadvantage based on where the patient resides.</li> <li>• Additionally, this creates an unfair business advantage, especially for those dispensaries that have been operating in good faith in the unincorporated areas of ALCO.</li> </ul>
<ul style="list-style-type: none"> <li>• <b>On-site ingestion.</b> The draft dispensary ordinance states that: "No cannabis shall be smoked, ingested</li> </ul>	<ul style="list-style-type: none"> <li>• Allow onsite ingestion for purposes of testing the product before purchasing.</li> </ul>	<ul style="list-style-type: none"> <li>• This already made it in to the draft with no resistance from the community or sheriff. The logic</li> </ul>

<p>or otherwise consumed on the premises of a dispensary, provided that ingestion by a vaporization device may be authorized in writing by the health care services agency.” The draft cultivation performance standards also include restrictions on on-site ingestion.</p> <ul style="list-style-type: none"> <li>• To respond to a general comment from a citizen in comparing why do we not test “codeine” once it is at the pharmacy, yet this substance should be “on-site tested.” The difference is, “codeine” is a formulary, and its production is pre-determined. Unless, the FDA is testing a batch of “codeine” for potential contamination, there is no need to test a drug that has received FDA approval and is formula driven.</li> <li>• Cannabis is a plant, and depending on how it is process takes on many different forms and potency. You would expect a “farmer” to inspect their crops by ingestion, be it tomatoes, oranges, or avocados, etc.</li> </ul>		<p>behind needing to consume on site is as follows. Currently, when the dispensary wants to make a purchase they need to sample the product offsite. Lab testing can speak to many aspects of the plant but there are many things that a professional buyer will observe that analytical testing cannot.</p> <ul style="list-style-type: none"> <li>• To drive to an offsite location with money to make a purchase, then sampling the product, and then having to drive or be driven back to the facility with product is a huge safety/security risk.</li> <li>• There is a zero tolerance policy for employees consuming onsite. Only management are tasked with the responsibility of testing the product.</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Proposition 47:</b> The existing County dispensary ordinance prohibits a person convicted of a felony within the past 10 years from being actively engaged in the operation of a dispensary. The ordinance was amended to include in this prohibition “a drug related misdemeanor reclassified by Section 1170.18 of the California Penal Code (Proposition 47)” in order to continue to recognize prior drug felonies. A similar provision was included in the Section 6.108.125A(10) for those engaged in delivery operations, and also in Section 6.106.060B(3) of the cultivation ordinance for those engaged in cultivation operations.</li> </ul>	<ul style="list-style-type: none"> <li>• The existing County dispensary ordinance is unfair to those that have been previously harmed by what was once an illegal industry and further prohibits those individuals from equally participating in this new economy.</li> <li>• The 10 year past conviction for ANY felony is too broad and again will disproportionately target people of color and those whom were formerly incarcerated.</li> </ul>	<ul style="list-style-type: none"> <li>• (California State Licensing) The Authority MAY deny application if applicant has been convicted of an offense <b>substantially related to qualifications</b>, including ANY felony controlled substance offense, violent or serious felonies, or felonies involving fraud, deceit or embezzlement, or any sanctions by a local licensing authority in the <b>past 3 years</b> (SB 643, 19323(a)5).</li> </ul>

	<ul style="list-style-type: none"> <li>• "Ban the box" by eliminating felony exclusion language from the ordinances. The specific sections we recommend striking are:  6.106.060(B)(3) 6.106.100(A)(4) 6.108.100(A)(4) 6.108.120(A)(12) 6.108.125(A)(10)</li> <li>• If these recommendations are not accepted, we then recommend being consistent with CA State Law</li> </ul>	
<ul style="list-style-type: none"> <li>• <b>Inventory Limits</b></li> </ul>	<ul style="list-style-type: none"> <li>• There should be none and good operational planning would keep the count within reason. These are after all "plants." There is no marketable benefit to keep more product on hand than is operationally necessary.</li> </ul>	<ul style="list-style-type: none"> <li>• A suggested model is San Leandro which allows 8 ounces per valid patient. (*San Leandro is the 2<sup>nd</sup> most restrictive to our county)</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Cannabis is an Agricultural Product.</b></li> <li>• Universal Recognition in Alameda County that Cannabis is an Agricultural Product.</li> <li>• Agriculture, as defined; is the cultivation and breeding of animals, plants and fungi for food, fiber, biofuel, medicinal plants and other products used to sustain and enhance human life. (dictionary)</li> <li>• Lack of a universal acceptance of agricultural product within the county, creates obstructions and inconsistent messages.</li> </ul>	<ul style="list-style-type: none"> <li>• Accept the definition of cannabis as an agricultural product as prospected by the Alameda County Agricultural Advisory Committee.</li> <li>• Adopt a universal and consistent approach in inculcating cannabis into the agricultural fold.</li> <li>• The state licensing will require each cultivation licensee to declare themselves "agricultural employers" and will thus be subject to the Agricultural Labor Relations Act. If they are Ag Employers, than their crops should be clearly covered under agriculture.</li> </ul>	<p>(SB 643, 19322): Applicants must provide proof of local approval and evidence of legal right to occupy proposed location. Applicants shall submit fingerprints for DOJ background check. Cultivation licensees must declare selves "agricultural employers" as defined by Alatore-Zenovich-Dunlap-Berman Agricultural Labor Relations Act.</p>

