



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY  
PLANNING DEPARTMENT

April 10, 2018

Agenda Item #7 April 17, 2018

Chris Bazar  
Agency Director

Albert Lopez  
Planning Director

224  
West Winton Ave  
Room 111

Hayward  
California  
94544

phone  
510.670.5400  
fax  
510.785.8793

[www.acgov.org/cda](http://www.acgov.org/cda)

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

Dear Board Members:

**SUBJECT: PROPOSED AMENDMENTS TO THE CANNABIS DISPENSARY ORDINANCES (GENERAL CODE CHAPTER 6.108 AND SECTIONS 17.04.010, 17.06.040, 17.38.030, AND 17.40.030 of Title 17) AND THE CANNABIS CULTIVATION ORDINANCES (CHAPTER 6.106 AND SECTIONS 17.04.010 and 17.52.585 of Title 17)**

**RECOMMENDATION:**

That the Board of Supervisors:

1. Approve the Addendum to the Mitigated Negative Declaration for Medical Cannabis Ordinance Amendments
2. Adopt the proposed ordinance amending Chapter 6.108 of the Alameda County General Ordinance Code to regulate cannabis retailers.
3. Adopt 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 Ordinance Code to conditionally permit cannabis retailers in specified districts within the unincorporated area of the County of Alameda.
4. Adopt the proposed ordinance amending Chapter 6.106 to the Alameda County General Ordinance Code to regulate the cultivation of cannabis in the Unincorporated Area of the County Of Alameda.
5. Adopt the proposed ordinance amending Sections 17.04.010, 17.52.585, and 17.54.130 of Title 17 of the Alameda County General Ordinance Code to regulate the cultivation of cannabis in the unincorporated area of the County Of Alameda.

**BACKGROUND:**

Your Board approved the medical cannabis cultivation and dispensary ordinances on September 12, 2017, and approved an amendment to the cultivation ordinance regarding the number of medical cannabis permits available for specific cultivation types on December 5, 2017. After the ordinances were approved, staff initiated an extensive Request for Proposals (RFP) process to solicit applications for both cannabis cultivation and dispensary facilities, the first step in a two-

step process to allow these new land use types. Through the RFP process, two dispensaries and four cultivation sites were selected, all in the East County Plan Area. In the course of hearing appeals for additional cultivation sites, the Board of Supervisors directed staff to amend Chapter 6.106 of the County General Code to increase the number of cultivation permits allowed through the RFP process from four to eight, so that the applicants who ranked fifth through eighth could also receive permits. The Board further directed staff to amend Chapter 6.106 and the relevant sections of the Zoning Ordinance in Title 17 of the County General Code to remove the two-year sunset clause for cannabis cultivation. In addition, the Board directed staff to revise the cultivation ordinances to allow the cultivation of both medicinal and adult use cannabis, and the dispensary ordinances to allow the sale and delivery of both adult use and medicinal cannabis. County staff has also recommended some minor, non-substantive revisions to address administrative issues that have come up during the ordinance implementation process, and for consistency with state regulations.

**DISCUSSION/SUMMARY:**

**Cultivation Ordinances**

The cultivation ordinance in Chapter 6.106 of the County General Code currently allows a total of six medicinal cannabis cultivation permits, up to two permits for dispensaries that have been operating in good standing in the unincorporated area for at least one year, and an additional four cultivation sites to be selected through an RFP process. The proposed ordinance amendments would increase the number of cannabis cultivation permits to be granted through the RFP process to eight, increasing the total number of cultivation sites allowed from six to ten. The addition of Section 6.106.110.F would provide the CDA Director with the authority to grant the four additional permits to the next four highest ranking applicants as determined through the RFP process conducted last fall.

On March 8, 2018, the Board Transportation/Planning Committee considered the proposed ordinance amendments and requested additional information about the number of cultivation sites allowed in other counties. Information from various counties employing a range of approaches to permitting cannabis cultivation is provided in the table below.

<b>Number of Cannabis Cultivation Permits Submitted and Approved in Other Counties</b>				
<b>County</b>	<b>Applications Received</b>	<b>Permits Approved</b>	<b>Permits Pending</b>	<b>Limits on Number of Permits</b>
Calaveras	743	250	188	In January 2018, the Board voted to ban commercial cultivation. All cultivation must stop by June 7, 2018.
Monterey	80	6	74	Cultivation sites limited to existing greenhouses.
San Luis Obispo	9	0	9	Currently, 141 cultivators are operating with temporary permits. Only temporary permit holders may apply for a land use permit; applications are due by the end of May.
San Mateo	0	0	0	No cap on number of cultivation permits. Awaiting submittal of applications.
Sonoma	100	3	97	No cap on number of cultivation permits.
Stanislaus	cult. 120 nursery 37	0	157	No cap specific to cultivation permits, but total number of permits for all types of cannabis activities capped at 61. Will begin issuing permits summer/fall 2018.

Contra Costa and Santa Barbara Counties are in the process of developing cannabis cultivation ordinances. Both counties are considering a cap on the number of permits that would be allowed, but no final decisions has been made.

The proposed amendments to Chapter 6.106 of the County General Code would also remove the two-year sunset provision as well as other references to a pilot program. Chapter 6.106 and the relevant sections of the Zoning Ordinance in Title 17 currently allow the cultivation of medicinal cannabis only. Proposed amendments to these ordinance sections would also allow cultivation of adult use cannabis in accord with the state's Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA). (see Attachments A-1, A-4, B-1, and B-4)

Applications submitted last year in response to the RFP for cannabis cultivation permits were required to identify a proposed cannabis cultivation site pursuant to Section 6.106.080.A(1) of the ordinance. At the March 8<sup>th</sup> Board Transportation/Planning Committee meeting, the Committee requested that staff explore options for allowing applicants who were granted permits pursuant to Chapter 6.106 to transfer the permit to another location if it is determined through the Conditional Use Permit process that a different site would be more desirable. Section 6.108.170 of the dispensary ordinance allows for the transfer of a dispensary permit granted pursuant to Chapter 6.108; however, Chapter 6.106 does not contain a comparable provision allowing the transfer of cultivation permits. Section 6.106.150 was added to the revised cultivation ordinance in Attachment 1 to provide proposed language to allow cultivation permit transfers.

### **Dispensary Ordinances**

The dispensary ordinance in Chapter 6.108 and the relevant sections of the Zoning Ordinance in Title 17 currently allow the sale and delivery of medicinal cannabis and medicinal cannabis products only. Proposed amendments to these ordinance sections would allow the sale and delivery of both medicinal and adult use cannabis in accord with MAUCRSA. (see Attachments A-2, A-3, B-2, and B-3)

### **Felony Prohibition Provisions in Dispensary and Cultivation Ordinances**

Currently, Sections 6.108.100(A)(4), 6.108.120(A)(12), and 6.108.125(A)(9) of the dispensary ordinance; and Sections 6.106.060(B)(3), and 6.106.100(A)(4) of the cultivation ordinance prohibit any person who has been convicted of a felony within the past three years from being actively engaged in the operation of a cannabis facility. Prior to adoption of the existing ordinances in September of 2017, the Board directed staff to change the prohibition of participation in cannabis operations from ten years, which was the requirement in the previous version of the ordinance, to three years.

At the March 8<sup>th</sup> Board Transportation/Planning Committee meeting, a member of the public spoke in support of revising the County's cultivation and dispensary ordinances to remove the three-year prohibition and follow the case-by-case review process in state law. MAUCRSA does not provide a 3-year or any other bright line cut off for whether a felony will prohibit participation in commercial cannabis operations. Under MAUCRSA, a licensing authority "may" deny a license if the applicant has been convicted of "an offense that is substantially related to the qualifications, functions, or duties of the business." BPC § 26057(b)(4). Additionally, if the state licensing authority determines that, despite the conviction, the applicant is "otherwise suitable to be issued a license and granting the license would not compromise public safety, the licensing authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the applicant or licensee to be issued a license based on the evidence found through the review." BPC § 26057(b)(4). MAUCRSA also provides additional guidance on what would constitute a "substantially related offense." BPC § 26057(b)(4).

Your Board may wish to consider whether shifting to the State standard instead of the bright line 3-year prohibition would be desirable. At the direction of the Board Transportation/Planning Committee, staff requested an opinion from the District Attorney's Office regarding replacing the three-year limitation in the County's ordinances with a case-by-case review process. The District Attorney's Office did not state a preference for either approach, but indicated that their office would want to be included in the applicant review process if a case-by-case approach is adopted.

Developing a case-by-case review process could require a significant amount of time. If the Board wishes to adopt this approach, staff recommends that the existing prohibition on felony convictions within the past three years remain in place while the case-by-case process is being established.

### **California Environmental Quality Act**

The Board of Supervisors adopted an Initial Study and Mitigated Negative Declaration (IS/MND) for the cultivation and dispensary ordinances on July 11, 2017. When there are changes to a project after adoption of the MND for the project, Section 15162 of the CEQA Guidelines requires that a supplemental or subsequent MND be prepared if any of the criteria in the section are met. Where a supplemental or subsequent MND is not appropriate, CEQA Guidelines Section 15164(b) allows for the preparation of an Addendum to an adopted negative declaration only if there are minor technical changes or additions that do not meet the conditions of Section 15162. As the Board of Supervisors adopted the IS/MND for the medicinal cannabis ordinances prior to consideration of the proposed ordinance amendments, staff considered whether any of the criteria in Section 15162 had been met. Staff concluded that a supplemental or subsequent MND is not appropriate and prepared an MND Addendum (see Attachment D) pursuant to CEQA Guidelines Section 15164(b).

### **Agricultural Advisory Committee Meeting**

The Agricultural Advisory Committee discussed the proposed ordinance amendments at its January 23, 2018 meeting. A few of the committee members, as well as members of the public, objected to the proposed increase in the number of cultivation permits and changing the cannabis cultivation program from a pilot to an ongoing program, before any of the cultivation sites have been in operation. There was also opposition to allowing the cultivation, sale, and delivery of adult use cannabis, in addition to medicinal cannabis. Speakers expressed concern about the rapid pace of the ordinance amendment process and the limited opportunities for public input.

### **Planning Commission Recommendation**

The Planning Commission considered the proposed ordinance amendments at a public hearing on February 20, 2018. Many East County residents who live near the locations of the additional cultivation sites that could be granted permits under the amendments gave testimony in opposition to the proposed ordinance changes. In addition, many emails and letters from East County residents, the majority of which expressed opposition to the amendments, were distributed to the commissioners at the meeting (see Attachment C). A motion was made to recommend that the Board approve the proposed ordinance amendments with the exception that the two-year sunset clause in the cultivation ordinance be retained to continue the cultivation pilot. The commissioners indicated that they believed it was premature to remove the sunset clause since none of the cultivation sites have been fully permitted yet. Five of the seven commissioners were present at the meeting and one of the commissioners recused himself for this item.

Three of the remaining commissioners voted in favor of the motion, with one opposed. Because four affirmative votes were needed to adopt the motion, the motion did not pass. As a result, there is no recommendation from the Commission regarding approval of the ordinance amendments.

**CONCLUSION:**

Staff recommends that your Board approve the Addendum to the Mitigated Negative Declaration for Medical Cannabis Ordinance Amendments and adopt the proposed amendments to the cannabis dispensary and cultivation ordinances.

Very truly yours,



Chris Bazar, Director  
Community Development Agency

**Attachments**

- **Attachment A - Ordinances showing mark up with additions underlined and deletions crossed out:**
  1. An Ordinance Amending Chapter 6.106 of the Alameda County General Ordinance Code to Regulate the Cultivation of Cannabis in the Unincorporated Area of the County Of Alameda
  2. An Ordinance Amending Chapter 6.108 of the Alameda County General Ordinance Code to Regulate the Retail Sale of Cannabis
    - Exhibit A (map of West County)
    - Exhibit B (map of East County)
  3. An Ordinance Amending Title 17 of the Alameda County General Ordinance Code to Conditionally Permit Cannabis Retailers in Specified Districts within the Unincorporated Area of the County of Alameda
  4. An Ordinance Amending Title 17 of the Alameda County General Ordinance Code to Regulate the Cultivation of Cannabis in the Unincorporated Area of the County Of Alameda
- **Attachment B – Ordinances without mark up**
  1. An Ordinance Amending Chapter 6.106 of the Alameda County General Ordinance Code to Regulate the Cultivation of Cannabis in the Unincorporated Area of the County Of Alameda
  2. An Ordinance Amending Chapter 6.108 of the Alameda County General Ordinance Code to Regulate the Retail Sale of Cannabis
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  4. An Ordinance Amending Title 17 of the Alameda County General Ordinance Code to Regulate the Cultivation of Cannabis in the Unincorporated Area of the County Of Alameda
- **Attachment C - Public Comment Letters**
- **Attachment D – Addendum to the Mitigated Negative Declaration for Medical Cannabis Ordinance Amendments**

## **Attachment A**

### **Ordinances Showing Mark Up** (additions underlined and deletions crossed out)

- A-1. An Ordinance Amending Chapter 6.106 of the Alameda County General Ordinance Code to Regulate the Cultivation of Cannabis in the Unincorporated Area of the County Of Alameda
- A-2. An Ordinance Amending Chapter 6.108 of the Alameda County General Ordinance Code to Regulate the Retail Sale of Cannabis
  - o Exhibit A (map of West County)
  - o Exhibit B (map of East County)
- A-3. An Ordinance Amending Title 17 of the Alameda County General Ordinance Code to Conditionally Permit Cannabis Retailers in Specified Districts within the Unincorporated Area of the County of Alameda
- A-4. An Ordinance Amending Title 17 of the Alameda County General Ordinance Code to Regulate the Cultivation of Cannabis in the Unincorporated Area of the County Of Alameda

**Attachment A-1**

**An Ordinance Amending Chapter 6.106 of the Alameda County General Ordinance Code to Regulate the Cultivation of Cannabis in the Unincorporated Area of the County Of Alameda**

ORDINANCE NO. ~~2017~~2018- \_\_\_\_\_

AN ORDINANCE ~~ADDING~~AMENDING CHAPTER 6.106 ~~TO OF~~ THE ALAMEDA COUNTY GENERAL ORDINANCE CODE TO ~~IMPLEMENT A PILOT PROGRAM AUTHORIZING AND REGULATING~~REGULATE 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, which affirmed~~ affirms that counties ~~can~~could 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~~

~~6.5.~~ In 2015, Assembly Bill 243, Assembly Bill 266, Senate Bill 643 were enacted and were 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

~~7.6.~~ 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; (MCRSA); and



~~8.7.~~ ~~The Medical Cannabis Regulation and Safety Act~~~~MCRSA~~ established a comprehensive framework to license and regulate commercial medical cannabis cultivation, manufacturing, distribution, transportation, sales, and testing; and

~~9.8~~ On November 8, 2016, the voters of the State of California approved Proposition 64 (codified, in part, as California Business and Professions Code sections 26000 *et seq.* and titled the “Control, Regulate and Tax Adult Use of Marijuana Act”), which decriminalized the adult use of cannabis for non-medical purposes and established a regulatory scheme at the state level; and

~~10.9~~ On June 27, 2017, Senate Bill 94 (codified, in part, as California Business and Professions Code sections 26000, *et seq.* and titled the “Medicinal and Adult-Use Cannabis Regulation and Safety Act”, or, “MAUCRSA”) repealed and replaced MCRSA. MAUCRSA consolidates the medical and non-medical cannabis statutes (MCRSA and Proposition 64).

~~11.10.~~ Pursuant to California Business and Professions Code section 26200, nothing in ~~the Medicinal and Adult-Use Cannabis Regulation and Safety Act~~~~MAUCRSA~~ 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

~~12.~~ ~~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~~

~~13.~~ ~~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.~~

~~The County adopted ordinances authorizing and regulating medical cannabis cultivation operations on September 12, 2017; and~~

~~14.11.~~ This Ordinance is enacted, consistent with the Compassionate Use Act of 1996, the Medical Marijuana Program Act, and ~~the Medicinal and Adult-Use Cannabis Regulation and Safety Act~~~~MAUCRSA~~, to protect the public health, safety, and welfare of residents of the County of Alameda in relation to the cultivation of ~~medical~~ cannabis; and

~~15.12~~ The cultivation of ~~medical~~ cannabis in appropriate locations will help ensure that ~~medical~~locally-produced cannabis cultivated pursuant to local and state regulatory

~~schemes will be available to other cannabis businesses within the patients in need of its supply chain while preserving the character, health and safety of the surrounding area; and~~

~~16.13. 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~~

~~17. 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~~

~~18.14. 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~~

~~19.15. Pursuant to the Medicinal and Adult Use Cannabis Regulation and Safety Act MAUCRSA, the California Department of Food and Agriculture is responsible for promulgatinghas promulgated regulations governing commercial cannabis cultivation and is responsible for issuing state cultivation licenses, which are anticipated to become effective in or around the year 2018; and; and~~

~~20. 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~~

~~21. 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~~

~~22.16. The existing dispensariesretailer operatorsoperating in the County have demonstrated an ability to operate secure and responsible medical cannabis dispensaryretail establishmentsoperations and to comply with existing county and state laws concerning the sale and dispensing of medical cannabis; and~~

~~23. Allowing these dispensariesretailers 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 endimpact of the supply in a vertically integrated structure on implementation of the state's track-and-trace program; and~~

- ~~24. 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 impact on implementation of the state's track the product from cultivation through ultimate sale with multiple parties participating in the supply chain, and trace program of operating outside of a vertically integrated structure; and~~
- ~~25. 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.~~
- ~~26. 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, MAUCRSA or otherwise;~~
17. In September 2017, the County adopted a pilot program allowing and regulating up to six medical cannabis cultivation sites; and
18. Increasing the allowable number of cultivation sites to ten, removing the pilot nature of the ordinance and expanding the allowable uses to cultivation of both medicinal and adult-use cannabis will allow the County to more fully implement recent state law and regulation concerning commercial cannabis businesses; and
19. A limited number of medicinal cannabis cultivation sites were selected and approved pursuant to the September 2017 version of the cannabis cultivation ordinance; and
20. Allowing approved medical cannabis cultivation sites to cultivate adult-use cannabis will streamline the County's regulation of cannabis sites; and
21. Allowing a single cultivation site to produce cannabis that may eventually be sold to both medicinal and adult-use retail customers will have limited if any impact on other County residents and businesses because the cultivation operation will not be materially impacted by the designation of the eventual retail customer as either medicinal or adult-use; and
22. All commercial cultivation operations will be required to obtain requisite state licenses in order to conduct business, including obtaining an adult-use (A-type) cultivation license and/or a medicinal (M-type) cultivation license as needed for the type of cultivation operation; and
23. All commercial cultivation operations will be required to comply with state law and state regulations, including but not limited to the requirement to record the movement of cannabis cultivated on-site through the supply chain via the state's track and trace system; and

~~27-24.~~ The Board of Supervisors acknowledges that regulation of cannabis activities is an evolving field at the state level, as evidenced by the recent ~~adoption of the Medicinal and Adult Use Cannabis Regulation and Safety Act,~~ passage of Proposition 64 ~~and the related, adoption of MAUCRSA, and release of emergency regulations being drafted by various state licensing 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

~~28-25.~~ 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

~~29-26.~~ 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, (43) 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 of the Alameda County General Ordinance Code is hereby repealed in its entirety.~~

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~~seeks a permit under this chapter by filing an application as provided for in this chapter.
- B. "Application" means that form provided by the Director and submitted in accordance with this chapter for the purpose of seeking a permit.
- C. "Cannabis" shall have the same definition as in Business and Professions Code section 26001(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" 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 11018.5 of the California Health and Safety Code.
- D. "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-cannabis, including cannabis for medicinal use and/or adult-use in accordance with the Medicinal and Adult-Use Cannabis Regulation and Safety Act. Cannabis cultivation includes the operations of a cannabis nursery. Cannabis cultivation does not mean the temporary maintenance and selling of clones from a permitted ~~dispensaryretail operationer,~~ where such activities are incidental and subordinate to the primary ~~dispensaryretail~~ operation.
- E. "Cannabis cultivation aresite" means ~~the portion of the premises used for a location~~premises where one or more commercial cannabis cultivation activities including all buildings, accessory structures, storage and parking areas, other than as may be required for security purposes~~stakes place.~~
- F. "Cannabis nursery" means an operation that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of ~~medical~~cannabis.