<ul style="list-style-type: none"> <li>• Equity</li> <li>• West County <ul style="list-style-type: none"> <li>✓ Consideration for those whom have been previously harmed by the drug laws</li> <li>✓ Addressing the need to level the playing field for all too equally compete.</li> <li>✓ Providing deference to those that have pioneered the industry with little regard.</li> <li>✓ Promote local hires and access to a living wage for marginalized communities.</li> <li>✓ Consideration within the ordinance or RFP language that supports: AA, Hispanics, Women, LGBTQ, race, class, gender, patient access, right-to-farm, rural/urban farming as it relates to fairness and equality.</li> </ul> </li> <li>• East County <ul style="list-style-type: none"> <li>✓ Consideration community benefit for those existing residents.</li> <li>✓ Provide language that addresses the rural farmer</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Recommend that the county staff take the equity concerns and craft appropriate language taking those sentiments into consideration.</li> <li>• Recommend Alameda County open up <b>ALCO Canna Hub</b>. This is a one-stop training and education center for the DIY Do-it-yourself cannabis student/entrepreneur. This Hub will offer free courses in all aspects of the cannabis business, including but not limited to certifications to enhance their skill sets.</li> <li>• Services/Courses: Horticulture, Ag-101, Cannabiz-101, Licensing &amp; Permitting, Expungements, Training and Development, Cannabiz &amp; Tech, education and prevention, etc.</li> <li>• Cost: The County will pay half and the cannabis taxes will pay the other half.</li> </ul>	
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## Calaveras County Building Department

Phone (209) 754-6390

Fax (209) 754-6396

891 Mountain Ranch Road, San Andreas, CA 95249

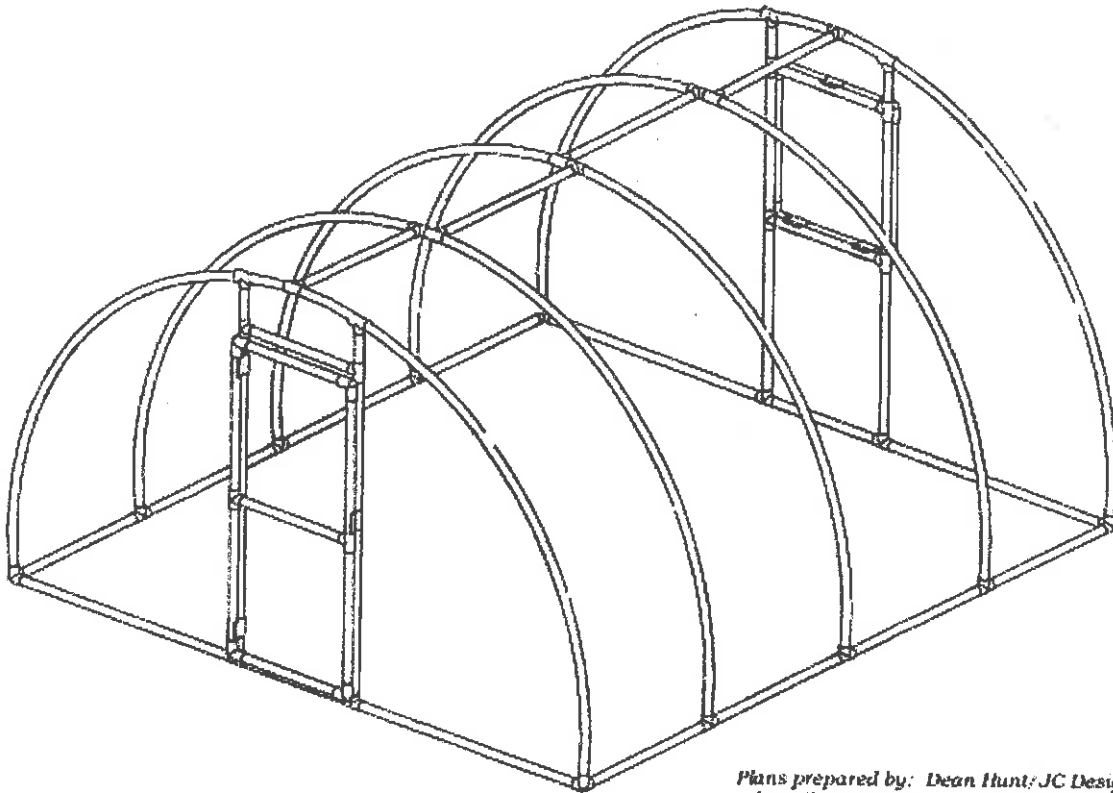
Website: <http://building.calaverasgov.us/>

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### Greenhouse & Hoop House Requirements

The building department is providing 3 options for temporary growing structures. Each option has different requirements and will be monitored by the building department and code enforcement.

Please review the 3 options and decide which one will work best for your operation.