G. "Cannabis ~~o~~operator" or "operator" as used in this chapter means the natural person or designated officer responsible for the operation of any permitted cannabis operation.

~~H.~~ "Cannabis product" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

~~H.J.~~ "Clone" means the cutting of a cannabis plant that has been re-planted and is non-flowering.

~~I.J.~~ "Community Development Agency" means the community development agency of the County of Alameda.

~~I.K.~~ "County" means the County of Alameda.

~~K.L.~~ "Director" means the director of the Community Development Agency or his or her designee.

~~L.M.~~ "Indoor cannabis cultivation" means the cultivation of ~~medical~~ cannabis within ~~an~~ permanent enclosed structure using exclusively artificial light, or within any type of structure using artificial light at a rate ~~of or greater than~~ above 25 watts per square foot or such other threshold for indoor cultivation as may be established by the California Department of Food and Agriculture.

~~N.~~ "Lot" means a separate parcel of land shown and identified as such on the records of the county recorder or on the final map of an approved and recorded subdivision, excluding therefrom for the purposes of this title any portion thereof which lies within a street, within a lane, or within a fenced-off flood control easement.

~~M.O.~~ "Manufacture" means the process by which the raw agricultural cannabis ~~product~~ is transformed into a concentrate, an edible product, ~~or a~~ topical product or similar cannabis 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.

~~N.~~ "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 41362.5 of the Health and Safety Code. For the purposes of this chapter, "medical cannabis" does not include "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.

~~Q.P.~~ Q.P. "Mixed-light cannabis cultivation" means the cultivation of ~~medical-cannabis cannabis in a greenhouse, hoop-house, glasshouse, conservatory, hothouse, or other similar structure~~ using light deprivation and/or artificial lighting below or equal to 25 watts per square foot or such other maximum threshold for mixed-light cultivation as may be established by the California Department of Food and Agriculture.

~~P.Q.~~ P.Q. "Permit" means a cannabis cultivation permit issued by the county to operate a cannabis cultivation site under this chapter.

~~Q.R.~~ Q.R. "Permitted cannabis ~~dispensaryretail operationer~~" or "cannabis ~~dispensary retail operator~~" 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 Medicinal and Adult-Use Cannabis Regulation and Safety Act,~~ California Compassionate Use Act, and/or the Medical Marijuana Program, and/or and as regulated by chapter 6.108.

~~R.S.~~ R.S. "Permittee" means a person who holds an effective and current permit under this chapter.

~~S.T.~~ S.T. "Person" means any human being or an incorporated or unincorporated business entity or association established under the laws of the state.

~~T.U.~~ T.U. ~~"Premises" means the parcel or parcels containing a medical cannabis cultivation site, including any buildings, greenhouses, accessory structures and appurtenant areas."~~ "Premises" means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee/permittee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area. and shall only be occupied by one licensee.

~~U.V.~~ U.V. "Sheriff" means the sheriff of the County of Alameda and his or her authorized representatives.

~~V.W.~~ V.W. "State" means the State of California.

#### **6.106.030 General requirements and ~~program~~ terms.**

A. It is 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. The owner, managing partner, corporate officer and/or any other person with primary responsibility for a medical cannabis operation shall maintain such operation in conformity with the terms of this chapter and with the terms of all permits issued pursuant to this chapter.

- B. The county shall have in effect no more than ~~sixteen~~ sixteen cannabis cultivation permits ~~throughout the duration.~~ Two of the pilot program, ten permits may be issued in accordance with sections 6.106.050 through 6.106.060. The remaining available permits must be selected pursuant to sections 6.106.050 through 6.106.110 herein. ~~A maximum of two~~ The permits will ~~be available~~ shall be available ~~issued~~ issued for indoor cannabis cultivation operations. ~~A maximum of four permits will be available for or mixed-light cannabis cultivation operations only. More than one premises may be located on a single parcel. A separate permit must be issued for each premises on a single parcel.~~
- 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 6.106.190 herein~~ expiration date established by the director, 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.
- G. More than one premises may be located on a single lot. A separate permit must be issued for each premises on a single lot. Each premises shall only be occupied by one permittee unless otherwise authorized by applicable state laws regulations and county permit(s).
- H. The director may adopt such forms and procedures as are necessary to implement this chapter.

#### **6.106.040 Land use approval.**



Prior to commencement of cannabis cultivation activities, a permittee must obtain a conditional use permit pursuant to Sections 17.06.040 and 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 cannabis dispensaryretail operationer 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 cannabis dispensaryretail operation.
  3. Address of the proposed cannabis cultivation operation and the name and address of the owner(s) of the lot(s) containing the premises.
  - ~~3-4.~~ The address to which notice of action on the application is to be mailed.
  - ~~4-5.~~ 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.
  6. A statement that the applicant accepts and will comply with the standard conditions set forth in this chapter.
  - ~~5-7.~~ The names of each person with an ownership interest of more than 10 percent in the proposed cultivation operation.
  - ~~6-8~~ Certification, under penalty of perjury, that all the information contained in the application is true and correct.
  - ~~7-9~~ Authorization for the county, its agents and employees to seek verification of the information contained in the application.
  - ~~8-10.~~ 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~~140 and any fee schedule adopted by the County.
- C. The director may establish a submission deadline for applications pursuant to this section.
- It is unlawful to make any false statement or representation or to use or submit anyd false or fraudulent document(s) in any application made pursuant to this chapter.

**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 issue the applicant a notice of intent to grant the ~~cultivation~~ permit, if each of the following conditions are met:
  - 1. The applicant operates a permitted cannabis dispensaryretail operation;
  - 2. The applicant's permitted cannabis dispensaryretail operation 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 cannabis retail operation has commenced commercial operations and the cannabis dispensaryretail operationer permit has not been suspended or revoked and that there are no pending proceedings for the suspension or revocation of the cannabis dispensaryretail operationer permit.
  - 3. No person who is listed on the application pursuant to subsection (1) or ~~(75)~~ of Section 6.106.050(A) has been convicted of a felony within the past three 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)~~twenty-one (21) 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.
- D. The notice of intent to grant permit issued pursuant to subsection (B) shall include notice 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 pay all required fees, and the permit shall thereupon issue immediately.
  - 2. If the applicant refuses or fails to certify agreement with any operating condition or standard condition or to pay all required fees, 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 the permittee to obtain (1) any required state permits or licenses for the operation of a cultivation operation, and (2) all land use entitlements required to operate a cultivation operation. No cultivation permit shall be effective unless and until these conditions of approval are satisfied.

#### **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 cannabis cultivation sites that need not be affiliated with a permitted cannabis ~~dispensary~~retailer.

B. Each application for the establishment of a cannabis 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.~~

~~DC.~~ 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.

~~ED.~~ No person or facility that purports to have cultivated cannabis prior to the enactment of this chapter and issuance of a permit hereunder 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 cannabis cultivation site and the name and address of the owner ~~of(s) of the parcel~~lot(s) containing 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)~~twenty-one (21) 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 ~~S~~heriff.
8. The names and addresses of all businesses operated by and the employment history of the applicant for the five years immediately prior to the date of the application.
9. The address of any-all cannabis cultivation sites or ~~dispensaries~~retail operations that currently are 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 cannabis 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 cannabis 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 ~~S~~heriff's ~~O~~ffice, and be photographed for identification purposes. In addition, any new employees, independent contractors, other persons and/or volunteers who will be regularly engaged at the proposed cannabis cultivation site must submit their information to the ~~S~~heriff'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~~submitted for review and approval~~ 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~~lot-and-(s) containing the cannabis cultivation area designated premises. The site plan shall show the entire portion of the premises, used for cultivation activities, including all buildings, accessory structures, storage, and parking areas. The site plan shall show the interior configuration of the greenhouse or other structure housing cultivation activities, including. The site plan shall include a statement of the floor area occupied by each structure at the ~~cannabis cultivation site~~premises. 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~~greenhouse or other

structure housing cultivation activities to an accuracy of plus or minus twelve (12) inches.

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

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

15. The if the application proposes cultivation of cannabis for medicinal purposes, the mission statement of the cannabis cultivation site with respect to meeting the medical/medicinal 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 cannabis 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-the lot(s) 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. Written certification that the applicant will comply with all county ordinances, including building, zoning and health codes, allow inspections to ensure conformance with such regulations, cooperate with County agencies' efforts to monitor the retail operator's compliance with this applicable ordinances and with all conditions of permits issued pursuant to this Code, and pay any County fees assessed for monitoring permittee's compliance.

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 cannabis cultivation site will operate consistent with state and local law, including but not limited to: the minimum staffing levels for operation of the cannabis 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 cannabis cultivation site and including a copy of the cultivation operation's labor peace agreement when required by California Business & Professions Code Section 26051.5 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-~~ 140.

C. It is unlawful to make any false statement or representation or to use or submit any false or fraudulent document(s) in any application made pursuant to this chapter.

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

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 ~~S~~sheriff shall be responsible for verifying factual information in the application, including names, addresses and other information on the applicant, ~~o~~perator and ~~h~~s employees of the proposed cultivation operation.
2. The ~~S~~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~~ If the operation will produce cannabis for consumption by medicinal consumers, the health care services agency shall comment upon the services to be provided and the mission statement set forth in the application.

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 three (3) 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~~ eighteen (21) years of age.
6. The health care services agency has determined, for an operation that will produce cannabis for consumption by medicinal consumers, that the application for a cannabis cultivation site has failed to state a health care purpose that fulfills the purposes of Sections 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 of 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 responsible 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 cannabis 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~~ and responsible applicants. The director may establish a minimum required score or other mechanism to disqualify or reject applications determined to be irresponsible.

C. The director ~~shall~~ may establish operating conditions for cannabis cultivation sites for each eligible, responsible 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 pay all required fees, and the permit shall thereupon issue immediately.
2. If the applicant refuses or fails to certify agreement with any operating condition or to pay all required fees, 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~~selected 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.

F. In the event that an additional permit becomes available subsequent to the scoring and ranking of applications pursuant to subsections (A) and (B) above, the director may issue a permit to the next highest ranked applicant by following the procedures in subsections (C) through (E), above.

#### **6.106.120 Appeal.**

A. An applicant aggrieved by the decisions described in Section 6.106.060 ~~or Section, 6.106.110 or 6.106.18070~~ 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, including the proceedings related to the applications or permits of other applicants potentially affected by the board of supervisors' decision on the appeal. 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 community development 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.

D. For any appeals concerning a decision described in Section 6.106.110, the board of supervisors' review shall be limited to determining whether CDA materially erred in conducting the selection process with respect to following the RFP, County ordinances or state law. The board of supervisors shall not re-judge the proposals,



alter the scoring or ranking of the proposals, or consider new evidence concerning the merits of the proposed cultivation operation.

- E. Any appeal that is not timely filed or otherwise fails to comply with Paragraph A of this sSection will be deemed ineffective by the dDirector and the administrative determination that is being appealed will become final.

#### **6.106.130 Term of cannabis cultivation permits and renewals.**

- A. Each cannabis cultivation permit shall expire two years after the date of its issuance or upon the expiration date established by the director, whichever is earlier.
- B. Any permit may be renewed by the director for successive periods of up to two years each 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 and whether the permittee has made substantial progress toward implementing the permit.
- C. Any application for renewal mustshall be filed at least forty-five (45) days before expiration of the permit.
- D. Any application for renewal may 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 cultivation operation authorized by the permit has not been in regular operation in the four months prior to the renewal application.
  4. The cultivation operation fails to conform to the criteria set forth in Section 6.106.100(A).

#### **6.106.1306.106.140 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 schedule of fees, which may include nonrefundable fees, in order to reimburse the county for such costs.

#### **6.106.150 Transfer of the permit.**

- A. No permittee may transfer a permit to another cannabis operator or premises without authorization by the county, granted in accordance with this section.
- B. A permittee shall apply for transfer of a permit by submitting, jointly with the proposed transferee, an application that complies with Section 6.106.080. The director shall verify information in the application and shall approve the transfer unless it fails to comply with the requirements of this chapter, the standards set forth in Section 6.106.100 or such other minimum score or standards as may be established by the director pursuant to Section 6.106.110(B).

C. 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 and pay all fees required by Section 6.106.140.

**6.106.140-6.106.160 Prohibited operations.**

A permittee shall not conduct any manufacturing of cannabis on the premises. A permittee shall not sell, dispense or deliver cannabis to retail customers from the premises unless separately permitted by a cannabis dispensary,retailerretail operator or delivery permit pursuant to Chapter 6.108 of this code.

**6.106.150-6.106.170 Violations, criminal and civil liability and remedies.**

Any person violating any of the provisions of this chapter is--or of a permit issued pursuant to this chapter, is guilty of a misdemeanor. Each person is 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 cannabis cultivation site and is punishable accordingly. For purposes of this section, each and every day of violation includes each day on which a failure to comply with this chapter or any conditions of a permit issued pursuant to this chapter continues. No proof of knowledge, intent, or other mental state is required to establish a violation of the chapter or permit.

In addition to the penalties provided above, any condition caused or allowed to exist in violation of any of the provisions of this chapter or of a permit issued pursuant to this chapter, shall be deemed a public nuisance and shall create a cause of action for injunctive relief and penalties pursuant to Chapter 17.59 of this Code.

The remedies provided by this Chapter are cumulative and in addition to any other remedies available at law or in equity.

**6.106.180 -Suspension and revocation.**

A. The director may revoke or suspend 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. The director shall provide the permittee with written notice of the suspension or revocation that shall describe the grounds for revoking or suspending the permit.

C. The permittee subject to the revocation or suspension may appeal the determination of the director to the board of supervisors within ten days after the date of the notice of the decision of the director. The board of supervisors shall act upon the appeal in accordance with Section 6.108.120450.

~~6.106.1606.106.190~~ **Limitations.**

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, (43) allow any activity relating to the manufacturing, distribution, or consumption of cannabis that is illegal under state or federal law.

~~6.106.1706.106.200~~ **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.

~~6.106.1806.106.210~~ **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.

~~6.106.040~~ **Sunset and termination.**

~~The pilot program for cultivation of cannabis shall terminate two years from the effective date of this ordinance. 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 the second anniversary of the effective date of 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~~2018, 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

**Attachment A-2**

**An Ordinance Amending Chapter 6.108 of the Alameda County General Ordinance Code to Regulate the Retail Sale of Cannabis**

- Exhibit A (map of West County)
- Exhibit B (map of East County)



ORDINANCE NO. ~~2017~~2018-\_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 6.108 OF THE ALAMEDA COUNTY GENERAL ORDINANCE CODE TO REGULATE ~~MEDICAL~~THE RETAIL SALE OF 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 EDIBLESRETAILERS

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,~~ which affirmed 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 (MCRSA); and
7. ~~The Medical Cannabis Regulation and Safety Act~~MCRSA established a comprehensive framework to license and regulate commercial medical cannabis cultivation, manufacturing, distribution, transportation, sales, and testing; and
8. On November 8, 2016, the voters of the State of California approved Proposition 64 (codified, in part, as California Business and Professions Code sections 26000 *et seq.* and titled the "Control, Regulate and Tax Adult Use of Marijuana Act"), which decriminalized the

adult use of cannabis for non-medical purposes and established a regulatory scheme at the state level; and

9. On June 27, 2017, Senate Bill 94 (codified, in part, as California Business and Professions Code sections 26000 *et seq.* and titled the "Medicinal and Adult-Use Cannabis Regulation and Safety Act", or, "MAUCRSA") repealed and replaced MCRSA. MAUCRSA consolidates the medical and non-medical cannabis statutes (MCRSA and Proposition 64).

10. Pursuant to California Business and Professions Code section 26200, nothing in ~~the Medicinal Cannabis Regulation and Safety Act~~ MAUCRSA 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 Medicinal and Adult-Use Cannabis Regulation and Safety Act~~ MAUCRSA to protect the public health, safety, and welfare of residents of the County of Alameda in relation to the ~~distribution~~ retail sale and delivery of ~~medical~~ cannabis; and

~~12. 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~~

~~13. 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~~

~~14. 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~~

~~15. 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~~

~~16. 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~~

~~17. 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~~

~~18.12~~ 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 ~~distributions~~ sale and delivery of ~~medical~~ cannabis and the packaging, labeling and sale of ~~edibles~~ edible cannabis products; and



~~19.13.~~ 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

~~20.14.~~ 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

~~21.15.~~ The Board of Supervisors has determined that, with appropriate conditions, a **dispensary cannabis retail operation** 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 to and supports the area’s cannabis cultivation; and

~~16.~~ ~~This~~ ~~On September 12, 2017, the County adopted an amendment to Chapter 6.108 of the Ordinance regulates the dispensing and delivery of Code that allowed up to two medical cannabis and retailer retail operators (or, “dispensaries”) in the East County and up to three medical cannabis retailer retail operators in the West County; and~~

~~17.~~ ~~A limited number of medicinal cannabis retail operators were selected and approved pursuant to the September 2017 version of the cannabis cultivation ordinance; and~~

~~18.~~ ~~Allowing approved medical cannabis retailer retail operators to expand their operations to include the sale and delivery of both medicinal and adult-use cannabis and cannabis products in the unincorporated areas of the County and does not address the dispensing or delivery will allow the County to more fully implement recent state law and regulation concerning commercial cannabis businesses; and~~

~~19.~~ ~~Allowing approved medical cannabis retailer retail operators to sell adult-use cannabis will streamline the County’s regulation of cannabis for non-medical use under businesses; and~~

~~20.~~ ~~Allowing a single retailer retail operator to sell cannabis and cannabis products for both medicinal and adult-use will have limited if any impact on other County residents and businesses because the retail operation will not be materially impacted by the designation of the customer as either a medicinal or adult-use customer; and~~

~~21.~~ ~~All commercial retail operations will be required to obtain requisite state licenses in order to conduct business, including obtaining an adult-use (A-type) retailer license and/or a medicinal (M-type) retailer license as needed for the type of retail operation; and~~

22. All commercial retail operations will be required to comply with state law and state regulations, including but not limited to the requirement to record the movement of cannabis into and out of the retail site operation via the state's track and trace system; and

22-23. The Board of Supervisors acknowledges that regulation of cannabis activities is an evolving field at the state level, as evidenced by the recent passage of Proposition 64, adoption of MAUCRSA or otherwise, and release of emergency regulations by various state licensing agencies. 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

23-24. 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

24-25. 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 use of cannabis for non-medical purposes;~~ (3) exempt ~~dispensaries~~ retailer retail operators or delivery operations from compliance with zoning and land use regulations, or, (43) 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 ~~repealed in its entirety.~~

Chapter 6.108 is hereby added to read the Alameda County General Ordinance Code and reads as follows:

### **Chapter 6.108 — ~~Medical Cannabis~~ Dispensaries ~~Retailer~~ Retail operators, 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~~ retailer retail operators, the delivery of ~~medical~~ cannabis, and the packaging, labeling and sale 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~~ areas of the ~~county~~ County of Alameda.

#### **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~~seeks a permit under this chapter by filing an application as provided for in this chapter.
- B. "Application" means that form provided by the director and submitted by an applicant in accordance with this chapter for the purpose of seeking a permit.
- C. "Bureau" means the Bureau of Cannabis Control within the California Department of Consumer Affairs.
- D. "Brick and mortar" ~~dispensaryretailerretail operator~~ means a cannabis ~~dispensaryretailerretail operator~~ with a permanent, physical ~~location for which a license or permit to dispense medical cannabis from a~~ store-front retail ~~premise for location allowing~~ direct physical access to ~~qualified patients and primary caregivers has been issued by the local jurisdiction in which the dispensary is located and by the state, once state licenses become available~~customers.
- E. "Cannabis" shall have the same definition as in Business and Professions Code section 26001(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" 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 11018.5 of the California Health and Safety Code.
- F. "Cannabis concentrate" or "Concentrate" shall have the same definition as in Business and Professions Code section 26001(h), which defines "cannabis concentrate" to mean 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 100935 of the California Health and Safety Code, or a drug, as defined by Section 100925 of the California Health and Safety Code.~~
- G. "Cannabis cultivation," "Cultivate" or "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming including any associated storage, of cannabis, including cannabis for medicinal use and/or adult-use in accordance with the Medicinal and Adult-Use Cannabis Regulation and Safety Act. of medical cannabis. Cannabis cultivation includes the operations of a cannabis nursery. Cannabis cultivation does not mean the temporary maintenance and selling of clones from a permitted ~~dispensaryretailerretail operator~~, where such activities are incidental and subordinate to the primary ~~dispensaryretailer~~ operation.
- H. "Cannabis ~~Delivery~~delivery" or "Delivery" means the commercial transfer of ~~medical cannabis or medical cannabis products from a dispensary, up to an amount determined by the Bureau, or, until the Bureau establishes an allowed amount, the amount allowed by California Health and Safety Code Section 11362.77,~~retailerretail operator to a ~~primary caregiver, qualified patient or person with an identification card~~

~~as defined in Section 11362.7 of the California Health and Safety Code, or a testing laboratory, retail customer. "Delivery" also includes the use by a dispensary, retailer, retail operator of any technology platform owned and controlled by the dispensary, or independently licensed by the Bureau, that enables qualified patients, persons with an identification card or primary caregivers, retail customers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical retail sale and delivery of cannabis or medical cannabis products.~~

- I. ~~"Cannabis Delivery Operator, delivery operator" or "delivery operator" means a person holding a permit under this chapter to engage in the delivery of medical cannabis or medical cannabis products.~~
- J. ~~"Cannabis Nursery" means a cannabis operation that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.~~
- J. ~~"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, 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 medical provisions of the California Medicinal and Adult-Use 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:~~
  - K. 1. ~~A clinic that is licensed under Chapter 1 of Division 2 of the California Health and Safety Code.~~
  - L. 2. ~~A health care facility that is licensed under Chapter 2 of Division 2 of the California Health and Safety Code.~~
  - M. 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.~~
  - N. 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.~~
  - O.K. 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. "Cannabis Operator" means the natural person or designated officer responsible for the operation of any permitted cannabis operation.~~
- L. ~~"Cannabis product" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.~~
- M. ~~"Cannabis retailer, retail operator;" or "Retailer, Retail operation" or "Retail site" means a premises where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including cannabis for medicinal use and/or adult-use under the authority of the Medicinal and Adult-Use Cannabis Regulation and Safety Act, California Compassionate Use Act, and/or the Medical Marijuana Program, and/or, and including an establishment that delivers, cannabis and cannabis products.~~

~~P.N.~~ "Clone" means the cutting of a cannabis plant that has been re-planted and is non-flowering.

~~Q.O.~~ "Community Development Agency" means the community development agency of the County of Alameda.

~~R.P.~~ "County" means the County of Alameda.

~~S.Q.~~ "Director" means the director of the Community Development Agency or his or her designee.

~~T.R.~~ "Dispensing" means any activity involving the retail sale of ~~medical~~ cannabis or ~~medical~~ cannabis products from a ~~dispensaryretailerretail operator~~.

~~U.S.~~ "Distribution" means the procurement, sale, and transport of ~~medical~~ cannabis and ~~medical~~ cannabis products between entities licensed pursuant to the ~~medical~~ provisions of Division 10 of the California Business and Professions Code.

~~V.T.~~ "Edible cannabis product", "Edible" or "Edibles" shall have the same definition as in Business and Professions Code section 26001(t), which defines "edible cannabis product" as a cannabis product 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 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.

~~W.~~ "~~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.~~

~~X.U.~~ "Identification card" has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended.

~~Y.V.~~ "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.

~~Z.~~ "~~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.~~

~~AA.~~ "~~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 11018.5 of the Health and Safety Code.~~

~~W.~~ "Lot" means a separate parcel of land shown and identified as such on the records of the county recorder or on the final map of an approved and recorded subdivision, excluding therefrom for the purposes of this title any portion thereof which lies within a street, within a lane, or within a fenced-off flood control easement.

~~BB.~~ "Nursery" means a cannabis operation that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of medical cannabis.

~~CC.X.~~ "Permit" means a permit issued by the county to a ~~medical cannabis dispensaryretailerretail operator~~ or delivery operator under this chapter.

~~DD.Y.~~ "Permittee" means a person who holds an effective and current permit under this chapter.

~~EE.Z.~~ "Person" means any human being or an incorporated or unincorporated business entity or association established under the laws of the state.

~~FF.AA.~~ "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

~~GG.~~ "Premises" means the building in which a medical cannabis dispensary is operated and, in addition, any accessory structures and appurtenant areas.

BB. "Premises" means the designated structure or structures and land specified in the application or in the permit that is owned, leased, or otherwise held under the control of the applicant or licenseepermittee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.

~~HH.CC.~~ "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.

~~II.DD.~~ "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.

~~JJ.EE.~~ "School" means an institution of learning for minors, whether public or private, that offers a regular course of instruction.

~~KK.FF.~~ "Sheriff" means the sheriff of the County of Alameda and his or her authorized representatives.

~~LL.GG.~~ "State" means the state of California.

#### **6.108.030 – ~~Cannabis dispensary permit required~~General cannabis retailerretail operator requirements and terms.**

- 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 dispensaryretailerretail operator~~ in the unincorporated portion of Alameda County, unless such ~~medical cannabis dispensaryretailerretail operator~~ 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 dispensaryretailerretail operator~~ shall apply for a permit under this chapter ~~and, if, If such a permit is granted, shall maintain~~ the owner, managing partner, corporate officer, and any person with primary responsibility for the operation of the ~~medical—cannabis dispensaryretailerretail operator~~ shall ensure the operation is ~~retailer—maintained~~ 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~~ licenses 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.
1. In the West County, in no event shall the total number of permits for all areas shown in Exhibit A (West County) exceed three. No more than two permits shall be issued in any one of the two areas shown in Exhibit A (West County). No more than one permit shall be issued in the other area shown in Exhibit A (West County).
  2. In the East County, in no event shall the total number of permits for all areas shown in Exhibit B (East County) exceed two. No permit shall be issued for a ~~dispensaryretailerretail operation~~ within five miles of another ~~dispensaryretailerretail operation~~ in the unincorporated area shown in Exhibit B (East County) or within one mile of a permitted ~~dispensaryretailerretail operation~~ location in an incorporated city.
  3. 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 dispensaryretailerretail operator~~ 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 ~~dispensaryretailerretail operator~~, including the requirement to obtain any conditional use permits, and shall also meet all of the following locational standards:
1. No ~~dispensaryretailerretail operation~~ may be closer than one thousand (1000) feet from any other ~~dispensaryretailerretail operation~~.
  2. No ~~dispensaryretailerretail operation~~ 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 ~~dispensaryretail operationer~~ shall be located in a residential zone or its equivalent.
- F. 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.

G. Each premises shall only be occupied by one permittee unless otherwise authorized by applicable state laws regulations and county permit(s).

H. The director may adopt such forms, ~~and~~ procedures and performance standards as are necessary to implement this chapter.

**6.108.035 – ~~Cannabis~~ General cannabis delivery permit/delivery operator permit required.requirements and terms.**

A. It shall be unlawful for any person, including a legally permitted ~~medical~~ cannabis ~~dispensary/retailer/retail operator~~, 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/delivery operator 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~~. If such a permit is granted, shall maintain the owner, managing partner, corporate officer, and any person with primary responsibility for the operation of the ~~medical cannabis delivery retailer/retail operator~~ shall ensure the operation is maintained 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/delivery operator 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/delivery operator permit~~ shall be issued only to a "brick and mortar" ~~dispensary/retailer/retail operation~~ holding a valid license or permit ~~to dispense medical~~ for the retail sale of cannabis issued by the State of California ~~or by a California city, county, or city and county, by the local jurisdiction in which the retail operationer is located.~~ Mobile ~~dispensaries/retailer/retail operators~~ that do not have a permanent physical ~~dispensary location (a "brick and mortar" dispensary)/retail location~~ are not eligible for and shall not be issued a ~~delivery permit/delivery operator permit~~.

E. A ~~delivery permit/delivery operator permit~~ shall automatically expire, be suspended or revoked when the ~~permit holder's permittee's dispensary/retailer/retail operator~~ license or permit expires, is suspended or revoked. The expiration, suspension or revocation of a ~~delivery permit/delivery operator permit~~ will not automatically affect the status of the ~~delivery permit/delivery operator permittee's holder's dispensary license/retailer/retail operator permit~~.

**6.108.040 - Term of cannabis ~~dispensary~~ permits and renewals.**

A. Each cannabis ~~dispensary/retailer/retail operator~~ permit shall expire two years after the date of its issuance ~~or upon the expiration date established by the director, whichever is earlier.~~



- B. The term of each ~~delivery permit~~delivery operator permit shall run concurrent with the term of the ~~delivery permit~~delivery operator permittee holder's dispensaryretailerretail operator 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 and whether the permittee has made substantial progress toward implementing the permit.
- ~~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.~~~~
- D. No person or facility that purports to have sold or delivered cannabis prior to the enactment of this chapter or without a permit shall be deemed to have been a legally established retailerretail operator or delivery operation under the provisions of this chapter, and such person or facility shall not be entitled to claim a legal nonconforming status.

**6.108.050 – Cannabis ~~dispensaryretailerretail operator~~ permit application and renewal procedures.**

- A. When one or more cannabis ~~dispensaryretailerretail operator~~ 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 ~~dispensaryretailerretail operator~~ within an area where a ~~dispensaryretailerretail operator~~ could be established based upon the provisions of Section 6.108.030.
- B. Each application for the establishment of a ~~dispensaryretailerretail operator~~ or renewal of an existing cannabis ~~dispensaryretailerretail operator~~ 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 and performance standards 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 ~~dispensaryretailerretail operator~~ 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.~~

D. Any application for renewal shall be filed at least forty-five (45) days before expiration of the permit.

E. Any application for renewal may 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 ~~retailer~~retail operator authorized by the ~~retailer~~retail operator permit has not been in regular operation in the four months prior to the renewal application.
4. The ~~retailer~~retail operator fails to conform to the criteria set forth in Section 6.108.100.

#### **6.108.060 - Contents of cannabis ~~dispensary~~retailerretail operator permit application.**

A. In response to a solicitation for applications initiated by the director, each application for a cannabis ~~dispensary~~retailerretail operator 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 cannabis ~~dispensary~~retail operation~~er~~, ~~and~~ the name and address of the owner(s) of the parcel lot(s) containing 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)~~twenty-one (21) 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 ~~S~~heriff.
8. The names and addresses of all businesses operated by and the employment history of the applicant for the five years immediately prior to the date of the application.
9. The address of ~~any~~all dispensaries~~retailer operations~~ that currently are or had 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 cannabis ~~dispensary~~retailerretail operation, 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 ~~dispensaryretailerretail~~ operator. 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 regularly engaged in the proposed ~~medical~~ cannabis ~~dispensaryretailerretail~~ operator must submit their information to the Sheriff's office within five days prior to their employment pursuant to Section 6.108.120(A)(11).

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~~ submitted for review and approval 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 and floor plan, consisting of a sketch or diagram showing the interior and exterior configuration of the premises of the cannabis ~~dispensaryretailerretail~~ operation. The site plan shall show the entire portion of the premises used for retail activities including all buildings, accessory structures, storage, and parking areas, and a statement of the total floor area occupied by the dispensaryretailerretail operation. 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 ~~dispensaryretailerretail~~ operation 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, persons with an identification card 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 ~~dispensaryretailerretail~~ operation, including a precise depiction of any signage, which shall not obstruct the entrance or windows of the ~~dispensaryretailerretail~~ operation. All signage shall comply with ~~the all~~ County General Plan, Zoning Ordinance and any applicable specific plans.
14. A description of products to be sold ~~or dispensed~~ by the ~~dispensaryretailerretail~~ operator.
15. ~~The~~ If the application proposes sale of cannabis for medicinal purposes, the mission statement of the ~~dispensaryretailerretail~~ operator with respect to meeting the ~~medical~~ medicinal 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 traffic, loitering, odors or noise, on surrounding property owners. The ~~dispensaryretailerretail~~ operation shall be designed to provide sufficient odor absorbing ventilation and exhaust systems to that any odor generated inside the

dispensaryretailerretail operation is not detected outside the buildings and structures in which it operates, on adjacent public rights-of-way, or within other units located within the same building as the dispensaryretailerretail operation 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. Written certification that the applicant will comply with all county ordinances, including building, zoning and health codes, allow inspections to ensure conformance with such regulations, cooperate with cCounty agencies' efforts to monitor the retailerretail operator's compliance with this applicable ordinances and with all conditions of permits issued pursuant to this Code, and pay any cCounty fees assessed for monitoring permittee's compliance.
  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 dispensaryretailerretail operator will operate consistent with State and local law, including but not limited to: the minimum staffing levels for operation of the dispensaryretailerretail operator, policies and procedures for record keeping, specific details of the dispensary'sretailerretail operator's track and trace program, specific details of the dispensary'sretailerretail operator's product testing, specific details of the dispensary'sretailerretail operator's proposed odor absorbing ventilation and exhaust systems, and other relevant information regarding the operation of the proposed dispensaryretailerretail operator and including a copy of the dispensary'sretailerretail operator's labor peace agreement when the dispensaryretailerretail operator is required by California Business & Professions Code Section 26051.5 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 6.108.080.
- C. It is unlawful to make any false statement or representation or to use or submit and false or fraudulent document in any application made pursuant to this chapter.

**6.108.070 – Cannabis delivery permitdelivery operator permit application and renewal procedures; contents of delivery permitdelivery operator permit application.**

- A. The owner, managing partner, officer of a corporation of a licensed or permitted ~~medical~~ cannabis dispensaryretailerretail operator or such other person who shall be authorized by the licensed or permitted ~~medical~~ cannabis dispensaryretailerretail operator may apply for a delivery permitdelivery operator permit or for renewal of a delivery permitdelivery operator permit under this chapter ~~and, if, If such a permit is granted, shall maintain~~ the owner, managing partner, corporate officer, and any person with primary responsibility for the retail

~~operation of the medical cannabis retailer shall ensure the delivery operation~~operations are maintained in conformity with the terms of this chapter and of the permit.

B. Each application for a ~~delivery permit~~delivery operator permit or renewal of a ~~cannabis delivery permit~~delivery operator permit shall set forth or incorporate by reference the information ~~required for a dispensary permit in Section 6.108.060~~set forth below and such other information as the director may require in a standard form adopted by the director.

1. Address of the brick and mortar cannabis retailer~~retail operation from which deliveries are proposed to be made and the name and address of the owner(s) of the parcel~~lot(s) containing the retail site~~operation.~~
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 twenty-one (21) 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 history of the applicant for the five years immediately prior to the date of the application.
9. The name and address of any~~all~~ retail or delivery operations that currently are or had 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 cannabis delivery operation, 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~~retailer~~delivery operation. 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 regularly engaged in the proposed cannabis retailer-delivery operation must submit their information to the Sheriff's office within five days prior to their employment pursuant to Section 6.108.120(A)(11).
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 vehicle from theft and burglary. The security plan shall be submitted for review and approval by the Sheriff.
12. A description of products to be sold by delivery.

13. If the application proposes delivery of cannabis for medicinal purposes, the mission statement of the retailer/retail operator with respect to meeting the medicinal needs of patients.
146. A description of the methods by which the applicant will mitigate any potentially adverse impacts, such as safety, odors or noise, on surrounding property owners.
157. Authorization for the county, its agents and employees to seek verification of the information contained in the application.
168. Written certification that the applicant has reviewed and understands and accepts the standard conditions that are set forth in Section 6.108.125. Written certification that the applicant will comply with all county ordinances, including building, zoning and health codes, allow inspections to ensure conformance with such regulations, cooperate with cCounty agencies' efforts to monitor the retailer/retail operator's compliance with this applicable ordinances and with all conditions of permits issued pursuant to this Code, and pay any cCounty fees assessed for monitoring permittee's compliance.
179. Certification, under penalty of perjury, that all the information contained in the application is true and correct.
1820. 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.
1924. An operating plan specifically describing how the retailer-applicant will operate consistent with State and local law, including but not limited to: the minimum staffing levels for operation of the delivery operation, policies and procedures for record keeping, specific details of the retailer/retail operator's track and trace program.
- C. Any application for renewal shall be filed at least forty-five (45) days before expiration of the permit.**
- D. Any application for renewal may be rejected if:**
1. The application is filed less than forty-five (45) days before its expiration.
  2. The delivery operator permit or associated retail operator 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 retailer/retail operator authorized by the associated retailer/retail operator permit has not been in regular operation in the four months prior to the renewal application.
  4. The applicant fails to conform to the criteria set forth in Section 6.108.125.
- E. 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 6.108.080.**
- F. It is unlawful to make any false statement or representation or to use or submit and false or fraudulent document in any application made pursuant to this chapter.**

**6.108.080 - Fees.**

- A. Every application, transfer or renewal of a dispensaryretailerretail operator or delivery permitdelivery operator 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 dispensaryretailerretail operator 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 dispensariesretailerretail operators and delivery operations.

**6.108.090 - Initial review of application.**

- A. The director shall commence review of any application immediately upon its filing ~~and. For retailerretail operator permit applications, the director~~ shall complete such initial review within the time period established in the solicitation process for dispensaryretailerretail operator permits, but in no event shall the initial review exceed one hundred and twenty (120) days, ~~or forty-five (45) days for delivery permits. For delivery permitdelivery operator permit applications, delivery permitdelivery operator permit renewal applications, and dispensaryretailerretail operator renewal applications, the director shall complete such initial review within forty-five (45) days.~~ In conducting this review, the following county agencies shall comment on specific portions of the application:
  1. The Ssheriff 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 dispensaryretailerretail operation or delivery operation.
  2. The Ssheriff shall comment upon the adequacy of security measures that are described in the application, ~~and, for retailer applications, including~~ the security plan, the floor plan for retailer operations, and other relevant aspects of the application.
  3. ~~The~~3. ~~For retail operator applications, 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 6.108.0650, and conditions that are needed to mitigate adverse impacts on surrounding uses.
  4. ~~The~~4. ~~If the proposed operation will sell cannabis for consumption by medicinal consumers, the~~ health care services agency shall comment upon the services to be provided and the mission statement set forth in the application.
  5. ~~The~~5. ~~If the proposed operation will include the sale of edibles, the~~ department of environmental health shall comment upon the application's compliance with the requirements of Section 6.108.1790.
- 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~~retailer~~retail operation~~ 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~~retailer~~retail 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 6.108.060 or pursuant to Section 6.108.070 has been convicted of a felony within the past three (3) 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)~~twenty-one (21) years of age.
  6. The health care services agency has determined, for an operation that will sell cannabis for consumption by medicinal consumers, that the application ~~for a dispensary~~ has failed to state a health care purpose that fulfills the purposes of Sections 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 ~~retailer~~retail operator 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 described in Section 6.108.110.
- C. Any delivery application that is not rejected upon completion of the initial review shall be deemed an eligible application and submitted to the final phase of the permit process described in Section 6.108.115.