Plans prepared by: Dean Hunt/JC Designs  
hunt@jcdesigns.com December 2002



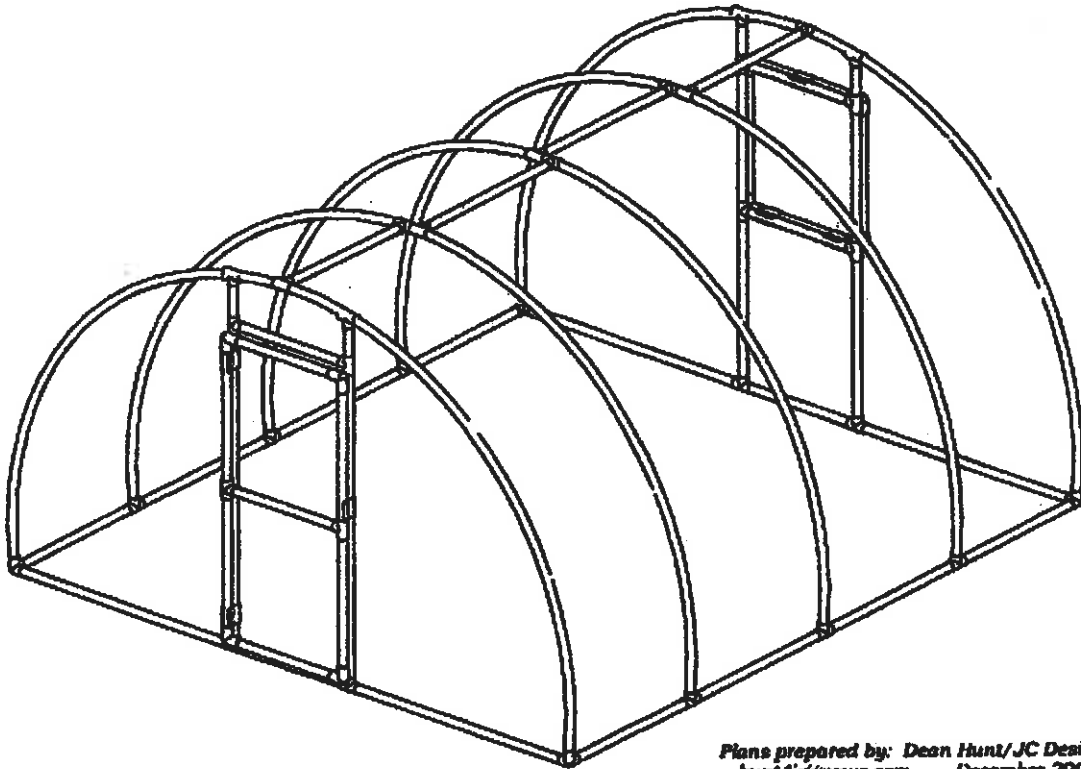
## OPTION A

A temporary greenhouse, also called a "hoop house" or "polyhouse," used exclusively for the production and storage of live plants, not to exceed 180 days, shall be exempt from requirements of the California Building Code if it meets all of the required criteria listed below:

1. NO permanent anchoring system or foundation
2. NO storage of solvents, fertilizers, gases, heating units, cooling units, or other chemicals or flammable materials
3. NO mechanical or electrical devices used in or around the temporary greenhouse
4. The structure is:
  - a. No wider than 31 feet
  - b. No longer than 100 feet
  - c. The covering is a material no greater than 6 mils in thickness that yields approximately four pounds of maximum impact resistance to provide egress through the greenhouse
  - d. Any side walls are 4 foot maximum height

Option A is an "Over the Counter" permit. Please submit a site plan showing the area the temporary structure(s) will be constructed. Approximate fees \$180. Structure must be removed within 180 days, verified by final inspection.

Zoning requirements may dictate the actual size allowable.



Plans prepared by: Dean Hunt/JC Designs  
hunt@jcdesigns.com December 2002

## OPTION B

A temporary/semi-permanent greenhouse, also called a "hoop house" or "polyhouse," used exclusively for the production and storage of live plants, shall be subject, but not limited to basic plan submittal, field inspection, permit fees and compliance with the requirements from the California Building Code and or Calaveras Code of Regulations.

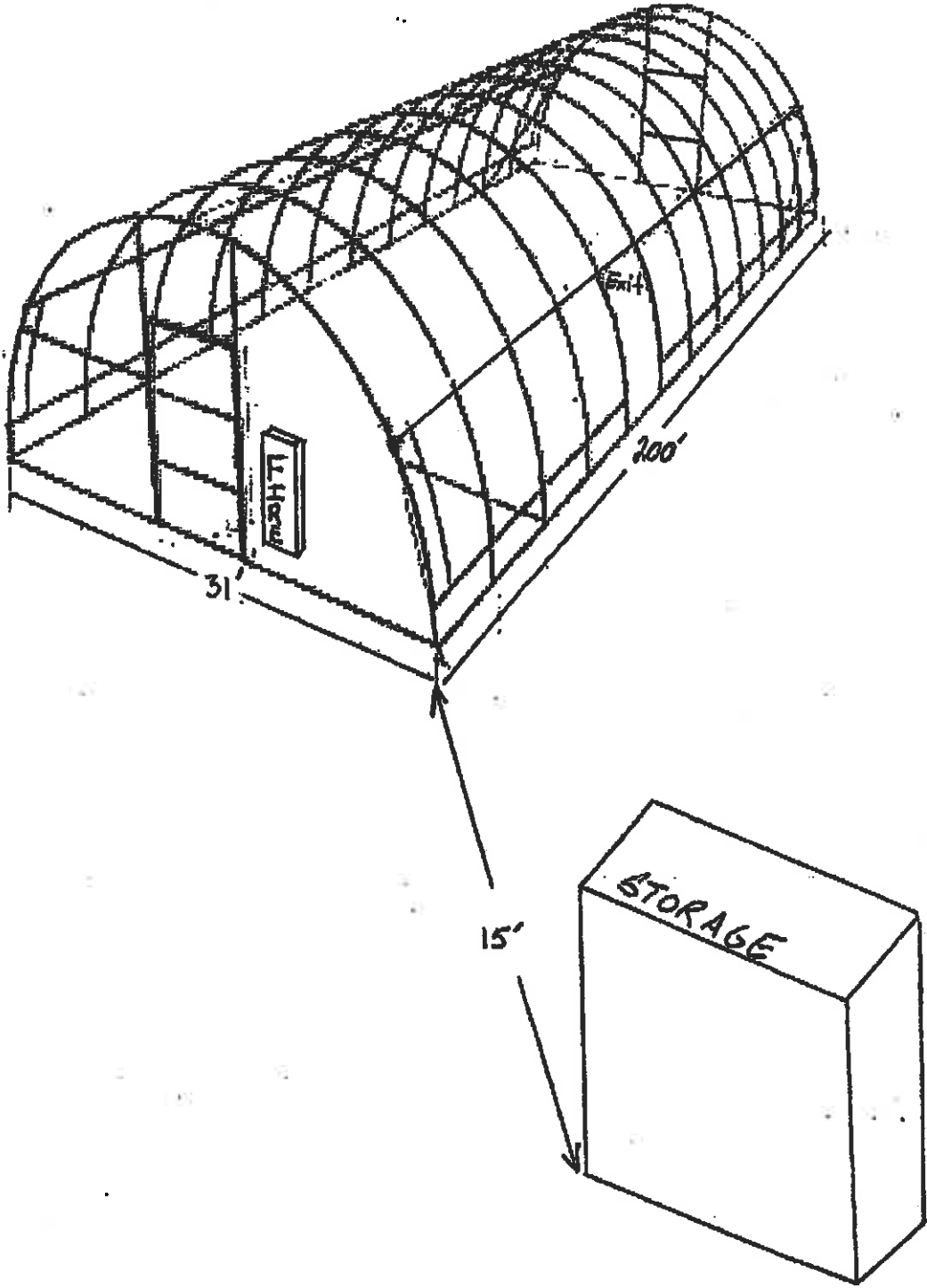
The intended use of Option B is temporary use for agriculture growing and optimal controlled environments. To meet the requirements for Option B you are limited to the following conditions:

1. A maximum 2,000 watts of electricity is limited to the following equipment per hoop house:
  - a. Circulating fans for air movement
  - b. Lighting used for ambient light only
  - c. Water irrigation pumps
  - d. Heating units less than 20,000 BTU's, powered by 2,000 watt supply or propane heating unit, rated for indoors, less than 24,000 BTU's, supplied with a minimum 10 gallon or maximum 150 gallon propane tank
2. The greenhouse will be constructed with the following requirements:
  - a. No Permanent anchoring or foundation systems
  - b. No wider than 31 feet
  - c. No longer than 200 feet
  - d. Permanent exits at each end of the greenhouse
  - e. Permanent exits at 100 foot mark or middle of greenhouse
  - f. The covering is a material no greater than 10 mils in thickness that yields approximately four pounds of maximum impact resistance to provide egress through the greenhouse
  - g. Any side walls are 4 foot maximum height
3. Storage of equipment; manufactured, electrical, natural, or chemical:
  - a. All equipment will be stored in a separate location with a minimum 15 foot separation from the perimeter of the greenhouse
  - b. Portable/Semi Permanent generators, pumps, and fuels will be stored a minimum of 15 foot separation from the perimeter of the greenhouse
4. Fire suppression equipment:
  - a. One 2A, 10BC fire extinguisher will be installed every 75 feet of travel

Option B is an "Over the Counter" permit. Please submit a site plan showing the area the temporary structure(s) will be constructed, a floor plan showing electrical. Electrical must be inspected. Approximate fees \$274. Structure must be removed within 180 days, verified by final inspection.

Zoning requirements may dictate the actual size allowable.

**OPTION B**



## OPTION C

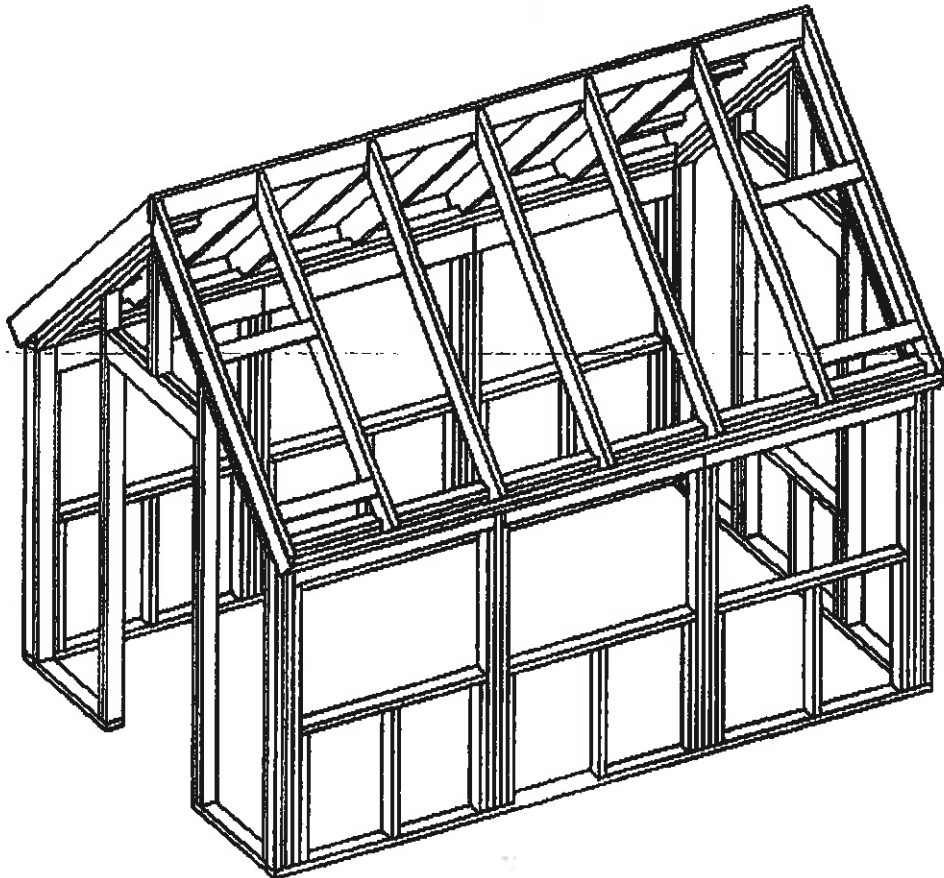
A permanent greenhouse used exclusively for the production of live plants, is subject to full plan submittal, review, and field inspections to ensure the structure meets the minimum requirements of the California Building Code as adopted by Calaveras County.

Option C includes the following criteria:

1. Built from approved materials such as wood or metal
2. Has a permanent anchoring and foundation system
3. Has a permanent electrical and/or water system
4. Meets WUI (Wildland Urban Interface) requirements with fire resistant construction
5. Professionally engineered

For Option C, please submit a site plan and full structural and electrical plans. Inspections include foundation, frame, electrical, plumbing and final.

**The design criteria will be defined by the parcel size, setbacks, water & electrical demand, zoning and fire department requirements.**





## McElligott, Elizabeth, CDA

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**From:** Mario Feusier <jrfeusier@aol.com>  
**Sent:** Thursday, March 16, 2017 10:44 PM  
**To:** McElligott, Elizabeth, CDA  
**Cc:** jrfeusier@aol.com  
**Subject:** Comments - Mitigated Negative Declaration (Cannabis)

Liz,

We have spoke on the phone a couple of times over the last 12 months. I was looking for further information as things progressed for Cultivation of Cannabis in unincorporated Alameda County. I believe that medicinal collectives should still be able to operate with the same policies and procedures that are being allowed for the "4" cultivation sites. I don't agree with allowing these sites under the pilot program to be operated by current dispensaries in good standing. This creates a monopoly and head start to the 2018 race for recreational marijuana being adopted. Things will shift from the current medicinal program to a capital market. It is no longer about getting medicine to people in need. It is now about creating a foothold on the local market. We have a 200 acre property in Unincorporated Alameda county. It is zoned agriculture and we have every intention of obtaining the proper permit/licensing once available. We are farmers looking to make a difference locally. I think there are many suitable candidates to kickoff a successful pilot program that are not affiliated with dispensaries. The dispensaries are already printing money and do not need further advancement ahead of local land owners wanting to get a foot in the door - legally. Any parcel with the Agricultural zoning designation should be allowed to farm cannabis. Cannabis is designated as an agricultural crop in California if I am not mistaken.

Are these 4 cultivation spots going to be regulated to provide and sell only to the dispensary they are affiliated with? Or, it may be shipped off anywhere within California? People want locally grown goods and better to keep in our backyard. More revenue from taxes and helps the immediate local economy and labor force. Areas such as Humboldt County and Mendocino are divided into cannabis appellations. We have a great agricultural region (ie) Livermore Valley. Our wines rival Napa Valley. We can create these same distinctions and be at the forefront of doing things right. Again, limiting to dispensaries is a mistake in my opinion. Weren't a couple of the dispensaries grandfathered in as they were operating without proper permits in the first place?

Regarding dispensaries in unincorporated county, I do agree there may be the need but don't seem to follow where they may be allowed. Unincorporated means Sheriff patrol and response times will be slow should there be a problem. We can't send dispensaries out into the boondocks so we can hide them. They should be accessible within city limits (not residential areas though).

I do not know if I can attend the March 20th meeting but will follow the agenda/minutes.

Sincerely,

Mario Feusier  
Broker Associate  
Caldecott Properties  
370 Park St.  
Moraga, CA 94556  
&  
5251 Broadway  
Oakland, CA 94618  
510.594.2400 office  
925.212.4514 direct  
510.594.2424 fax  
www.teamfeusier.com  
www.caldecott.com  
www.caldecottfund.com  
BRE#01271169

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ALAMEDA COUNTY AGRICULTURAL ADVISORY COMMITTEE  
224 WEST WINTON AVE., ROOM 111  
HAYWARD, CA 94544

January 30, 2017

Dear Planning Commissioners:

The Alameda County Agricultural Advisory Committee (AAC) has the purpose to convene as “an advisory panel of experts to make recommendations to enhance the economic viability of agriculture and ranching, and to minimize environmental impacts.”

To fulfill our purpose regarding the Draft Medical Marijuana Dispensary and Cultivation Ordinances, the AAC has reviewed draft ordinances, met repeatedly with landowners and Medical Marijuana stakeholders, and held several Committee meetings for lengthy discussions and to receive testimony and presentations.

The Medical Marijuana industry is outside the scope of agricultural enhancement that we typically consider. Our opinions are diverse regarding this matter. However, collectively the AAC is concerned the introduction of legal Medical Marijuana cultivation and marketing into Alameda County may result in significant social, economic, and environmental impacts to existing agricultural enterprises and residents unless proper safeguards are taken.

We appreciate the efforts of Planning Staff, our Supervisors, stakeholders, and landowners to include us. Although we would have preferred to have traditional agricultural enhancement projects before us, the AAC desires to be an active participant in collaborative efforts to develop the CUP guidelines and mitigation measures and to evaluate the Pilot Project phase.

We respectfully submit with the attached table of our recommendations to be included into the Ordinance and policy.

Sincerely,

Larry Gosselin, Chair



**AGRICULTURAL ADVISORY COMMITTEE**  
**Advice to the Supervisors Regarding Implementation of the**  
**State of California Medical Cannabis Regulation and Safety Act**

The Agricultural Advisory Committee recommends:

RECOMMENDATION	COMMENT
<p>Priority should be given to placement of Medical Marijuana Dispensaries on parcels:</p> <ul style="list-style-type: none"> <li>- Accessible to public transportation</li> <li>- Not restricted by Williamson Act contracts</li> </ul>	<p>-Public transportation serves urban areas. This recommendation benefits medical patients, and ensures proximity to the highest numbers of users.</p> <p>-It may be necessary to modify the Williamson Act Ordinance to allow Dispensaries.</p>
<p>A Medical Marijuana Dispensary should be designated a M (Mercantile) use by the Building Inspection Division.</p>	<p>A "M" use designation is consistent with <u>ECAP Visitor Serving Commercial Uses Policy 81, 82, &amp; 83</u></p>
<p>Medical Marijuana cultivation should be considered a horticultural land use. Horticulture is a common subcategory of agriculture and is presently permitted in the Zoning Ordinance.</p>	<p>Any product grown or raised for food or other use is an agricultural product. Should cannabis cultivation be considered something other than an agricultural land use there could be Measure D or Williamson Act impacts.</p>
<p>Medical Marijuana cultivation should be subject to discretionary approval.</p>	<p>Alameda County ECAP recognizes and prioritizes the enhancement of agriculture. However, when the impacts of a new agricultural use are not known, SDR or Conditional Permitting is warranted with the intent to enhance agriculture while minimizing impacts. Other examples of agricultural discretionary review exist in the Zoning Ordinance. Discretionary review should not be a tool to delay projects.</p>
<p>Cultivation sites:</p> <ul style="list-style-type: none"> <li>- Should not displace existing agricultural uses, but be complimentary to other agricultural uses of the property.</li> <li>- Should be separated from Dispensaries</li> <li>- Should have, if needed, a fire fuels management plan that includes grazing.</li> </ul>	<ul style="list-style-type: none"> <li>-The Medical Marijuana Industry boom could displace existing agricultural activity.</li> <li>- Separating Cultivation Sites from Dispensaries will decrease the fortress-like appearance that can result from combined operations</li> <li>- Grazing is a traditional agricultural use that can be supported while being used as a land management tool</li> </ul>
<p>A greenhouse, hoop-house, or enclosed grow shed is an agricultural building and should be designated a U use by the Building Inspection Division</p>	<p>A use designation can significantly affect the cost and planning time of an agricultural building. Typically, buildings used to raise plants or animals are considered a U use.</p>
<p>A drying shed is an agricultural building and should be designated a U use by the Building Inspection Division.</p>	<p>A use designation can significantly affect the cost and planning time of an agricultural building. Typically, buildings used to store, or hold, plants or animals are considered a U use.</p>