#### 6.108.110 - Final selection of ~~medical~~ cannabis ~~dispensaries~~retailer~~retail operators~~.

- 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~~retailer~~retail operators~~ 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~~retailer~~retail operators~~ 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~~retailer~~retail operators~~ 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 and responsible applicants in each geographic area where dispensaryretailerretail operator permits are available, provided they meet the spacing requirements set forth in Section 6.108.030(D) and (E). The director may establish a minimum required score or other mechanism to disqualify or reject applications determined to be irresponsible.

- C. The director ~~shall~~may 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, responsible 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 dispensaryretailerretail operator 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 pay all required fees and the permit shall thereupon issue immediately.
  - 2. If the applicant refuses or fails to certify agreement with any operating condition or standard condition or to pay required fees, 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 eligibleselected applicant to obtain (1) any required state permits or licenses for the retail operation of a dispensary and delivery operation, if applicable, and (2) all land use entitlements required to operate a dispensaryretail operation. No retailerretail operator permit shall be effective until these conditions of approval are satisfied.
- F. In the event that an additional permit becomes available subsequent to the scoring and ranking of applications pursuant to subsections (A) and (B) above, the director may issue a permit to the next highest ranked applicant by following the procedures in subsections (C) through (E), above, provided the applicant meets the spacing requirements set forth in Section 6.108.030(D) and (E).

#### 6.108.115 - Final permit phase for cannabis delivery operators.

- A. The director shallmay -establish operating conditions, in addition to the standard conditions contained in Section 6.108.125 for each eligible application that has been submitted for final permit approval. The director shall give notice to eligible delivery-permitdelivery operator permit applicants 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 pay all required fees, and the permit shall thereupon issue immediately.
  - 2. If the applicant refuses or fails to certify agreement with any operating condition or standard condition or to pay required fees, 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 any required state permits or licenses for the operation of a delivery operation, if applicable. No dispensary or delivery permit/delivery operator permit shall be effective until these conditions of approval are satisfied.

**6.108.120 - Standard conditions for ~~medical~~ cannabis ~~dispensaries~~retailer~~retail operators~~.**

A. Throughout the term of the ~~medical~~ cannabis ~~dispensary~~retailer~~retail operator~~ permit, each permittee shall not violate this chapter, shall comply with the following standard conditions and shall not allow or tolerate violations of these standard conditions to occur at the ~~dispensary~~retailer~~retail operator~~:

1. It shall be a violation of this chapter for a ~~dispensary~~retailer~~retail operator~~ to deliver, distribute, provide or allow to be provided cannabis to any person except those persons who are 21 years of age or older or who are 18 years of age or older and primary caregivers, qualified patients or persons with an identification card, as defined by California Health and Safety Code section 11362.7. All ~~dispensing~~retail sales that ~~does do~~ not comply with the provisions of Sections 26000, *et seq.*, of the Business and Professions Code applicable to ~~medical~~retail operations, associated state regulations 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 proof of age, identification card and written recommendation provided to the dispensaryretailerretail operator.
2. Each ~~dispensary~~retailer~~retail operator~~ shall maintain records of persons who have received cannabis from the ~~dispensary~~retailer~~retail operator~~. These records shall ~~set forth only the identification card~~include a retailerretail operator~~assigned customer 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~~shall not identify such documentation that authorizes such distribution under this chapterpersons by full name.
3. No ~~dispensary~~retailer~~retail operator~~ 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. No activities that are undertaken in the ~~operation of the dispensary~~retailer~~retail operation~~ shall be conducted outside the interior premises of the ~~dispensary~~retailer~~retail operation~~.
4. Unless and until a local permit and state license allowing cannabis nursery or cultivation uses (e.g., Type 12 – Microbusiness) has been issued for the ~~dispensary~~retailer~~retail operator~~ ~~location~~premises, cannabis may not be grown or cultivated on the premises. However, the ~~dispensary~~retailer~~retail operator~~ may sell clones and may provide such water, heat, and light as may be necessary to maintain the clones prior to sale, provided that such activities are incidental and subordinate to the primary ~~dispensary~~retailer~~retail operator~~ operation.

A ~~dispensary~~retailer~~retail operator~~ shall actively regulate and monitor its purchasing limits, such that no qualified patient, person with an identification card or primary caregiver is permitted to purchase in excess of eight ounces of cannabis in any calendar month.

5. No cannabis shall be smoked, ingested or otherwise consumed on the premises of a ~~dispensary~~retailer~~retail operator~~.
6. A ~~cannabis dispensary~~retailer~~retail operator~~ shall ensure that its products are in tamper-evident packages and labeled as required by California Business and Professions Code Section 26120, regulations established by the Bureau, and requirements of the California Department of Food and Agriculture and by stating the name of the ~~dispensary~~retailer~~retail operator~~ 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~~Cannabis may be provided by a ~~dispensary~~retailer~~retail operator~~ 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.~~170499~~.
- ~~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 and the dispensary shall not provide medical cannabis to any person under the age of eighteen (18), unless that person is a qualified patient, primary caregiver, or person with an identification card as defined by California Health and Safety Code section 11362.7.~~
8. A retailer~~retail operator~~ that sells adult-use cannabis or cannabis products shall not allow any person under 21 years of age on its premises, employ or retain persons under 21 years of age, or sell cannabis or cannabis products unless the person to whom the cannabis or cannabis product is to be sold first presents documentation which reasonably appears to be a valid government-issued identification card showing that the person is 21 years of age or older.  
However, a retailer~~retail operator~~ that sells medicinal cannabis or cannabis products may allow on the premises any person 18 years of age or older who possesses a valid government-issued identification card and either a valid physician's recommendation or a valid identification card and may sell cannabis, cannabis products, and cannabis accessories to a person 18 years of age or older who possesses a valid government-issued identification card and either a valid physician's recommendation or a valid identification card.
9. The entrance to a ~~dispensary~~retailer~~retail operation~~ shall be posted with a notice that states the restrictions on the presence of persons under the age of ~~eighteen (21 and/or 18), as applicable~~, and that smoking, ingesting or consuming cannabis on the premises is prohibited. In addition, each ~~dispensary~~retailer~~retail operator~~ shall conspicuously display the permit.
10. No ~~dispensary~~retailer~~retail operator~~ 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 on the same premises. No alcohol may be stored, sold, dispensed or used on the same premises.
11. Each permittee shall maintain a current registry of persons, including, but not limited to, employees, contractors and volunteers, who are regularly engaged in the operation of the ~~dispensary~~retailer~~retail operator~~. The registry shall be provided to the director 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. In addition, any new employees, independent contractors, other persons and/or volunteers to be regularly engaged in the operation of the proposed medical cannabis dispensaryretailerretail operator must submit their information to the Ssheriff's office within five days prior to their employment or engagement.

12. No person who has been convicted of a felony within the past three years may be actively engaged in the operation of any dispensaryretailerretail operator. 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 dispensaryretailerretail operator 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 dispensaryretailerretail operator. The permittee shall make a good faith effort to resolve problems without the need for intervention by the county.
15. A dispensaryretailerretail operator 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 dispensaryretailerretail operator shall comply with all county ordinances, including building, zoning and health codes, and shall allow inspections to ensure conformance with such regulations. A retailerretail operator shall cooperate with cCounty agencies' efforts to monitor the retailerretail operator's compliance with this applicable ordinances and with all conditions of permits issued pursuant to this Code. The cCounty may assess fees for monitoring permittee's compliance.
17. A dispensaryretailerretail operator shall not be delinquent in the payment of fees required by this chapter.
18. All activities of the dispensaryretailerretail operator must take place within the interior of the building
19. A dispensaryretailerretail operator must have appropriate restroom facilities that will accommodate both-all male-and-female customers regardless of gender.
- ~~20. Once the Bureau begins issuing licenses to testing laboratories, a dispensary~~20. A retailerretail operator 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 26001(atas), before the cannabis and cannabis products are delivered to the dispensaryretailerretail operator.
21. A dispensaryretailerretail operator shall package all cannabis flowers sold on its premises in child resistant packaging.
22. A dispensaryretailerretail operator 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. A dispensaryretailerretail operator shall implement a track and trace program that shall be in compliance with Section 26067, 26068 and 26069 of the

California Business and Professions Code and all applicable regulations, ~~once that program is established and becomes operational.~~

23. A ~~dispensaryretailer~~retail operator 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 ~~dispensaryretailer~~retail operator shall (a) enter into any agreement with or employ a physician for the purpose of evaluating patients for the issuance of a ~~medical~~medicinal cannabis recommendation or identification card; (b) allow a physician to locate on the ~~dispensaryretailer~~retail operator premises at any time for the purpose of issuing a ~~medical~~medicinal 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 ~~dispensaryretailer~~retail operator; and (d) not distribute any form of advertising for physician recommendations for ~~medical~~medicinal cannabis in California unless the advertisement bears the notice to consumers contained in California Business and Professions Code section 2525.5.
25. ~~Each dispensary~~A ~~retailer~~retail operator 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 ~~dispensaryretailer~~retail operator and without notice, the director, acting in conjunction with other appropriate county officials, may enter the premises for the purpose of observing compliance of the ~~dispensaryretailer~~retail operator with the conditions of its permit.
  - E. Release of the county from liability. The owner and permittee of each ~~dispensaryretailer~~retail operator 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 ~~dispensaryretailer~~retail operator 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 ~~dispensaryretailer~~retail operator 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 ~~dispensaryretailer~~retail operator 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 ~~distributionsale~~, delivery and/or on- or off-site use of cannabis provided at the ~~dispensaryretailerretail operator~~ or delivered by the delivery operator in a form satisfactory to the director.

#### 6.108.125 - Standard conditions for cannabis delivery operations.

A. Throughout the term of the ~~medical~~ cannabis ~~delivery permit~~delivery operator permit, each ~~permit-permittee 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 is unlawful~~ to deliver, distribute, provide or allow to be provided cannabis to any person except those persons who are 21 years of age or older or who are primary caregivers, qualified patients or persons with an identification card, as defined by California Health and Safety Code section 11362.7. All deliveries that do not comply with provisions of Sections 26000, et seq., of the Business and Professions Code applicable to ~~medical~~ operations, associated state regulations, and the terms of the permit and this chapter are prohibited. It shall be the responsibility of the ~~permit holder-permittee~~ to ensure that a good faith effort is made to verify the validity of any proof of age, 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'sretailerretail operator's~~ current ~~dispensaryretailerretail operator~~ license or permit and the ~~dispensary'sretailerretail operator's~~ current ~~delivery permit~~delivery operator 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, if any.
4. The qualified patient, person with an identification card 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.
5. 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.
6. ~~It is unlawful to employ a~~ person who is less than ~~eighteen (18)~~21 years of age ~~may be employed or otherwise engaged to engage~~ in the delivery of ~~medical~~ cannabis.
7. 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.
8. Each permittee shall maintain a current registry of persons, including, but not limited to, employees, contractors and volunteers, who are regularly engaged in delivery

operations. The registry shall be provided to the director 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 to be regularly engaged in the delivery operation must submit their information to the Sheriff's office within five days prior to their employment.

9. ~~It is unlawful to employ a~~ person who has been convicted of a felony within the past three years ~~may be actively engaged to engage~~ in ~~the~~ delivery ~~operation~~ of cannabis. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
10. Delivery vehicles shall not include signage or markings that identify the vehicle as a cannabis delivery vehicle.
11. 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.
12. The ~~delivery permit~~ delivery operator permittee holder will satisfy the release of liability and county indemnification requirements in subdivision E and F of Section 6.108.120.

13. A retailer retail operator shall cooperate with cCounty agencies' efforts to monitor the retailer retail operator's compliance with this applicable ordinances and with all conditions of permits issued pursuant to this Code. The cCounty may assess fees for monitoring permittee's compliance.

#### **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.~~

- ~~A. An applicant aggrieved by the decisions described in Sections 6.108.110, 6.108.115, or 6.108.140-160 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, including the proceedings related to the applications or permits of other applicants potentially affected by the board of supervisors' decision on the appeal. 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 community development 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.~~
- ~~D. For any appeals concerning a decision described in Section 6.108.110 the board of supervisors' review shall be limited to determining whether CDA materially erred in conducting the selection process with respect to following the RFP, cCounty ordinances or state law. The board of supervisors shall not re-judge the proposals, alter the scoring or ranking of the proposals, or consider new evidence concerning the merits of the proposed cultivation operation.~~
- ~~E. Any appeal that is not timely filed or otherwise fails to comply with Paragraph A of this sSection will be deemed ineffective by the dDirector 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.~~

**6.108.1460 - Suspension and revocation.**

- ~~A. A. The director may initiate the revocation/voke or suspension of/suspend a permit when it shall appear that the permittee has committed any of the following actions:
  - ~~1. 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 retail premises.~~
  - ~~2. 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 vicinity of its delivery activities.~~~~
- ~~B. TThe director shall provide the hearing permittee with written notice of the suspension or revocation that shall contain a brief statement of/describe the grounds for revoking or suspending the permit and the time and date for the hearing.~~
- ~~C. C. The decision of the administrative panel may include suspension, revocation or the modification of the permit by adding conditions that are designed The permittee subject to reduce or remove the problems that caused the proposed the 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/director to the board of supervisors within ten days after the date of the notice of the decision of the administrative panel/director. The board of supervisors shall act upon the appeal in accordance with Section 6.108.130450.~~

**6.108.1570 - Transfer of the permit.**

- A. No permittee may transfer a permit to another cannabis operator or premises without authorization by the county, granted in accordance with this section.
- B. A permittee shall apply for transfer of a dispensary/retailer/retail operator permit by submitting jointly with the proposed transferee, 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 requirements of this chapter, the standards set forth in Section 6.108.100 or such other minimum score or standards as may be established by the director pursuant to Section 6.108.110(B).

- C. A permittee shall apply for transfer of a ~~delivery permit~~ delivery operator permit by submitting jointly with the proposed transferee, an application that complies with Section 6.108.070. The director shall verify information in the application and shall approve the transfer unless it fails to comply with the requirements of this chapter, the standards set forth in Section 6.108.100 ~~or such other minimum standards as may be established by the director.~~
- 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 and pay all fees required by Section 6.108.080.

#### **6.108.1680 - Prohibited operations.**

The permittee ~~and or his or her agents shall at all times comply with Section 11326.5 et seq. of not cultivate or manufacture cannabis on 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 delivery of medical premises, unless specifically authorized by a permit issued by the county. A retailer retail operator shall not deliver cannabis off the site of the dispensary retailer retail operator premises unless the dispensary retailer retail operator holds a valid delivery permit delivery operator permit.~~

#### **6.108.1790 – Sale, Distribution and Dispensing Delivery of 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 consumers.~~ It shall be unlawful for any ~~dispensary retailer retail operator~~ or delivery operation to sell, distribute or deliver edibles not prepared, packaged or labeled as required by this ~~s~~Section.

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

1. A facility, such as a commercial kitchen, that proposes to prepare, store, sell, dispense, ~~and/or~~ 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 Section 26120 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~~ contains 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.

#### **6.108.18200 - Misdemeanor ~~violations~~ violations.**

Any person violating any of the provisions of this chapter ~~or of a permit issued pursuant to this chapter~~, is guilty of a misdemeanor. Each person is 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 ~~dispensary retail operation~~ or delivery operation and is punishable accordingly. For purposes of this section, each and every day of violation includes each day on which a failure to comply with this chapter or any conditions of a permit issued pursuant to this chapter continues.

No proof of knowledge, intent, or other mental state is required to establish a violation.

**6.108.190210 - Civil ~~injunction~~. Remedies**

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 and civil penalties in accordance with Chapter 17.59 of this Code. The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.

**6.108.2002220- 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.

**6.108.210230 - 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.

~~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 Exhibits~~

Exhibit A attached ~~to~~ hereto, is incorporated into this Ordinance.

~~Delete Exhibit B and insert the revised~~ Exhibit B attached ~~to~~ hereto, is incorporated into 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 \_\_\_\_\_, 20172018, by the following called vote:

AYES:

NOES:

EXCUSED:

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

**ATTEST:**

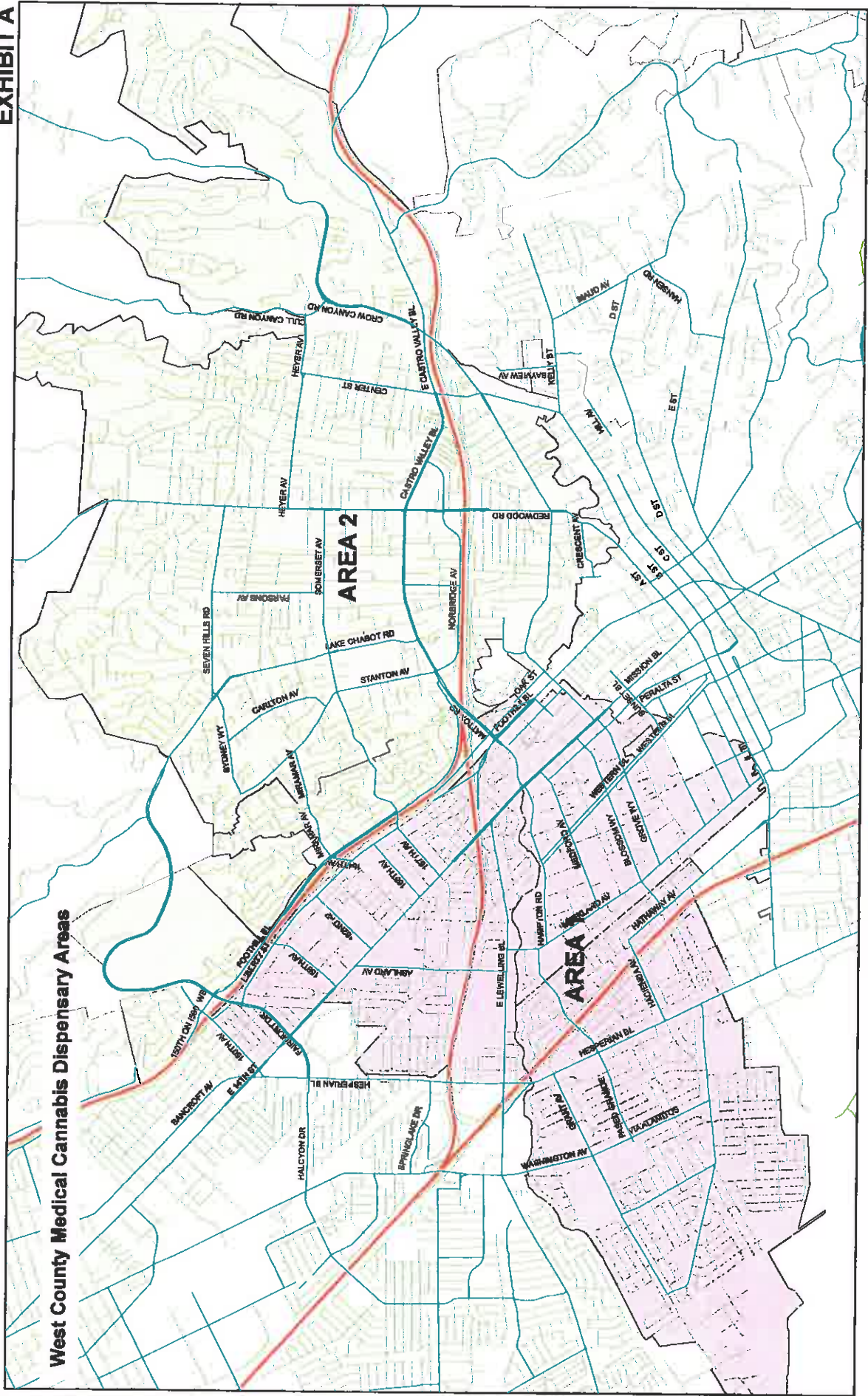
**Clerk of the Board of Supervisors,**

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

**APPROVED AS TO FORM:  
DONNA R. ZIEGLER, COUNTY COUNSEL**

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










West County Medical Cannabis Dispensary Areas

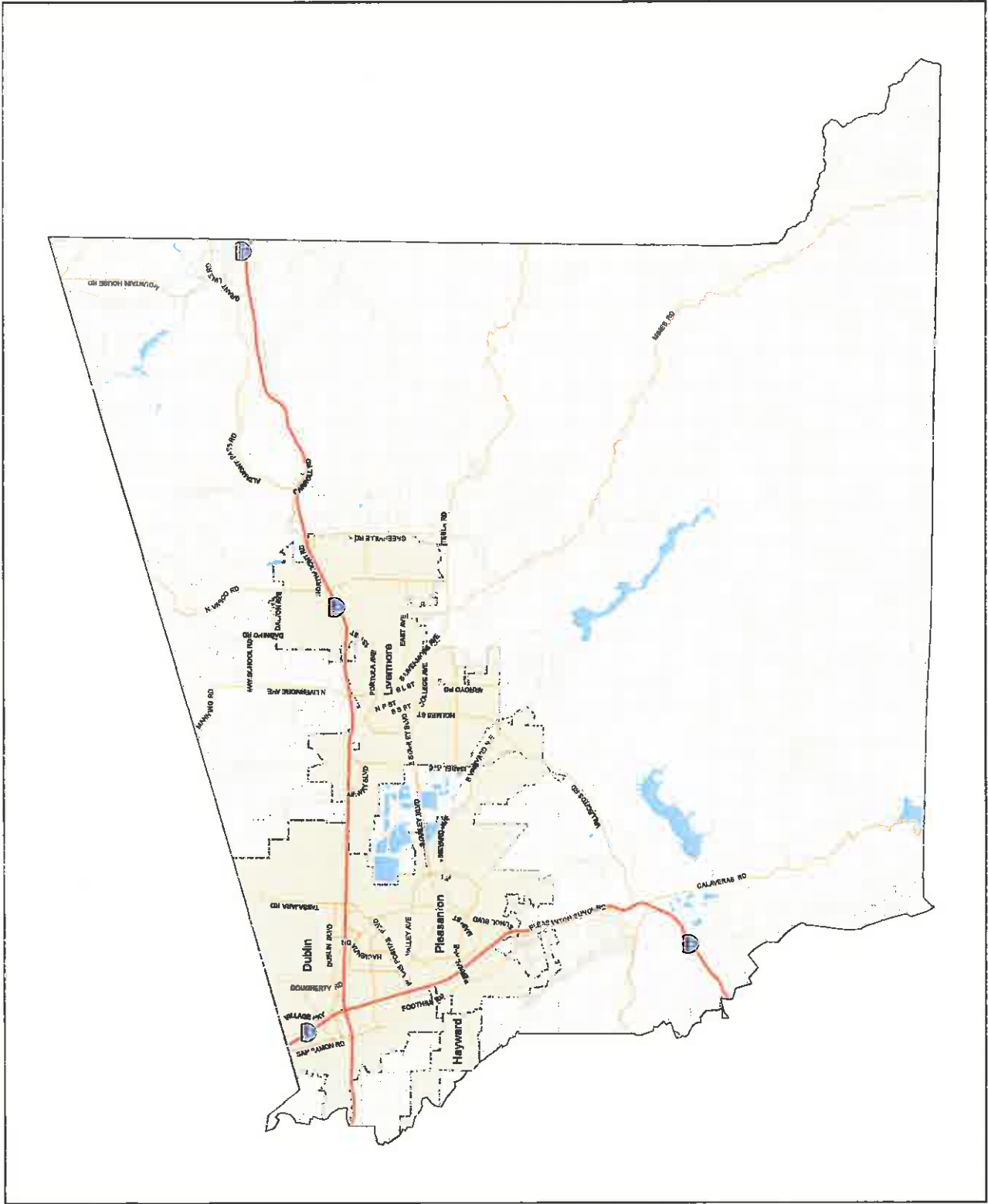




# Exhibit B - East County (as defined in the East County Area Plan)

## Legend

-  Interstates
-  Major Roads
-  Waterbodies
-  Cities
-  Unincorporated





**Attachment A-3**

**An Ordinance Amending Title 17 of the Alameda County General Ordinance Code to  
Conditionally Permit Cannabis Retailers in Specified Districts within the Unincorporated Area of the  
County of Alameda**



ORDINANCE NO. ~~2017~~2018-\_\_\_\_\_

AN ORDINANCE AMENDING TITLE 17 OF THE ALAMEDA COUNTY GENERAL ORDINANCE CODE TO ~~IMPLEMENT A PILOT PROGRAM AUTHORIZING AND REGULATING THE CULTIVATION OF MEDICAL CONDITIONALLY PERMIT CANNABIS IN RETAILERS IN SPECIFIED DISTRICTS WITHIN~~ 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
- ~~1.~~ 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 s 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); which affirmed~~ 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~~
- ~~6.5.~~ In 2015, Assembly Bill 243, Assembly Bill 266, and 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 Marijuana Regulation and Safety Act~~"). These bills also amended provisions of the Medical Marijuana Program Act related to the cultivation of medical cannabis; and
- ~~The~~ 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 (MCRSA); and
7. MCRSA established a comprehensive framework to license and regulate commercial medical cannabis cultivation, manufacturing, distribution, transportation, sales, and testing; and

8. On November 8, 2016, the voters of the State of California approved Proposition 64 (codified, in part, as California Business and Professions Code sections 26000 *et seq.* and titled the "Control, Regulate and Tax Adult Use of Marijuana Act"), which decriminalized the adult use of cannabis for non-medical purposes and established a regulatory scheme at the state level; and
9. On June 27, 2017, Senate Bill 94 (codified, in part, as California Business and Professions Code sections 26000 *et seq.* and titled the "Medicinal and Adult-Use Cannabis Regulation and Safety Act", or, "MAUCRSA") repealed and replaced MCRSA. MAUCRSA consolidates the medical and non-medical cannabis statutes (MCRSA and Proposition 64).
  - ~~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(e)(4)" and accordingly, Chapter 6.106 of the Alameda County General Ordinance Code was repealed on February 3, 2016.~~
  - ~~12.10. Pursuant to California Business and Professions Code section 26200, nothing in the Medicinal and Adult-Use Cannabis Regulation and Safety Act MAUCRSA 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. On September 12, 2017, the County adopted ordinances regulating medical cannabis cultivation and retail operations (or, "dispensaries"), including amendments to Title 17 to allow medical cannabis dispensaries as a conditional use in certain commercial districts and in the agricultural district; and
  - ~~13.12. This Ordinance is enacted, consistent with the Compassionate Use Act of 1996, the Medical Marijuana Program Act, and the Medicinal and Adult-Use Cannabis Regulation and Safety Act, MAUCRSA to protect the public health, safety, and welfare of residents of the County of Alameda in relation to the cultivation of medical retail sale and delivery of cannabis; and~~
    - ~~14. 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~~
    - ~~15. 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~~
    - ~~16. 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~~

- ~~17. 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~~
- ~~18. 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~~
- 13. 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 retailers as a land use; and**
- 14. Concurrent with this ordinance, the County is considering amending Chapter 6.106 of the General Ordinance Code and amending the Zoning Ordinance to conditionally permit and regulate cultivation of cannabis for both medicinal and adult-use in Agricultural district of the unincorporated County; and**
- 15. Concurrent with this ordinance, the County is considering amending Chapter 6.108 of the General Ordinance Code which regulates cannabis retailers, including allowing retailers to sell cannabis to both medicinal and adult-use customers; and**
- 16. Allowing approved medicinal cannabis retail sites operators to sell adult-use cannabis will streamline the County's regulation of cannabis businesses; and**
- 17. Allowing a single retailer to sell cannabis and cannabis products for both medicinal and adult-use will have limited if any impact on other County residents and businesses because the retail operation will not be materially impacted by the designation of the customer as either a medicinal or adult-use customer; and**
- ~~19-18. The Board of Supervisors has determined that, with appropriate conditions, cannabis retailers may be appropriately located in certain commercial districts; and~~
- 20-19. 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**
- 24-20. 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**
- 22-21. 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**

~~23. Pursuant to the Medicinal and Adult Use 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~~

~~24. 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~~

~~25. 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~~

~~26. 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.~~

~~27. 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, MAUCRSA or otherwise;~~

22. The Board of Supervisors has determined that, with appropriate conditions, a cannabis retailer 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 to and supports the area’s cannabis cultivation; and

23. The Board of Supervisors acknowledges that regulation of cannabis activities is an evolving field at the state level, as evidenced by the recent passage of Proposition 64, adoption of MAUCRSA, and release of emergency regulations by various state licensing agencies. 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

~~28-24.~~ Nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. ~~sections~~sections §§ 801, *et seq.* or to license any activity that is prohibited under said Act except as mandated by ~~state~~State law; and

~~29-25.~~ 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, ~~retail retailer or delivery~~ operations from compliance with ~~zoning and land use~~permitting regulations pursuant to other titles in this code, or, (4) allow any activity relating to the ~~manufacturing~~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~~definition, inserted in alphabetical order into the existing text of the section:

~~"Cannabis" shall have the same definition as in Business and Professions Code section 26001(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" 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 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 11018.5 of the Health and Safety Code.~~

"Cannabis Retailer" means a premises where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers cannabis and cannabis products as part of a retail sale under the authority of the California Compassionate Use Act, the Medical Marijuana Program Act, or the Medicinal and Adult-Use Cannabis Regulation and Safety Act and as regulated by chapter 6.108 of this Code.

~~Section 17.52.585 is hereby added to 04.010 of the Alameda County General Ordinance Code and shall read as follows:~~is hereby amended to delete the term and the entirety of the definition for "Medical Cannabis Dispensary."

~~**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; and~~
- ~~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

Section 17.06.040 of the Alameda County General Ordinance Code, regarding conditional uses in the Agricultural (A) district, is amended as follows:

Delete Paragraph R, "Medical cannabis dispensary."

Insert as Paragraph R: "Cannabis retailer, subject to and in compliance with Chapter 6.108 of this code;"

Section 17.38.030 of the Alameda County General Ordinance Code, regarding conditional uses in the Retail Business (C-1) commercial district, is hereby amended as follows:

Delete Paragraph W, "Medical cannabis dispensary."

Insert as Paragraph W: "Cannabis retailer, subject to and in compliance with Chapter 6.108 of this code."

Section 17.40.030 of the Alameda County General Ordinance Code, regarding conditional uses in the General Commercial (C-2) district, is amended as follows:

~~Delete the final sentence, "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 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."~~

~~Insert as the final sentence, "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."~~

Delete Paragraph Q, "Medical cannabis dispensary."

Insert as Paragraph Q: "Cannabis retailer, subject to and in compliance with Chapter 6.108 of this code."

### 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~~2018, 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

**Attachment A-4**

**An Ordinance Amending Title 17 of the Alameda County General Ordinance Code to Regulate the Cultivation of Cannabis in the Unincorporated Area of the County Of Alameda**



ORDINANCE NO. ~~2017~~2018-\_\_\_\_\_

AN ORDINANCE AMENDING TITLE 17 OF THE ALAMEDA COUNTY GENERAL ORDINANCE CODE TO ~~IMPLEMENT A PILOT PROGRAM AUTHORIZING AND REGULATING~~REGULATE 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 sections 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), which affirmed~~ that counties ~~cannot~~ 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~~
- 6-5. ~~In 2015, Assembly Bill 243, Assembly Bill 266, and Senate Bill 643 and Senate Bill 837 were enacted in 2015 and subsequently revised by Assembly Bill 21 and Senate Bill 837 in 2016 (codified, in part, as California Business and Professions Code sections 19300, et seq. and titled the "Medical Cannabis Regulation and Safety Act")~~ ~~(MCRSA)~~. These bills also amended provisions of the Medical Marijuana Program Act related to the cultivation of medical cannabis; and

~~7.6.~~ ~~The Medical Cannabis Regulation and Safety Act~~MCRSA established a comprehensive framework to license and regulate commercial medical cannabis cultivation, manufacturing, distribution, transportation, sales, and testing; and

~~8.7.~~ On November 8, 2016, the voters of the State of California approved Proposition 64 (codified, in part, as California Business and Professions Code sections 26000 *et seq.* and titled the "Control, Regulate and Tax Adult Use of Marijuana Act"), which decriminalized the adult use of cannabis for non-medical purposes and established a regulatory scheme at the state level; and

~~9.8.~~ On June 27, 2017, Senate Bill 94 (codified, in part, as California Business and Professions Code sections 26000, *et seq.* and titled the "Medicinal and Adult-Use Cannabis Regulation and Safety Act", or, "MAUCRSA") repealed and replaced MCRSA. MAUCRSA consolidates the medical and non-medical cannabis statutes (MCRSA and Proposition 64).

~~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.~~

~~12.9.~~ Pursuant to California Business and Professions Code section 26200, nothing in ~~the Medicinal and Adult-Use Cannabis Regulation and Safety Act~~MAUCRSA 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 ordinances authorizing and regulating medical cannabis cultivation operations on September 12, 2017; and

~~13.11.~~ This Ordinance is enacted, consistent with the Compassionate Use Act of 1996, the Medical Marijuana Program Act, and ~~the Medicinal and Adult-Use Cannabis Regulation and Safety Act~~MAUCRSA to protect the public health, safety, and welfare of residents of the County of Alameda in relation to the cultivation of ~~medical~~ cannabis; and

~~14.12.~~ 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

~~15. 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~~

~~16.13. The cultivation of medical cannabis~~ in appropriate locations will help ensure that medical cannabis locally-produced cannabis cultivated pursuant to local and state regulatory schemes will be available to ~~the patients in need of it~~ other businesses within the supply chain while preserving the character, health and safety of the surrounding area; and

~~17.14. 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

~~18. 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~~

~~19.15. 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~~

~~20.16. 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 cultivation is not a permitted agricultural use by right for the purposes of land use and zoning; and~~

~~21.17. 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~~

~~22.18. 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~~

- ~~23.19.~~ Pursuant to ~~the Medicinal and Adult Use Cannabis Regulation and Safety Act~~ MAUCRSA, the California Department of Food and Agriculture ~~is responsible for promulgating~~ has promulgated regulations governing commercial cannabis cultivation and has begun issuing commercial cultivation licenses, ~~which are anticipated to become effective in or around the year 2018~~; and
- ~~24.~~ 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 On September 12, 2017, the County adopted a zoning ordinance amendment conditionally permitting medical cannabis cultivation sites to implement the County's pilot program for cannabis cultivation; and
- ~~25.~~ Allowing a single cultivation program would be permitted to cultivate medical site to produce cannabis through the duration of the pilot program only and would that may eventually be sold to both medicinal and adult-use retail customers will have no right to continue cultivation beyond the expiration of the pilot program or the expiration or revocation of the permit; and
- ~~26.~~ 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 limited if any impact on other actions within its power to protect the health, safety and welfare of County residents;
- ~~27.21.~~ This Ordinance regulates and businesses because the cultivation of medical cannabis in the unincorporated areas of the County and does operation will not address the cultivation of cannabis for non-medical use under Proposition 64, MAUCRSA or otherwise; be materially impacted by the designation of the eventual retail customer as either medicinal or adult-use; and
- ~~22.~~ The Board of Supervisors acknowledges that regulation of cannabis activities is an evolving field at the state level, as evidenced by the recent passage of Proposition 64, adoption of MAUCRSA, and release of emergency regulations by various state licensing agencies. 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
- ~~28.23.~~ 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

~~29.24~~ 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 and health and safety regulations, or, (43) 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 sections as follows:~~

~~"Cannabis" shall have the same definition as in Business and Professions Code section 26001(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" 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 11018.5 of the California Health and Safety Code.~~

The definition of "Cannabis Cultivation" is revised to read:

**"Cannabis Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming, including any associated storage, of Medical Cannabis.Cannabis, including cannabis for medicinal use and/or adult-use in accordance with the Medicinal and Adult-Use Cannabis Regulation and Safety Act.**

~~"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 11018.5 of the Health and Safety Code.~~

Section 17.06.040 of the Alameda County General Ordinance Code, regarding conditional uses in the Agricultural district, is amended as follows:

Add "Cannabis Cultivation, subject to and in compliance with Chapter 6.106 of this code and Section 17.52.585 of this title." as paragraph S at the end of the list of conditional uses.

Delete the "." (period) following the penultimate conditional use listed and replace with ";" (semicolon).

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

**17.52.585 Conditional Use—~~Pilot Program for~~Cannabis 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, pursuant to Section 17.06.040(S).~~
- 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 17.06.040(S), 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; and
  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 regarding conditional uses is hereby amended as follows:~~

~~Delete the final sentence, "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 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."~~

~~Insert as the final sentence, "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~~2018, 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

## **Attachment B**

### **Ordinances without mark up**

- B-1. **An Ordinance Amending Chapter 6.106 of the Alameda County General Ordinance Code to Regulate the Cultivation of Cannabis in the Unincorporated Area of the County Of Alameda**
- B-2. **An Ordinance Amending Chapter 6.108 of the Alameda County General Ordinance Code to Regulate the Retail Sale of Cannabis**
  - Exhibit A (map of West County)
  - Exhibit B (map of East County)
- B-3. **An Ordinance Amending Title 17 of the Alameda County General Ordinance Code to Conditionally Permit Cannabis Retailers in Specified Districts within the Unincorporated Area of the County of Alameda**
- B-4. **An Ordinance Amending Title 17 of the Alameda County General Ordinance Code to Regulate the Cultivation of Cannabis in the Unincorporated Area of the County Of Alameda**





**Attachment B-1**

**An Ordinance Amending Chapter 6.106 of the Alameda County General Ordinance Code to Regulate the Cultivation of Cannabis in the Unincorporated Area of the County Of Alameda**



ORDINANCE NO. 2018-\_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 6.106 OF THE ALAMEDA COUNTY  
GENERAL ORDINANCE CODE TO REGULATE THE CULTIVATION OF 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; and
4. In 2011, Assembly Bill 2650 was enacted (codified as California Health and Safety Code section 11362.768), which affirmed that counties could adopt ordinances that restrict the location and establishment of medical cannabis collectives and cooperatives; and
5. In 2015, Assembly Bill 243, Assembly Bill 266, Senate Bill 643 were enacted and were 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 (MCRSA); and
7. MCRSA established a comprehensive framework to license and regulate commercial medical cannabis cultivation, manufacturing, distribution, transportation, sales, and testing; and
8. On November 8, 2016, the voters of the State of California approved Proposition 64 (codified, in part, as California Business and Professions Code sections 26000 *et seq.* and titled the "Control, Regulate and Tax Adult Use of Marijuana Act"), which decriminalized

the adult use of cannabis for non-medical purposes and established a regulatory scheme at the state level; and

9. On June 27, 2017, Senate Bill 94 (codified, in part, as California Business and Professions Code sections 26000, *et seq.* and titled the “Medicinal and Adult-Use Cannabis Regulation and Safety Act”, or, “MAUCRSA”) repealed and replaced MCRSA. MAUCRSA consolidates the medical and non-medical cannabis statutes (MCRSA and Proposition 64).
10. Pursuant to California Business and Professions Code section 26200, nothing in MAUCRSA 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 MAUCRSA, to protect the public health, safety, and welfare of residents of the County of Alameda in relation to the cultivation of cannabis; and
12. The cultivation of cannabis in appropriate locations will help ensure that locally-produced cannabis cultivated pursuant to local and state regulatory schemes will be available to other cannabis businesses within the supply chain while preserving the character, health and safety of the surrounding area; and
13. Absent appropriate regulation, the cultivation of cannabis in the unincorporated area of the County poses a potential threat to public peace, health, and safety; and
14. 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 cannabis; and
15. Pursuant to MAUCRSA, the California Department of Food and Agriculture has promulgated regulations governing commercial cannabis cultivation and is responsible for issuing state cultivation licenses; and
16. The existing retail operators in the County have demonstrated an ability to operate secure and responsible cannabis retail operations and to comply with existing county and state laws concerning the sale and dispensing of cannabis; and
17. In September 2017, the County adopted a pilot program allowing and regulating up to six medical cannabis cultivation sites; and
18. Increasing the allowable number of cultivation sites to ten, removing the pilot nature of the ordinance and expanding the allowable uses to cultivation of both medicinal and adult-use

cannabis will allow the County to more fully implement recent state law and regulation concerning commercial cannabis businesses; and

19. A limited number of medicinal cannabis cultivation sites were selected and approved pursuant to the September 2017 version of the cannabis cultivation ordinance; and
20. Allowing approved medical cannabis cultivation sites to cultivate adult-use cannabis will streamline the County's regulation of cannabis sites; and
21. Allowing a single cultivation site to produce cannabis that may eventually be sold to both medicinal and adult-use retail customers will have limited if any impact on other County residents and businesses because the cultivation operation will not be materially impacted by the designation of the eventual retail customer as either medicinal or adult-use; and
22. All commercial cultivation operations will be required to obtain requisite state licenses in order to conduct business, including obtaining an adult-use (A-type) cultivation license and/or a medicinal (M-type) cultivation license as needed for the type of cultivation operation; and
23. All commercial cultivation operations will be required to comply with state law and state regulations, including but not limited to the requirement to record the movement of cannabis cultivated on-site through the supply chain via the state's track and trace system; and
24. The Board of Supervisors acknowledges that regulation of cannabis activities is an evolving field at the state level, as evidenced by the recent passage of Proposition 64, adoption of MAUCRSA, and release of emergency regulations by various state licensing agencies. 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
25. 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
26. Nothing in this Ordinance shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) exempt cultivation operations from compliance with zoning and land use regulations, or, (3) 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 of the Alameda County General Ordinance Code is hereby repealed in its entirety.