<p>Any building used for processing of Medical Marijuana Products should be designated a F use by the Building Inspection Division.</p>	<p>If there is disagreement regarding this designation, comparisons should be made to other jurisdictions.</p>
<p>Form a subcommittee of representatives of the AAC, Planning Commission, Agriculture Commissioners Office, and Public Works to develop needed definitions specific to the MMO. These definitions should include, but not be limited to: greenhouse, hoop-house, enclosed cultivation shed, and others.</p>	<p>Definitions can significantly impact implementation of agricultural enhancement.</p>
<p>Guard Dogs should not be used for security at Medical Marijuana Cultivation Sites</p>	<p>Livestock could be at risk should SGuard Dogs escape or be allowed to roam.</p>
<p>Policy to prevent conflicts between Cultivation Site service traffic and commute traffic should be developed.</p>	<p>The AAC will cooperate with the Rural Roads Committee and landowners in areas of potential greater impact to recommend policy.</p>
<p>When taxation is implemented, the following mitigation measures should be funded: - Additional Sheriff's patrol in East County</p>	



1-24-17

## Medical Cannabis Cultivation in the A-District

Dear Members of the Agricultural Advisory Committee:

I cannot be with you tonight owing to a previous commitment. However, I wish to offer some ideas for you to consider when formulating your advice to the Board of Supervisors regarding medical cannabis dispensaries and cultivation in the A-District.

First, while comments at your last meeting clearly showed that rural land owners, farmers and ranchers, do not want cannabis cultivation to occur in the A-District, the Board of Supervisors may decide to allow cultivation in the A-District. Therefore, it would be prudent to have a set of recommendations for the board to consider rather than just recommending that cultivation not be permitted.

Second, although the ordinance before you is for medical cannabis only, you should assume that whatever policies are approved for medical cannabis cultivation will eventually apply to recreational cultivation but at much larger scale. Therefore, you should think about your long-term objectives and the projected impacts of cultivation at scale and not just think about the more limited impacts of a couple of medical cultivation sites and dispensaries.

Third, the A-District covers three large parcel land use designations, Large Parcel Agriculture, Resource Management, and Water Management Lands. While the zoning ordinance will undergo an update in the near future to distinguish which uses are allowed in each of these three General Plan designations (which supercede the zoning ordinance), you should advise that cultivation of cannabis (whether medical or recreational) be allowed only on lands designated Large Parcel Agriculture. From the information you received at the last meeting, cannabis cultivation clearly is a high-intensity agricultural operation. Large Parcel Agriculture is the only designation that permits intensive agriculture. Cannabis cultivation should not be permitted on Resource Management lands, which are "intended mainly for land designated for long term preservation as open space but may include low intensity agriculture, grazing, and very low density residential use." Water Management Lands similarly are not intended for high-intensity agriculture, and cannabis cultivation should not be permitted on such lands either. Eliminating these two large parcel designations will significantly reduce where cannabis cultivation can take place and the amount of land affected.

Fourth, permitted cannabis cultivation will most likely take place inside of buildings because growing conditions can be carefully controlled for these high value plants and strong security measures can be installed. You should recommend that these buildings not be classified as greenhouses. Although plants will be grown inside, the structures will bear little similarity to what we think of as greenhouses. Buildings for cannabis cultivation will essentially be armored structures to prevent break-ins and theft of plants and money. Their electrical, lighting, ventilating, and security systems will be far more intensive than commonly used in structures for growing vegetables, herbs, and ornamental plants. Cannabis cultivation buildings will much more resemble warehouses or industrial buildings than traditional greenhouses, and they should be classified as such. One virtue of such a classification is that the 0.025 FAR (floor area ratio)

for greenhouses would not apply to cannabis cultivation buildings; rather, the regular 0.01 FAR for non-residential buildings would apply. This would keep the scale of operations somewhat smaller with commensurate reductions in impacts.

Fifth, whether cannabis cultivation buildings are classified as greenhouses, industrial buildings or warehouses, you should consider identifying specific areas or establishing specific criteria within the Large Parcel Agriculture designation that are more appropriate for these facilities than other areas. This would be to minimize the environmental impacts of cannabis cultivation, which is within the Ag Advisory Committee's mission. For example, cannabis cultivation sites could be restricted to where recycled water is accessible so as not to deplete groundwater, where large warehouse-type buildings would not have significant visual impacts, or within a certain distance of major roads or even cities so that police and fire emergency response times will be short and therefore more effective, routine patrols more likely to spot criminal activities, etc. Obviously, lands needed to protect special status species are not appropriate for cannabis cultivation.

No doubt there are other policies and rules that your committee will think of. I appreciate you considering these. Thank you.

Dick Schneider

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510-926-0010



January 17, 2017

Keith Carson  
Alameda County Supervisor – District 5  
1221 Oak St., Suite 536  
Oakland, CA 94612

RE: Draft Medical Cannabis Dispensary and Cultivation Ordinances

Mr. Carson,

The Contra Costa-Alameda County Cattlemen's Association (CCACCA) understands Alameda County is in the process of considering revisions to the County General Ordinance Code regarding marijuana dispensaries, delivery, edibles, and cultivation, including revisions to its existing dispensary ordinance (Chapter 6.108 of the County General Code) which would allow cannabis cultivation and medical cannabis dispensaries in the Agricultural Districts in unincorporated Alameda County. Upon thorough review of the proposed ordinance changes, CCACCA would like to express deep concern regarding the potential for cannabis cultivation and dispensary sites to be located in rural Alameda County and the environmental, economic, and social impacts to our rural residents and ranchers.

While CCACCA understands that no cultivation/dispensary sites have been selected at this time, there is an overall concern from our membership regarding the potential environmental impacts from these sites including water quality impacts from discharge, chemical use, as well as the increased use of water in a landscape that is already drought stricken resulting in many area ranchers hauling water to supply their livestock and their homes. Groundwater depletion is a serious concern as the level of water use required for a cannabis cultivation sites far exceeds other agricultural land uses in the area. In addition, the intense use of fertilizers and other unknown chemicals are likely to contribute to aquifer contamination and degradation of surface water quality which is evident in many other parts of the state.

Site security and safety is another major concern of the CCACCA. Cultivation and dispensary sites will be an attractive nuisance and unnatural attraction in a rural landscape, likely to be targeted for theft and vandalism, drastically increasing rural crimes as well as the safety of neighboring ranchers and their families. Cultivation/dispensary sites are a high value commodity that require a high level of security which is not adequately addressed in the proposed ordinance changes, and most likely that cannot be achieved in a rural setting. Thieves targeting the proposed cultivation/dispensary sites will most likely be armed and we cannot have gun fights and bullets flying around ranches, homes and families. The Alameda County Sherriff Department has expressed similar concerns and does not have the

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staffing required for the additional patrol in these areas to deter increased crime or to respond to incidents in a timely manner. In addition to these safety concerns, the cultivation/dispensary sites will add an abundance of vehicle traffic driven by people unfamiliar with our rural roads and potentially under the influence of cannabis, navigating our already dangerous rural roads plagued by speeding commuters. CCACCA has read the Alameda County Sheriff's Office opposition to provisions of the proposed ordinance amendments which includes allowing cultivation, deliveries, and dispensaries in the Agricultural Districts, and fully support their opinion.

On a statewide scale the California Cattlemen's Association supported bill AB2243 (Wood) which would have imposed a new tax on the distribution of legal medical marijuana providing a continuous division of funds for; local law enforcement to deter illegal operations specifically in rural communities, grants to local agencies for the purpose of cleaning up illegal operations and restoring damaged private or public lands, State Water Resource Control Board for deterring water theft, and Williams Act subvention payments to counties. Contra Costa Alameda County Cattlemen's Association supports the intent of AB2243 to clean up and deter illegal operations in the rural communities in Alameda County prior to locating new cultivation operations in the Agricultural Districts. The state of California does not recognize cannabis as an agricultural product under the Right to Farm ordinance and under the current Alameda County ordinance is not protected as an existing agricultural use. The CCACCA opposes locating medical dispensaries in the Agricultural district as the products they are selling are for medicinal purposes only and not compatible with existing agricultural operations.

CCACCA recognizes Alameda County's intent of zoning lands as Agricultural districts is "to conserve and protect existing agricultural uses, and to provide space for and encourage such uses in places where more intensive development is not desirable or necessary for the general welfare." (17.06.010 - *Agricultural districts—Intent.*) Livestock production is the predominant existing use on large parcels in unincorporated Alameda County providing managing grasslands for fire fuel reduction, habitat enhancement for wildlife in a landscape with limited water supply, and providing a living and protecting the multi-generational heritage of local ranchers, the true stewards of our rural lands.

CCACCA strongly opposes the placement of cannabis cultivation sites and dispensaries in rural Alameda County as a result of the inherent, devastating impacts to rural landowners and ranchers. CCACCA would like to recommend the proposed ordinance revisions consider locating the cultivation/dispensary sites in warehouse buildings in industrial portions of the county. Industrial sites will not impact urban dwellers, will eliminate the risk of environmental impacts, will provide a reliable water source without taxing aquifers, will not create added traffic/security hazards on our rural roads, minimize aesthetic impacts, and will provide a sight that can easily be secured to prevent theft and other associated crime.



Thank you for taking the time to hear our concerns and we strongly encourage you to reconsider the revisions to the County General Ordinance Code regarding marijuana dispensaries, delivery, edibles, and cultivation, including revisions to its existing dispensary ordinance (Chapter 6.108 of the County General Code) which would allow cannabis cultivation and medical cannabis dispensaries in the Agricultural Districts in unincorporated Alameda County. We would be happy to meet with you to further discuss our concerns and work to develop alternative options that will not impact rural landowners and ranchers in rural Alameda County.

Regards,

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Clayton W. Koopmann

President, Contra Costa-Alameda County Cattlemen's Association





Batteate Ranch  
5600 Collier Canyon Rd., Livermore, CA

January 9, 2017

Liz McElligott, Assistant Planning Director  
County of Alameda  
Via Email, [elizabeth.mcelligott@acgov.org](mailto:elizabeth.mcelligott@acgov.org)

RE: Draft Medical Cannabis Dispensary and Cultivation Ordinances

Dear Mr. Wilson:

I am respectfully writing with my concerns and questions about the development of these ordinances.

I am proud to be a 5<sup>th</sup> generation Alameda County native and feel lucky to be able to continue a family tradition of agriculture in Alameda County. My husband and I operate a cow/calf operation in Livermore.

As a cattle rancher in Alameda County I KNOW how difficult it is to find grazing land to rent. If we (livestock grazers) have to compete for grazing land with cannabis growers, you will see "real" agriculture slowly disappear in our county. We just won't be able to pay what the growers will be able to pay. I believe Alameda County residents have proven (with their votes) that they want agriculture to stay in Alameda County.