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

**Chapter 6.106 – Cannabis Cultivation**

**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 cannabis cultivation sites 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 seeks a permit under this chapter by filing an application as provided for in this chapter.
- B. "Application" means that form provided by the Director and submitted in accordance with this chapter for the purpose of seeking a permit.
- C. "Cannabis" shall have the same definition as in Business and Professions Code section 26001(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" 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 11018.5 of the California Health and Safety Code.

- D. "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 cannabis, including cannabis for medicinal use and/or adult-use in accordance with the Medicinal and Adult-Use Cannabis Regulation and Safety Act. Cannabis cultivation includes the operations of a cannabis nursery. Cannabis cultivation does not mean the temporary maintenance and selling of clones from a permitted retail operation, where such activities are incidental and subordinate to the primary retail operation.
- E. "Cannabis cultivation site" means a premises where one or more commercial cannabis cultivation activities takes place.
- F. "Cannabis nursery" means an operation that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.
- G. "Cannabis operator" or "operator" as used in this chapter means the natural person or designated officer responsible for the operation of any permitted cannabis operation.
- H. "Cannabis product" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.
- I. "Clone" means the cutting of a cannabis plant that has been re-planted and is non-flowering.
- J. "Community Development Agency" means the community development agency of the County of Alameda.
- K. "County" means the County of Alameda.
- L. "Director" means the director of the Community Development Agency or his or her designee.
- M. "Indoor cannabis cultivation" means the cultivation of cannabis within a permanent enclosed structure using exclusively artificial light or within any type of structure using artificial light at a rate above 25 watts per square foot or such other threshold for indoor cultivation as may be established by the California Department of Food and Agriculture.
- N. "Lot" means a separate parcel of land shown and identified as such on the records of the county recorder or on the final map of an approved and recorded subdivision, excluding therefrom for the purposes of this title any portion thereof which lies within a street, within a lane, or within a fenced-off flood control easement.

- O. "Manufacture" means the process by which the raw agricultural cannabis is transformed into a concentrate, an edible product, topical product or similar cannabis 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.
- P. "Mixed-light cannabis cultivation" means the cultivation of cannabis in a greenhouse, hoop-house, glasshouse, conservatory, hothouse, or other similar structure using light deprivation and/or artificial lighting below or equal to 25 watts per square foot or such other maximum threshold for mixed-light cultivation as may be established by the California Department of Food and Agriculture.
- Q. "Permit" means a cannabis cultivation permit issued by the county to operate a cannabis cultivation site under this chapter.
- R. "Permitted cannabis retail operation" or "cannabis retail operator" means a facility in possession of a permit issued pursuant to Chapter 6.108 where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, under the authority of the California Medicinal and Adult-Use Cannabis Regulation and Safety Act and as regulated by chapter 6.108.
- S. "Permittee" means a person who holds an effective and current permit under this chapter.
- T. "Person" means any human being or an incorporated or unincorporated business entity or association established under the laws of the state.
- U. "Premises" means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or permittee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area.
- V. "Sheriff" means the sheriff of the County of Alameda and his or her authorized representatives.
- W. "State" means the State of California.

**6.106.030 General requirements and terms.**

- A. It is 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. 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. The owner, managing partner, corporate officer and/or any other person with primary responsibility for a medical cannabis operation shall maintain such operation in conformity with the terms of this chapter and with the terms of all permits issued pursuant to this chapter.
- B. The county shall have in effect no more than ten cannabis cultivation permits. Two of the ten permits may be issued in accordance with sections 6.106.050 through 6.106.060. The remaining available permits must be selected pursuant to sections 6.106.070 through 6.106.110 herein. The permits shall be issued for indoor cannabis cultivation or mixed-light cultivation only.
  - C. Each cannabis cultivation permit shall expire two years after the date of its issuance or upon the expiration date established by the director, 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 cannabis during the term of the permit only. A permittee shall have no right to cultivate cannabis before or after the expiration of the permit.
  - F. Each 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.
  - G. More than one premises may be located on a single lot. A separate permit must be issued for each premises on a single lot. Each premises shall only be occupied by one permittee unless otherwise authorized by applicable state laws regulations and county permit(s).
  - H. The director may adopt such forms and procedures as are necessary to implement this chapter.

**6.106.040 Land use approval.**

Prior to commencement of cannabis cultivation activities, a permittee must obtain a conditional use permit pursuant to Sections 17.06,040 and 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 cannabis retail operation 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 cannabis retail operation.
  3. Address of the proposed cannabis cultivation operation and the name and address of the owner(s) of the lot(s) containing the premises.
  4. The address to which notice of action on the application is to be mailed.
  5. 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.
  6. A statement that the applicant accepts and will comply with the standard conditions set forth in this chapter.
  7. The names of each person with an ownership interest of more than 10 percent in the proposed cultivation operation.
  8. Certification, under penalty of perjury, that all the information contained in the application is true and correct.
  9. Authorization for the county, its agents and employees to seek verification of the information contained in the application.
  10. 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 6.106.140 and any fee schedule adopted by the County.
- C. The director may establish a submission deadline for applications pursuant to this section.
- D. It is unlawful to make any false statement or representation or to use or submit any false or fraudulent document(s) in any application made pursuant to this chapter.

**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 issue the applicant a notice of intent to grant the permit, if each of the following conditions are met:

1. The applicant operates a permitted cannabis retail operation;
  2. The applicant's permitted cannabis retail operation 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 cannabis retail operation has commenced commercial operations and the cannabis retail operation permit has not been suspended or revoked and that there are no pending proceedings for the suspension or revocation of the cannabis retail operation permit.
  3. No person who is listed on the application pursuant to subsection (1) or (7) of Section 6.106.050(A) has been convicted of a felony within the past three 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 twenty-one (21) 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.
- D. The notice of intent to grant permit issued pursuant to subsection (B) shall include notice 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 pay all required fees, and the permit shall thereupon issue immediately.
  2. If the applicant refuses or fails to certify agreement with any operating condition or standard condition or to pay all required fees, 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 the permittee to obtain (1) any required state permits or licenses for the operation of a cultivation operation, and (2) all land use entitlements required to operate a cultivation operation. No cultivation permit shall be effective unless and until these conditions of approval are satisfied.

**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 cannabis cultivation sites that need not be affiliated with a permitted cannabis retail operation.

B. Each application for the establishment of a cannabis 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. 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.

D. No person or facility that purports to have cultivated cannabis prior to the enactment of this chapter and issuance of a permit hereunder 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 cannabis cultivation site and the name and address of the owner(s) of the lot(s) containing 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 twenty-one (21) 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 history of the applicant for the five years immediately prior to the date of the application.
9. The address of all cannabis cultivation sites or retail operations that currently are 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 cannabis 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 cannabis 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 be regularly engaged at the proposed 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 submitted for review and approval by the Sheriff, and shall include a lighting plan showing existing and proposed exterior 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 cannabis.

12. A site plan, consisting of a sketch or diagram showing the entire lot(s) containing the premises. The site plan shall show the entire premises, including all buildings, accessory structures, storage, and parking areas. The site plan shall show the interior configuration of the greenhouse or other structure housing cultivation activities. The site plan shall include a statement of the floor area occupied by each structure at the premises. 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 greenhouse or other structure housing cultivation activities to an accuracy of plus or minus twelve (12) inches.

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

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

15. If the application proposes cultivation of cannabis for medicinal purposes, the mission statement of the cannabis cultivation site with respect to meeting the medicinal 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 cannabis 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 the lot(s) 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. Written certification that the applicant will comply with all county ordinances,

including building, zoning and health codes, allow inspections to ensure conformance with such regulations, cooperate with County agencies' efforts to monitor the retail operator's compliance with this applicable ordinances and with all conditions of permits issued pursuant to this Code, and pay any County fees assessed for monitoring permittee's compliance.

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 cannabis cultivation site will operate consistent with state and local law, including but not limited to: the minimum staffing levels for operation of the cannabis 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 cannabis cultivation site and including a copy of the cultivation operation's labor peace agreement when required by California Business & Professions Code Section 26051.5 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 6.106.140.

C. It is unlawful to make any false statement or representation or to use or submit any false or fraudulent document(s) in any application made pursuant to this chapter.

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

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 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. If the operation will produce cannabis for consumption by medicinal consumers, the health care services agency shall comment upon the services to be provided and the mission statement set forth in the application.

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 three (3) 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 twenty-one (21) years of age.
6. The health care services agency has determined, for an operation that will produce cannabis for consumption by medicinal consumers, that the application for a cannabis cultivation site has failed to state a health care purpose that fulfills the purposes of Sections 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 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 of 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 responsible 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 cannabis 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 and responsible applicants. The director may establish a minimum required score or other mechanism to disqualify or reject applications determined to be irresponsible.

C. The director may establish operating conditions for cannabis cultivation sites for each eligible, responsible 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 pay all required fees, and the permit shall thereupon issue immediately.
2. If the applicant refuses or fails to certify agreement with any operating condition or to pay all required fees, 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 selected applicant to obtain (1) any required state permits or licenses for the operation of a cultivation operation, and (2) all land use entitlements required to operate a cultivation operation. No cultivation permit shall be effective unless and until these conditions of approval are satisfied.

F. In the event that an additional permit becomes available subsequent to the scoring and ranking of applications pursuant to subsections (A) and (B) above, the director may issue a permit to the next highest ranked applicant by following the procedures in subsections (C) through (E), above.

#### **6.106.120 Appeal.**

- A. An applicant aggrieved by the decisions described in Section 6.106.060, 6.106.110 or 6.106.180 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, including the proceedings related to the applications or permits of other applicants potentially affected by the board of supervisors' decision on the appeal. 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 community development agency, 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.
- D. For any appeals concerning a decision described in Section 6.106.110, the board of supervisors' review shall be limited to determining whether CDA materially erred in conducting the selection process with respect to following the RFP, County ordinances or state law. The board of supervisors shall not re-judge the proposals, alter the scoring or ranking of the proposals, or consider new evidence concerning the merits of the proposed cultivation operation.
- E. Any appeal that is not timely filed or otherwise fails to comply with Paragraph A of this section will be deemed ineffective by the director and the administrative determination that is being appealed will become final.

#### **6.106.130 Term of cannabis cultivation permits and renewals.**

- A. Each cannabis cultivation permit shall expire two years after the date of its issuance or upon the expiration date established by the director, whichever is earlier.
- B. Any permit may be renewed by the director for successive periods of up to two years each 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 and whether the permittee has made substantial progress toward implementing the permit.
- C. Any application for renewal shall be filed at least forty-five (45) days before expiration of the permit.
- D. Any application for renewal may 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 cultivation operation authorized by the permit has not been in regular operation in the four months prior to the renewal application.
  - 4. The cultivation operation fails to conform to the criteria set forth in Section 6.106.100(A).

#### **6.106.140 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 schedule of fees, which may include nonrefundable fees, in order to reimburse the county for such costs.

**6.106.150 Transfer of the permit.**

- A. No permittee may transfer a permit to another cannabis operator or premises without authorization by the county, granted in accordance with this section.
- B. A permittee shall apply for transfer of a permit by submitting, jointly with the proposed transferee, an application that complies with Section 6.106.080. The director shall verify information in the application and shall approve the transfer unless it fails to comply with the requirements of this chapter, the standards set forth in Section 6.106.100 or such other minimum score or standards as may be established by the director pursuant to Section 6.106.110(B).
- C. 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 and pay all fees required by Section 6.106.140.

**6.106.160 Prohibited operations.**

A permittee shall not conduct any manufacturing of cannabis on the premises. A permittee shall not sell, dispense or deliver cannabis to retail customers from the premises unless separately permitted by a cannabis retail operator or delivery permit pursuant to Chapter 6.108 of this code.

**6.106.170 Violations, criminal and civil liability and remedies.**

Any person violating any of the provisions of this chapter or of a permit issued pursuant to this chapter, is guilty of a misdemeanor. Each person is 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 cannabis cultivation site and is punishable accordingly. For purposes of this section, each and every day of violation includes each day on which a failure to comply with this chapter or any conditions of a permit issued pursuant to this chapter continues. No proof of knowledge, intent, or other mental state is required to establish a violation of the chapter or permit.

In addition to the penalties provided above, any condition caused or allowed to exist in violation of any of the provisions of this chapter or of a permit issued pursuant to this chapter, shall be deemed a public nuisance and shall create a cause of action for injunctive relief and penalties pursuant to Chapter 17.59 of this Code. The remedies provided by this Chapter are cumulative and in addition to any other remedies available at law or in equity.

**6.106.180 Suspension and revocation.**

- A. The director may revoke or suspend 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. The director shall provide the permittee with written notice of the suspension or revocation that shall describe the grounds for revoking or suspending the permit.
- C. The permittee subject to the revocation or suspension may appeal the determination of the director to the board of supervisors within ten days after the date of the notice of the decision of the director. The board of supervisors shall act upon the appeal in accordance with Section 6.108.120.

**6.106.190 Limitations.**

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

**6.106.200 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.

**6.106.210 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.

**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 \_\_\_\_\_, 2018, 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

**Attachment B-2**

**An Ordinance Amending Chapter 6.108 of the Alameda County General Ordinance Code to Regulate the Retail Sale of Cannabis**

- **Exhibit A (map of West County)**
- **Exhibit B (map of East County)**



ORDINANCE NO. 2018-\_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 6.108 OF THE ALAMEDA COUNTY  
GENERAL ORDINANCE CODE TO REGULATE THE RETAIL SALE OF CANNABIS

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; and
4. In 2011, Assembly Bill 2650 was enacted (codified as California Health and Safety Code section 11362.768), which affirmed 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 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 (MCRSA); and
7. MCRSA established a comprehensive framework to license and regulate commercial medical cannabis cultivation, manufacturing, distribution, transportation, sales, and testing; and
8. On November 8, 2016, the voters of the State of California approved Proposition 64 (codified, in part, as California Business and Professions Code sections 26000, *et seq.* and titled the "Control, Regulate and Tax Adult Use of Marijuana Act"), which decriminalized the adult use of cannabis for non-medical purposes and established a regulatory scheme at the state level; and
9. On June 27, 2017, Senate Bill 94 (codified, in part, as California Business and Professions Code sections 26000 *et seq.* and titled the "Medicinal and Adult-Use Cannabis Regulation and Safety Act", or, "MAUCRSA") repealed and replaced MCRSA. MAUCRSA consolidates the medical and non-medical cannabis statutes (MCRSA and Proposition 64).

10. Pursuant to California Business and Professions Code section 26200, nothing in MAUCRSA 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 MAUCRSA to protect the public health, safety, and welfare of residents of the County of Alameda in relation to the retail sale and delivery of cannabis; and
12. 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 sale and delivery of cannabis and the packaging, labeling and sale of edible cannabis products; and
13. 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
14. The Board of Supervisors has determined that, with appropriate conditions, cultivation of cannabis may be an appropriate conditionally permitted use in the agricultural districts and outside of the urban growth boundary established by Measure D; and
15. The Board of Supervisors has determined that, with appropriate conditions, a cannabis retail operation 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 to and supports the area's cannabis cultivation; and
16. On September 12, 2017, the County adopted an amendment to Chapter 6.108 of the Ordinance Code that allowed up to two medical cannabis retail operators (or, "dispensaries") in the East County and up to three medical cannabis retail operators in the West County; and
17. A limited number of medicinal cannabis retail operators were selected and approved pursuant to the September 2017 version of the cannabis cultivation ordinance; and
18. Allowing approved medical cannabis retail operators to expand their operations to include the sale and delivery of both medicinal and adult-use cannabis and cannabis products will allow the County to more fully implement recent state law and regulation concerning commercial cannabis businesses; and
19. Allowing approved medical cannabis retail operators to sell adult-use cannabis will streamline the County's regulation of cannabis businesses; and
20. Allowing a single retail operator to sell cannabis and cannabis products for both medicinal and adult-use will have limited if any impact on other County residents and businesses because



the retail operation will not be materially impacted by the designation of the customer as either a medicinal or adult-use customer; and

21. All commercial retail operations will be required to obtain requisite state licenses in order to conduct business, including obtaining an adult-use (A-type) retailer license and/or a medicinal (M-type) retailer license as needed for the type of retail operation; and
22. All commercial retail operations will be required to comply with state law and state regulations, including but not limited to the requirement to record the movement of cannabis into and out of the retail operation via the state's track and trace system; and
23. The Board of Supervisors acknowledges that regulation of cannabis activities is an evolving field at the state level, as evidenced by the recent passage of Proposition 64, adoption of MAUCRSA, and release of emergency regulations by various state licensing agencies. 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
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) exempt retail operators or delivery operations from compliance with zoning and land use regulations, or, (3) 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 repealed in its entirety.

Chapter 6.108 is hereby added to the Alameda County General Ordinance Code and reads as follows:

### **Chapter 6.108 – Cannabis Retail operators, 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 cannabis retail operators, the delivery of cannabis, and the packaging, labeling and sale of 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 areas of the County of Alameda.

## **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 seeks a permit under this chapter by filing an application as provided for in this chapter.
- B. "Application" means that form provided by the director and submitted by an applicant in accordance with this chapter for the purpose of seeking a permit.
- C. "Bureau" means the Bureau of Cannabis Control within the California Department of Consumer Affairs.
- D. "Brick and mortar" retail operator means a cannabis retail operator with a permanent, physical, store-front retail location allowing direct physical access to customers.
- E. "Cannabis" shall have the same definition as in Business and Professions Code section 26001(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" 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 11018.5 of the California Health and Safety Code.
- F. "Cannabis concentrate" or "Concentrate" shall have the same definition as in Business and Professions Code section 26001(h), which defines "cannabis concentrate" to mean 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.
- G. "Cannabis cultivation," "Cultivate" or "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming including any associated storage, of cannabis, including cannabis for medicinal use and/or adult-use in accordance with the Medicinal and Adult-Use Cannabis Regulation and Safety Act. Cannabis cultivation includes the operations of a cannabis nursery. Cannabis cultivation does not mean the temporary maintenance and selling of clones from a permitted retail operator, where such activities are incidental and subordinate to the primary retail operation.
- H. "Cannabis delivery" or "Delivery" means the commercial transfer of cannabis or cannabis products from a retail operator to a retail customer. "Delivery" also includes the use by a retail operator of a technology platform that enables retail customers to arrange for or facilitate retail sale and delivery of cannabis or cannabis products.
- I. "Cannabis delivery operator" or "delivery operator" means a person holding a permit under this chapter to engage in the delivery of cannabis or cannabis products.
- J. "Cannabis Nursery" means a cannabis operation that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.

- K. "Cannabis operator" means the natural person or designated officer responsible for the operation of any permitted cannabis operation.
- L. "Cannabis product" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.
- M. "Cannabis retail operator" or "Retail operation" means a premises where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including cannabis for medicinal use and/or adult-use under the authority of the Medicinal and Adult-Use Cannabis Regulation and Safety Act, including an establishment that delivers, cannabis and cannabis products.
- N. "Clone" means the cutting of a cannabis plant that has been re-planted and is non-flowering.
- O. "Community Development Agency" means the community development agency of the County of Alameda.
- P. "County" means the County of Alameda.
- Q. "Director" means the director of the Community Development Agency or his or her designee.
- R. "Dispensing" means any activity involving the retail sale of cannabis or cannabis products from a retail operator.
- S. "Distribution" means the procurement, sale, and transport of cannabis and cannabis products between entities licensed pursuant to the provisions of Division 10 of the California Business and Professions Code.
- T. "Edible cannabis product", "Edible" or "Edibles" shall have the same definition as in Business and Professions Code section 26001(t), which defines "edible cannabis product" as a cannabis product 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 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.
- U. "Identification card" has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended.
- V. "Labeling" means any label or other written, printed, or graphic matter upon a cannabis product, or upon its container or wrapper, or that accompanies any cannabis product.
- W. "Lot" means a separate parcel of land shown and identified as such on the records of the county recorder or on the final map of an approved and recorded subdivision, excluding therefrom for the purposes of this title any portion thereof which lies within a street, within a lane, or within a fenced-off flood control easement.
- X. "Permit" means a permit issued by the county to a cannabis retail operator or delivery operator under this chapter.

- Y. "Permittee" means a person who holds an effective and current permit under this chapter.
- Z. "Person" means any human being or an incorporated or unincorporated business entity or association established under the laws of the state.
- AA. "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
- BB. "Premises" means the designated structure or structures and land specified in the application or in the permit that is owned, leased, or otherwise held under the control of the applicant or permittee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area.
- CC. "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.
- DD. "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.
- EE. "School" means an institution of learning for minors, whether public or private, that offers a regular course of instruction.
- FF. "Sheriff" means the sheriff of the County of Alameda and his or her authorized representatives.
- GG. "State" means the state of California.

**6.108.030 – General cannabis retail operator requirements and terms.**

- A. It shall be unlawful for any person to conduct, engage in or allow the operation of a cannabis retail operator in the unincorporated portion of Alameda County, unless such cannabis retail operator 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 cannabis retail operator shall apply for a permit under this chapter. If such a permit is granted, the owner, managing partner, corporate officer, and any person with primary responsibility for the operation of the retail operator shall ensure the operation is maintained 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 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.

1. In the West County, in no event shall the total number of permits for all areas shown in Exhibit A (West County) exceed three. No more than two permits shall be issued in any one of the two areas shown in Exhibit A (West County). No more than one permit shall be issued in the other area shown in Exhibit A (West County).
  2. In the East County, in no event shall the total number of permits for all areas shown in Exhibit B (East County) exceed two. No permit shall be issued for a retail operation within five miles of another retail operation in the unincorporated area shown in Exhibit B (East County) or within one mile of a permitted retail operation location in an incorporated city.
  3. 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 cannabis retail operator 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 retail operator, including the requirement to obtain any conditional use permits, and shall also meet all of the following locational standards:
1. No retail operation may be closer than one thousand (1000) feet from any other retail operation.
  2. No retail operation 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 retail operation shall be located in a residential zone or its equivalent.
- F. 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.
- G. Each premises shall only be occupied by one permittee unless otherwise authorized by applicable state laws regulations and county permit(s).
- H. The director may adopt such forms, procedures and performance standards as are necessary to implement this chapter.

**6.108.035 – General cannabis delivery operator permit requirements and terms.**

A. It shall be unlawful for any person, including a legally permitted cannabis retail operator, to conduct, engage in or allow to be conducted or engaged in the delivery of cannabis or cannabis products in the unincorporated portion of Alameda County, unless such person has been granted a legally effective delivery operator 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 cannabis delivery operation shall apply for a permit under this chapter. If such a permit is granted, the owner, managing partner, corporate officer, and any person with primary responsibility for the operation of the retail operator shall ensure the operation is maintained 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 operator 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 cannabis delivery operator permit shall be issued only to a "brick and mortar" retail operation holding a valid license or permit for the retail sale of cannabis issued by the State of California and by the local jurisdiction in which the retail operation is located. Mobile retail operators that do not have a permanent physical "brick and mortar" retail location are not eligible for and shall not be issued a delivery operator permit.

E. A delivery operator permit shall automatically expire, be suspended or revoked when the permittee's retail operator license or permit expires, is suspended or revoked. The expiration, suspension or revocation of a delivery operator permit will not automatically affect the status of the delivery operator permittee's retail operator permit.

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

- A. Each cannabis retail operator permit shall expire two years after the date of its issuance or upon the expiration date established by the director, whichever is earlier.
- B. The term of each delivery operator permit shall run concurrent with the term of the delivery operator permittee's retail operator 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 and whether the permittee has made substantial progress toward implementing the permit.
- D. No person or facility that purports to have sold or delivered cannabis prior to the enactment of this chapter or without a permit shall be deemed to have been a legally established retail operator or delivery operation under the provisions of this chapter, and such person or facility shall not be entitled to claim a legal nonconforming status.

#### **6.108.050 – Cannabis retail operator permit application and renewal procedures.**

- A. When one or more cannabis retail operator 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 retail operator within an area where a retail operator could be established based upon the provisions of Section 6.108.030.
- B. Each application for the establishment of a retail operator or renewal of an existing cannabis retail operator 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, procedures and performance standards 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 retail operator on the date of the mailing of notice.
- D. Any application for renewal shall be filed at least forty-five (45) days before expiration of the permit.
- E. Any application for renewal may 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 retail operator authorized by the retail operator permit has not been in regular operation in the four months prior to the renewal application.
  - 4. The retail operator fails to conform to the criteria set forth in Section 6.108.100.

**6.108.060 - Contents of cannabis retail operator permit application.**

- A. In response to a solicitation for applications initiated by the director, each application for a cannabis retail operator 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 cannabis retail operation, the name and address of the owner(s) of the lot(s) containing 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 twenty-one (21) 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 history of the applicant for the five years immediately prior to the date of the application.
  - 9. The address of all retail operations that currently are 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 cannabis retail operation, 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 retail operator. 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 regularly engaged in the proposed cannabis retail operator must submit their information to the Sheriff's office within five days prior to their employment pursuant to Section 6.108.120(A)(11).
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 submitted for review and approval by the Sheriff, and shall include a lighting plan showing existing and proposed exterior 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 cannabis.
12. A site plan and floor plan, consisting of a sketch or diagram showing the interior and exterior configuration of the premises of the cannabis retail operation. The site plan shall show the entire premises, including all buildings, accessory structures, storage, and parking areas, and a statement of the total floor area occupied by the retail operation. 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 retail operation must have a lobby waiting area at the entrance to receive clients, and a separate and secure designated area for dispensing cannabis to qualified patients, persons with an identification card 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 retail operation, including a precise depiction of any signage, which shall not obstruct the entrance or windows of the retail operation. All signage shall comply with all County General Plan, Zoning Ordinance and any applicable specific plans.
14. A description of products to be sold by the retail operator.
15. If the application proposes sale of cannabis for medicinal purposes, the mission statement of the retail operator with respect to meeting the medicinal 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 traffic, loitering, odors or noise, on surrounding property owners. The retail operation shall be designed to provide sufficient odor absorbing ventilation and exhaust systems to that any odor generated inside the retail operation is not detected outside the buildings and structures in which it operates, on adjacent public rights-of-way, or within other units located within the same building as the retail operation 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. Written certification that the applicant will comply with all county ordinances, including building, zoning and health codes, allow inspections to ensure conformance with such regulations, cooperate with county agencies' efforts to monitor the retail operator's compliance with this applicable ordinances and with all conditions of permits issued pursuant to this Code, and pay any county fees assessed for monitoring permittee's compliance.
  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 retail operator will operate consistent with State and local law, including but not limited to: the minimum staffing levels for operation of the retail operator, policies and procedures for record keeping, specific details of the retail operator's track and trace program, specific details of the retail operator's product testing, specific details of the retail operator's proposed odor absorbing ventilation and exhaust systems, and other relevant information regarding the operation of the proposed retail operator and including a copy of the retail operator's labor peace agreement when the retail operator is required by California Business & Professions Code Section 26051.5 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 6.108.080.
- C. It is unlawful to make any false statement or representation or to use or submit and false or fraudulent document in any application made pursuant to this chapter.

**6.108.070 – Cannabis delivery operator permit application and renewal procedures; contents of delivery operator permit application.**

- A. The owner, managing partner, officer of a corporation of a licensed or permitted cannabis retail operator or such other person who shall be authorized by the licensed or permitted cannabis retail operator may apply for a delivery operator permit or for renewal of a delivery operator permit under this chapter. If such a permit is granted, the owner, managing partner, corporate officer, and any person with primary responsibility for the retail operation shall ensure the delivery operations are maintained in conformity with the terms of this chapter and of the permit.
- B. Each application for a delivery operator permit or renewal of a delivery operator permit shall set forth or incorporate by reference the information set forth below and such other information as the director may require in a standard form adopted by the director.
1. Address of the brick and mortar cannabis retail operation from which deliveries are proposed to be made and the name and address of the owner(s) of the lot(s) containing the retail operation.

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 twenty-one (21) 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 history of the applicant for the five years immediately prior to the date of the application.
9. The name and address of all retail or delivery operations that currently are 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 cannabis delivery operation, 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 delivery operation. 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 regularly engaged in the proposed cannabis delivery operation must submit their information to the Sheriff's office within five days prior to their employment pursuant to Section 6.108.120(A)(11).
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 vehicle from theft and burglary. The security plan shall be submitted for review and approval by the Sheriff.
12. A description of products to be sold by delivery.
13. If the application proposes delivery of cannabis for medicinal purposes, the mission statement of the retail operator with respect to meeting the medicinal needs of patients.
14. A description of the methods by which the applicant will mitigate any potentially adverse impacts, such as safety, odors or noise, on surrounding property owners.
15. Authorization for the county, its agents and employees to seek verification of the information contained in the application.
16. Written certification that the applicant has reviewed and understands and accepts the standard conditions that are set forth in Section 6.108.125. Written certification that the applicant will comply with all county ordinances, including building, zoning and health codes, allow inspections to ensure conformance with such regulations, cooperate with county agencies' efforts to monitor the retail operator's compliance with this applicable ordinances and with all conditions of permits issued pursuant to this Code, and pay any county fees assessed for monitoring permittee's compliance.

17. Certification, under penalty of perjury, that all the information contained in the application is true and correct.
  18. 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.
  19. An operating plan specifically describing how the applicant will operate consistent with State and local law, including but not limited to: the minimum staffing levels for operation of the delivery operation, policies and procedures for record keeping, specific details of the retail operator's track and trace program.
- C. Any application for renewal shall be filed at least forty-five (45) days before expiration of the permit.
  - D. Any application for renewal may be rejected if:
    1. The application is filed less than forty-five (45) days before its expiration.
    2. The delivery operator permit or associated retail operator 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 retail operator authorized by the associated retail operator permit has not been in regular operation in the four months prior to the renewal application.
    4. The applicant fails to conform to the criteria set forth in Section 6.108.125.
  - E. 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 6.108.080.
  - F. It is unlawful to make any false statement or representation or to use or submit and false or fraudulent document in any application made pursuant to this chapter.

#### **6.108.080 - Fees.**

- A. Every application, transfer or renewal of a retail operator or delivery operator 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 retail operator 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 retail operators and delivery operations.

#### **6.108.090 - Initial review of application.**

- A. The director shall commence review of any application immediately upon its filing. For retail operator permit applications, the director shall complete such initial review within the time period established in the solicitation process for retail operator permits, but in no event shall the initial review exceed one hundred and twenty (120) days. For delivery operator permit applications, delivery operator permit renewal applications, and retail operator renewal applications, the director shall complete such initial review within forty-five (45) 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 employees of the proposed retail operation or delivery operation.
  2. The Sheriff shall comment upon the adequacy of security measures that are described in the application, including the security plan, the floor plan for retailer operations, and other relevant aspects of the application.
  3. For retail operator applications, 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 6.108.060, and conditions that are needed to mitigate adverse impacts on surrounding uses.
  4. If the proposed operation will sell cannabis for consumption by medicinal consumers, the health care services agency shall comment upon the services to be provided and the mission statement set forth in the application.
  5. If the proposed operation will include the sale of edibles, the department of environmental health shall comment upon the application's compliance with the requirements of Section 6.108.170.
- 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 retail operation 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 retail 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 6.108.060 or pursuant to Section 6.108.070 has been convicted of a felony within the past three (3) 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 twenty-one (21) years of age.
  6. The health care services agency has determined, for an operation that will sell cannabis for consumption by medicinal consumers, that the application has failed to state a health

care purpose that fulfills the purposes of Sections 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 retail operator 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 described in Section 6.108.110.
- C. Any delivery application that is not rejected upon completion of the initial review shall be deemed an eligible application and submitted to the final phase of the permit process described in Section 6.108.115.

**6.108.110 - Final selection of cannabis retail operators.**

- 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 retail operators 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 cannabis retail operators 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 retail operators 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 and responsible applicants in each geographic area where retail operator permits are available, provided they meet the spacing requirements set forth in Section 6.108.030(D) and (E). The director may establish a minimum required score or other mechanism to disqualify or reject applications determined to be irresponsible.
- C. The director may establish operating conditions, in addition to the standard conditions contained in Section 6.108.120 for each eligible, responsible 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 retail operator 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 pay all required fees and the permit shall thereupon issue immediately.
  2. If the applicant refuses or fails to certify agreement with any operating condition or standard condition or to pay required fees, 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 selected applicant to obtain (1) any required state permits or licenses for the retail operation, and (2) all land use entitlements required to operate a retail operation. No retail operator permit shall be effective until these conditions of approval are satisfied.
- F. In the event that an additional permit becomes available subsequent to the scoring and ranking of applications pursuant to subsections (A) and (B) above, the director may issue a permit to the next highest ranked applicant by following the procedures in subsections (C) through (E), above, provided the applicant meets the spacing requirements set forth in Section 6.108.030(D) and (E).

**6.108.115 - Final permit phase for cannabis delivery operators.**

- A. The director may establish operating conditions, in addition to the standard conditions contained in Section 6.108.125 for each eligible application that has been submitted for final permit approval. The director shall give notice to eligible delivery operator permit applicants 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 pay all required fees, and the permit shall thereupon issue immediately.
  - 2. If the applicant refuses or fails to certify agreement with any operating condition or standard condition or to pay required fees, 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 any required state permits or licenses for the operation of a delivery operation, if applicable. No delivery operator permit shall be effective until these conditions of approval are satisfied.

**6.108.120 - Standard conditions for cannabis retail operators.**

- A. Throughout the term of the cannabis retail operator permit, each permittee shall not violate this chapter, shall comply with the following standard conditions and shall not allow or tolerate violations of these standard conditions to occur at the retail operator:
  - 1. It shall be a violation of this chapter for a retail operator to deliver, distribute, provide or allow to be provided cannabis to any person except those persons who are 21 years of age or older or who are 18 years of age or older and primary caregivers, qualified patients or persons with an identification card, as defined by California Health and Safety Code section 11362.7. All retail sales that do not comply with the provisions of Sections 26000, *et seq.*, of the Business and Professions Code applicable to retail operations, associated state regulations 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 proof of age, identification card and written recommendation provided to the retail operator.
  - 2. Each retail operator shall maintain records of persons who have received cannabis from the retail operator. These records shall include a retail operator-assigned customer number and shall not identify such persons by full name.

3. No retail operator 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. No activities that are undertaken in the retail operation shall be conducted outside the interior premises of the retail operation.
4. Unless and until a local permit and state license allowing cannabis nursery or cultivation uses (e.g., Type 12 – Microbusiness) has been issued for the retail operator premises, cannabis may not be grown or cultivated on the premises. However, the retail operator may sell clones and may provide such water, heat, and light as may be necessary to maintain the clones prior to sale, provided that such activities are incidental and subordinate to the primary retail operator operation.

A retail operator shall actively regulate and monitor its purchasing limits, such that no qualified patient, person with an identification card or primary caregiver is permitted to purchase in excess of eight ounces of cannabis in any calendar month.

5. No cannabis shall be smoked, ingested or otherwise consumed on the premises of a retail operator.
6. A retail operator shall ensure that its products are in tamper-evident packages and labeled as required by California Business and Professions Code Section 26120, regulations established by the Bureau, and requirements of the California Department of Food and Agriculture and by stating the name of the retail operator 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. Cannabis may be provided by a retail operator in an edible form, provided that the edibles meet all applicable state and county requirements, including but not limited to the provisions in Section 6.108.170.
8. A retail operator that sells adult-use cannabis or cannabis products shall not allow any person under 21 years of age on its premises, employ or retain persons under 21 years of age, or sell cannabis or cannabis products unless the person to whom the cannabis or cannabis product is to be sold first presents documentation which reasonably appears to be a valid government-issued identification card showing that the person is 21 years of age or older.

However, a retail operator that sells medicinal cannabis or cannabis products may allow on the premises any person 18 years of age or older who possesses a valid government-issued identification card and either a valid physician's recommendation or a valid identification card and may sell cannabis, cannabis products, and cannabis accessories to a person 18 years of age or older who possesses a valid government-issued identification card and either a valid physician's recommendation or a valid identification card.

9. The entrance to a retail operation shall be posted with a notice that states the restrictions on the presence of persons under the age of 21 and/or 18, as applicable, and that smoking, ingesting or consuming cannabis on the premises is prohibited. In addition, each retail operator shall conspicuously display the permit.
10. No retail operator 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 on the same premises. No alcohol may be stored, sold, dispensed or used on the same premises.

11. Each permittee shall maintain a current registry of persons, including, but not limited to, employees, contractors and volunteers, who are regularly engaged in the operation of the retail operator. The registry shall be provided to the director 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. In addition, any new employees, independent contractors, other persons and/or volunteers to be regularly engaged in the operation of the proposed cannabis retail operator must submit their information to the Sheriff's office within five days prior to their employment or engagement.
12. No person who has been convicted of a felony within the past three years may be actively engaged in the operation of any retail operator. 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 retail operator 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 retail operator. The permittee shall make a good faith effort to resolve problems without the need for intervention by the county.
15. A retail operator 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 retail operator shall comply with all county ordinances, including building, zoning and health codes, and shall allow inspections to ensure conformance with such regulations. A retail operator shall cooperate with county agencies' efforts to monitor the retail operator's compliance with this applicable ordinances and with all conditions of permits issued pursuant to this Code. The county may assess fees for monitoring permittee's compliance.
17. A retail operator shall not be delinquent in the payment of fees required by this chapter.
18. All activities of the retail operator must take place within the interior of the building
19. A retail operator must have appropriate restroom facilities that will accommodate all customers regardless of gender.
20. A retail operator 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 26001(at), before the cannabis and cannabis products are delivered to the retail operator.
21. A retail operator shall package all cannabis flowers sold on its premises in child resistant packaging.
22. A retail operator 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. A retail operator shall implement a track and trace program that shall be in compliance with Section 26067, 26068 and 26069 of the California Business and Professions Code and all applicable regulations.