How it was decided that growing a crop that has not been declared an "agricultural crop" in buildings IN our rural, agricultural zoned areas of the county is OK. I can't believe that residents in the selected pilot program areas were in favor of this plan. Were residents in the vicinity of the identified grow sites notified?

When I went through the county's process for putting an Agriculture Caretaker Dwelling on my property under a conditional use permit, it seems I had to go through more steps than the county has for this pilot project. I had to provide:

- addresses of neighbors for the county to notify them of my plans and provide opportunity for them to object
- a biological report
- an initial study for CEQA
- a Fire Plan including a water storage tank for the sole purpose of fire response
- a landscape plan
- a grading plan
- a stormwater management treatment plan
- proof of sufficient potable water onsite

I believe a better location for this type operation would be in one of the many empty warehouses in town, closer to police response.

Thank you.

Allison & Abbie Batteate



Flynn Road Ranches  
Paul & Sheila Fagliano  
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Livermore, CA 94550  
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January 9, 2017

Sean Wilson, Chief of Staff  
Supervisor Scott Haggerty  
County of Alameda  
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Patricia Brooks, Special Assistant  
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Liz McElligott, Assistant Planning Director  
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Larry Gosselin, Chair  
Agricultural Advisory Committee  
Via Email, [gosselindvm@aol.com](mailto:gosselindvm@aol.com)

RE: Draft Medical Cannabis Dispensary and Cultivation Ordinances

Dear Mr. Wilson, Ms. Brooks, Ms. McElligott, Mr. Gosselin:

I am respectfully writing with my concerns and questions about the development of these ordinances. I'm sure you receive many requests so I will do my best to make this short and to the point.

We live in the unincorporated area of Livermore on South Flynn Rd. I chose that area because of the open space to run my cattle business, the peace and quiet that come with that life style and to raise our family here.

Recently we learned that the county is developing Cannabis ordinances and has already selected a site to do a pilot program on our road.

We feel that this pilot program is moving too fast without regard to the residents that will be directly affected by this site. When a road study is done or a neighbor makes a change on their property, we receive notice. To my knowledge we have not received any notices of this pilot program? We feel that the process has not been transparent and the unincorporated rural community has not been involved nor informed. We would like to see this process to slow down to allow for improved communication. We feel this would be in the best interest of everyone.

Sincerely,

Paul & Sheila Fagliano



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January 9, 2017

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Larry Gosselin, Chair  
Agricultural Advisory Committee  
Via Email, [gosselindvm@aol.com](mailto:gosselindvm@aol.com)

RE: Alameda County Draft Medical Cannabis Dispensary and Cultivation Ordinances

Dear Mr. Wilson, Ms. Brooks, Ms. McElligott, Mr. Gosselin:

I am writing you this evening with my honest concerns and questions about the County's current draft of the Medical Cannabis Dispensary and Cultivation ordinances. Having read through the draft, it is my understanding that the ordinance would provide for a cultivation site pilot program at one of two dispensary operations in the East Alameda County planning area in which I reside. My concern, among others, is the impact to groundwater quality and supply from the pilot cannabis grow program. Of course, my greater concern is what the ordinances could pave the road for – namely a minimum of two grow operations in eastern Alameda County, or what potentially could be major cannabis agro-tourism businesses.

You see, the majority of unincorporated land in this planning area is solely dependent on limited groundwater. These areas provide very little to no centralized water supply, treatment, and distribution systems, or wastewater collection, treatment, and disposal systems. Development is almost entirely rural in nature, where water comes from individual wells and wastewater is disposed of through individual septic disposal systems. Groundwater in these areas is derived from bedrock aquifers that rarely produce more than 10 gallons per minute for limited duration and, in the Coast Range Providence in which east Alameda County is located, has marginal water quality high in total dissolved solids (California Water Plan Update 2013, DWR). Rural residences are clustered in small areas where groundwater is of sufficient quantity and quality to support sparse rural development. These residences typically rely on the same aquifer and are pumping from wells highly sensitive to greater groundwater exploitation. The current drought in California has proven how sensitive these aquifer

systems can be, with many areas experiencing wells going dry and neighbors competing against each for every last drop, or trucking in water to survive. Given these harsh conditions, it is no wonder agriculture is strongly founded on rangeland grazing operations that utilize only the small quantities of water the land can provide.

While it may be true that groundwater resources in some unincorporated areas of Alameda County can support limited agricultural enterprises, these areas are primarily found at low elevations comprising valley floors, adjacent to urbanized areas where, ironically, water and wastewater systems are more readily available. In contrast, the vast majority of the East Alameda County planning area is upper rangeland comprised of sparsely vegetated land that is much more conducive to livestock grazing. It is these areas I fear cannabis grow entrepreneurs will be drawn to with false impressions of suitability and over-riding considerations.

It is for the above stated concerns that I solemnly request the County ordinance provide robust requirements for assessing and mitigating groundwater pumping and wastewater disposal impacts imposed by the ordinances proposed cannabis grow operations. These requirements should go above and beyond the typical site development review process the County currently utilizes for new land development in its unincorporated areas due to the differing nature of a cannabis growing operation. Should groundwater be the proposed water source for the grow sites, groundwater assessments should be performed that prove a sustainable water supply that meets the additional cannabis growing demand and infrastructure support. By sustainable, I mean no impacts to existing groundwater users' water supply and quality. The groundwater assessments should also consider impacts to freshwater emergent and forested/shrub wetland habitat and groundwater dependent ecosystems (see <https://www.fws.gov/wetlands/Data/Mapper.html> for a useful tool in identifying these areas). In addition, wastewater from indoor or contained growing operations and ancillary support facilities ought to be treated to remove any harmful constituents potentially used to enhance cannabis production that ultimately finds its way to groundwater through land disposal. This groundwater is surely shared by neighboring users.

Respectfully submitted,

Jason Preece