23. A retail operator 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 and 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 retail operator shall (a) enter into any agreement with or employ a physician for the purpose of evaluating patients for the issuance of a medicinal cannabis recommendation or identification card; (b) allow a physician to locate on the retail operator premises at any time for the purpose of issuing a medicinal 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 retail operator; and (d) not distribute any form of advertising for physician recommendations for medicinal cannabis in California unless the advertisement bears the notice to consumers contained in California Business and Professions Code section 2525.5.
25. A retail operator 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 retail operator and without notice, the director, acting in conjunction with other appropriate county officials, may enter the premises for the purpose of observing compliance of the retail operator with the conditions of its permit.
- E. Release of the county from liability. The owner and permittee of each retail operator 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 retail operator 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 retail operator 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 retail operator 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 sale, delivery and/or on- or off-site use of cannabis provided at the retail operator or delivered by the delivery operator in a form satisfactory to the director.

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

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

1. It is unlawful to deliver, distribute, provide or allow to be provided cannabis to any person except those persons who are 21 years of age or older or who are primary caregivers, qualified patients or persons with an identification card, as defined by California Health and Safety Code section 11362.7. All deliveries that do not comply with provisions of Sections 26000, et seq., of the Business and Professions Code applicable to operations, associated state regulations, and the terms of the permit and this chapter are prohibited. It shall be the responsibility of the permittee to ensure that a good faith effort is made to verify the validity of any proof of age, identification card or the written recommendation from a licensed physician provided to the delivery operator.
2. All employees of a delivery operator delivering cannabis or cannabis products shall carry a copy of the retail operator's current retail operator license or permit and the retail operator's current delivery operator 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 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, if any.
4. The qualified patient, person with an identification card 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.
5. 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.
6. It is unlawful to employ a person who is less than 21 years of age to engage in the delivery of cannabis.
7. 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.
8. Each permittee shall maintain a current registry of persons, including, but not limited to, employees, contractors and volunteers, who are regularly engaged in delivery operations. The registry shall be provided to the director 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 to be regularly engaged in the delivery

operation must submit their information to the Sheriff's office within five days prior to their employment.

9. It is unlawful to employ a person who has been convicted of a felony within the past three years to engage in the delivery of cannabis. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
10. Delivery vehicles shall not include signage or markings that identify the vehicle as a cannabis delivery vehicle.
11. 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.
12. The delivery operator permittee will satisfy the release of liability and county indemnification requirements in subdivision E and F of Section 6.108.120.
13. A retail operator shall cooperate with county agencies' efforts to monitor the retail operator's compliance with this applicable ordinances and with all conditions of permits issued pursuant to this Code. The county may assess fees for monitoring permittee's compliance.

**6.108.130 - Appeal from administrative determinations.**

- A. An applicant aggrieved by the decisions described in Sections 6.108.110, 6.108.115, or 6.108.140 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, including the proceedings related to the applications or permits of other applicants potentially affected by the board of supervisors' decision on the appeal. 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 community development agency, 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.
- D. For any appeals concerning a decision described in Section 6.108.110 the board of supervisors' review shall be limited to determining whether CDA materially erred in conducting the selection process with respect to following the RFP, county ordinances or state law. The board of supervisors shall not re-judge the proposals, alter the scoring or ranking of the proposals, or consider new evidence concerning the merits of the proposed cultivation operation.

- E. Any appeal that is not timely filed or otherwise fails to comply with Paragraph A of this section will be deemed ineffective by the director and the administrative determination that is being appealed will become final.

**6.108.140 - Suspension and revocation.**

- A. The director may revoke or suspend 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 retail premises or in the vicinity of its delivery activities.
- B. The director shall provide the permittee with written notice of the suspension or revocation that shall describe the grounds for revoking or suspending the permit.
- C. The permittee subject to the revocation or suspension may appeal the determination of the director to the board of supervisors within ten days after the date of the notice of the decision of the director. The board of supervisors shall act upon the appeal in accordance with Section 6.108.130.

**6.108.150 - Transfer of the permit.**

- A. No permittee may transfer a permit to another cannabis operator or premises without authorization by the county, granted in accordance with this section.
- B. A permittee shall apply for transfer of a retail operator permit by submitting, jointly with the proposed transferee, 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 requirements of this chapter, the standards set forth in Section 6.108.100 or such other minimum score or standards as may be established by the director pursuant to Section 6.108.110(B).
- C. A permittee shall apply for transfer of a delivery operator permit by submitting, jointly with the proposed transferee, an application that complies with Section 6.108.070. The director shall verify information in the application and shall approve the transfer unless it fails to comply with the requirements of this chapter, the standards set forth in Section 6.108.100 or such other minimum standards as may be established by the director.
- 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 and pay all fees required by Section 6.108.080.

**6.108.160 - Prohibited operations.**

The permittee shall not cultivate or manufacture cannabis on the premises, unless specifically authorized by a permit issued by the county. A retail operator shall not deliver cannabis off the site of the retail operator premises unless the retail operator holds a valid delivery operator permit.

**6.108.170 – Sale, Distribution and Delivery of 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 consumers. It shall be unlawful for any retail operator 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, sell, dispense, or 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 Section 26120 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 contains 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 cannabis product.

**6.108.180 - Misdemeanor violations.**

Any person violating any of the provisions of this chapter or of a permit issued pursuant to this chapter, is guilty of a misdemeanor. Each person is 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 retail operation or delivery operation and is punishable accordingly. For purposes of this section, each and every day of violation includes each day on which a failure to comply with this chapter or any conditions of a permit issued pursuant to this chapter continues. No proof of knowledge, intent, or other mental state is required to establish a violation.

**6.108.190 - Civil Remedies**

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 create a cause of action for injunctive relief and civil penalties in accordance with Chapter 17.59 of this Code. The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.

**6.108.200- 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.

**6.108.210 - 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.

**Exhibits**

Exhibit A attached hereto, is incorporated into this Ordinance.

Exhibit B attached hereto, is incorporated into 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 \_\_\_\_\_, 2018, by the following called vote:

AYES:

NOES:

EXCUSED:

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

ATTEST:

Clerk of the Board of Supervisors,

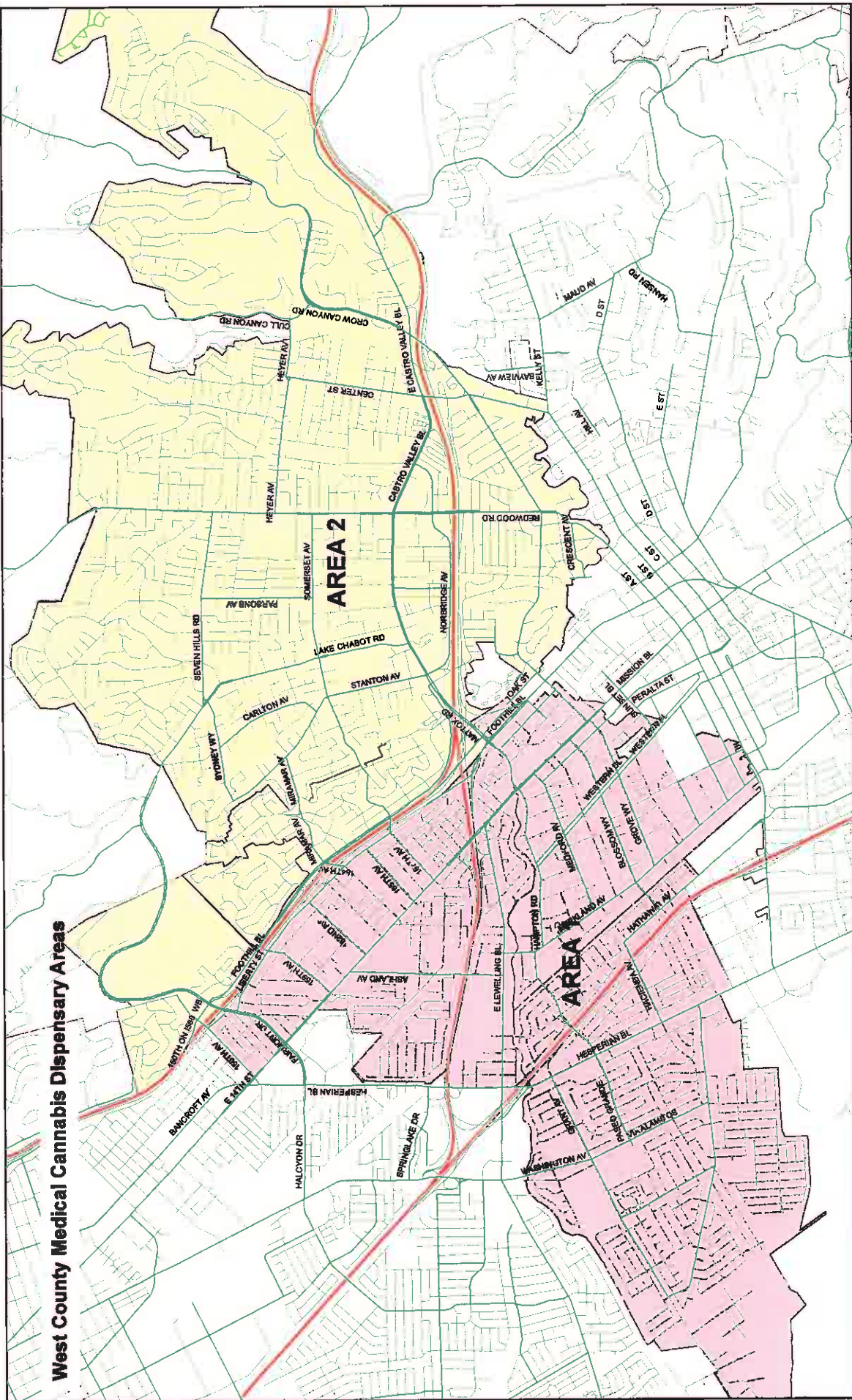
By: \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM:  
DONNA R. ZIEGLER, COUNTY COUNSEL

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












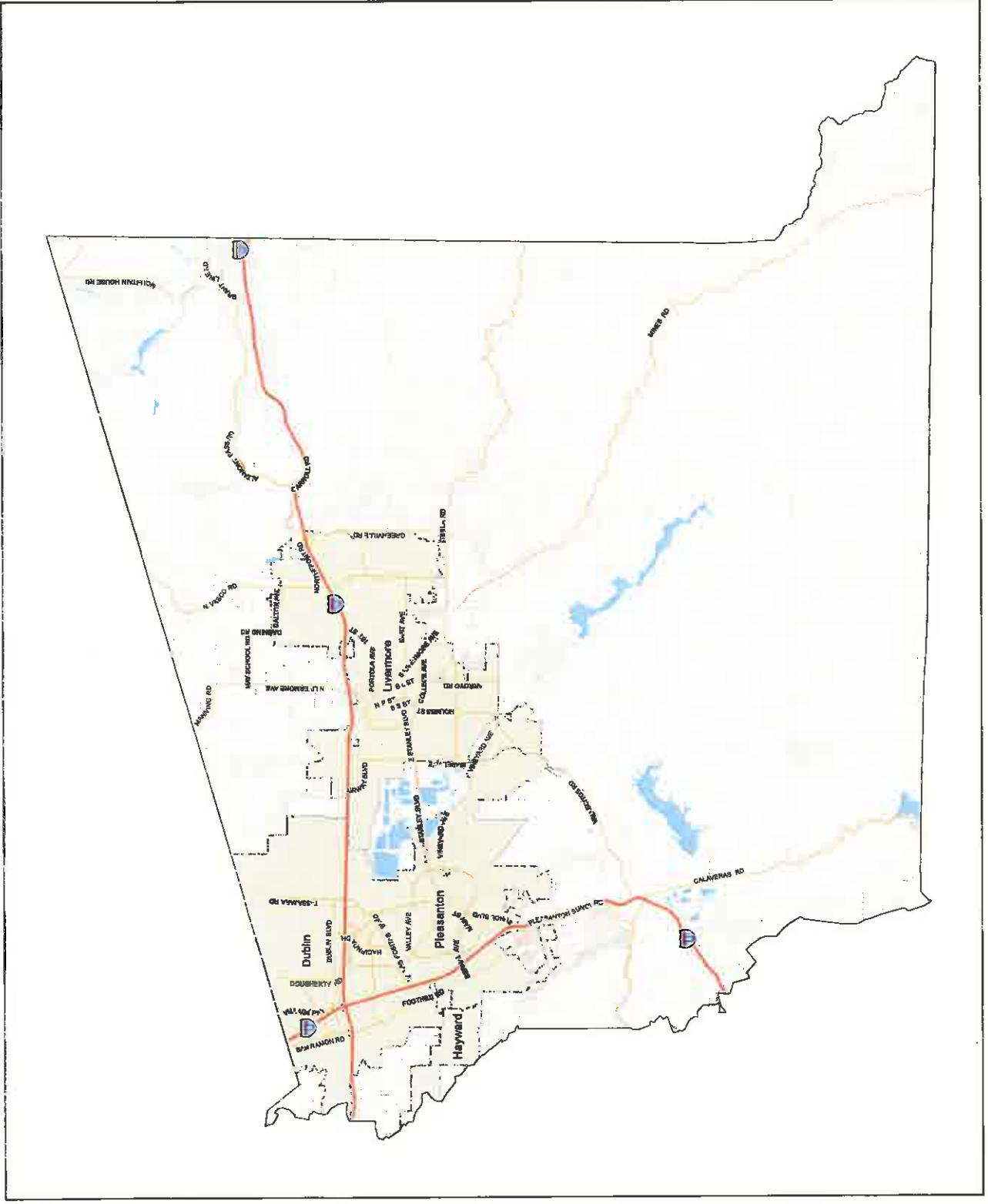
West County Medical Cannabis Dispensary Areas



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

## Legend

-  Interstates
-  Major Roads
-  Waterbodies
-  Cities
-  Unincorporated





**Attachment B-3**

**An Ordinance Amending Title 17 of the Alameda County General Ordinance Code to  
Conditionally Permit Cannabis Retailers in Specified Districts within the Unincorporated Area of the  
County of Alameda**



ORDINANCE NO. 2018-\_\_\_\_\_

AN ORDINANCE AMENDING TITLE 17 OF THE ALAMEDA COUNTY GENERAL  
ORDINANCE CODE TO CONDITIONALLY PERMIT CANNABIS RETAILERS 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 sections 11362.7, *et seq.* and titled the "Medical Marijuana Program Act") to clarify the scope of the Compassionate Use Act of 1996; and
4. In 2011, Assembly Bill 2650 was enacted (codified as California Health and Safety Code section 11362.768); which affirmed 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 (MCRSA); and
7. MCRSA established a comprehensive framework to license and regulate commercial medical cannabis cultivation, manufacturing, distribution, transportation, sales, and testing; and
8. On November 8, 2016, the voters of the State of California approved Proposition 64 (codified, in part, as California Business and Professions Code sections 26000 *et seq.* and titled the "Control, Regulate and Tax Adult Use of Marijuana Act"), which decriminalized the adult use of cannabis for non-medical purposes and established a regulatory scheme at the state level; and
9. On June 27, 2017, Senate Bill 94 (codified, in part, as California Business and Professions Code sections 26000, *et seq.* and titled the "Medicinal and Adult-Use Cannabis Regulation and Safety Act", or "MAUCRSA") repealed and replaced MCRSA. MAUCRSA consolidates the medical and non-medical cannabis statutes (MCRSA and Proposition 64).

10. Pursuant to California Business and Professions Code section 26200, nothing in MAUCRSA 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. On September 12, 2017, the County adopted ordinances regulating medical cannabis cultivation and retail operations (or, "dispensaries"), including amendments to Title 17 to allow medical cannabis dispensaries as a conditional use in certain commercial districts and in the agricultural district; and
12. This Ordinance is enacted, consistent with the Compassionate Use Act of 1996, the Medical Marijuana Program Act, and MAUCRSA to protect the public health, safety, and welfare of residents of the County of Alameda in relation to the retail sale and delivery of cannabis; and
13. 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 cannabis retailers as a land use; and
14. Concurrent with this ordinance, the County is considering amending Chapter 6.106 of the General Ordinance Code and amending the Zoning Ordinance to conditionally permit and regulate cultivation of cannabis for both medicinal and adult-use in Agricultural district of the unincorporated County; and
15. Concurrent with this ordinance, the County is considering amending Chapter 6.108 of the General Ordinance Code which regulates cannabis retailers, including allowing retailers to sell cannabis to both medicinal and adult-use customers; and
16. Allowing approved medicinal cannabis retail operators to sell adult-use cannabis will streamline the County's regulation of cannabis businesses; and
17. Allowing a single retailer to sell cannabis and cannabis products for both medicinal and adult-use will have limited if any impact on other County residents and businesses because the retail operation will not be materially impacted by the designation of the customer as either a medicinal or adult-use customer; and
18. The Board of Supervisors has determined that, with appropriate conditions, cannabis retailers may be appropriately located in certain commercial districts; and
19. The Board of Supervisors has determined that, although cultivation of cannabis shares some similarities with other agricultural activities, and as identified by recent state legislation, cultivation of cannabis raises health, safety and welfare concerns not raised by other traditional agricultural products and therefore, cannabis is not a permitted agricultural use by right for the purposes of land use and zoning; and
20. 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

21. The Board of Supervisors has determined that, with appropriate conditions, cultivation of cannabis may be an appropriate conditionally permitted use in the agricultural districts and outside of the urban growth boundary established by Measure D; and
22. The Board of Supervisors has determined that, with appropriate conditions, a cannabis retailer 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 to and supports the area’s cannabis cultivation; and
23. The Board of Supervisors acknowledges that regulation of cannabis activities is an evolving field at the state level, as evidenced by the recent passage of Proposition 64, adoption of MAUCRSA, and release of emergency regulations by various state licensing agencies. 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
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) exempt cultivation, retail or delivery operations from compliance with permitting regulations pursuant to other titles in this code, or, (3) 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 definition, inserted in alphabetical order into the existing text of the section:

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

Section 17.04.010 of the Alameda County General Ordinance Code is hereby amended to delete the term and the entirety of the definition for "Medical Cannabis Dispensary."

Section 17.06.040 of the Alameda County General Ordinance Code, regarding conditional uses in the Agricultural (A) district, is amended as follows:

Delete Paragraph R, "Medical cannabis dispensary."

Insert as Paragraph R: "Cannabis retailer, subject to and in compliance with Chapter 6.108 of this code;"

Section 17.38.030 of the Alameda County General Ordinance Code, regarding conditional uses in the Retail Business (C-1) commercial district, is amended as follows:

Delete Paragraph W, "Medical cannabis dispensary."

Insert as Paragraph W: "Cannabis retailer, subject to and in compliance with Chapter 6.108 of this code."

Section 17.40.030 of the Alameda County General Ordinance Code, regarding conditional uses in the General Commercial (C-2) district, is amended as follows:

Delete Paragraph Q, "Medical cannabis dispensary."

Insert as Paragraph Q: "Cannabis retailer, subject to and in compliance with Chapter 6.108 of this code."

### 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 \_\_\_\_\_, 2018, 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



**Attachment B-4**

**An Ordinance Amending Title 17 of the Alameda County General Ordinance Code to Regulate the Cultivation of Cannabis in the Unincorporated Area of the County Of Alameda**



ORDINANCE NO. 2018-\_\_\_\_\_

AN ORDINANCE AMENDING TITLE 17 OF THE ALAMEDA COUNTY GENERAL  
ORDINANCE CODE TO REGULATE THE CULTIVATION OF 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 sections 11362.7, *et seq.* and titled the "Medical Marijuana Program Act") to clarify the scope of the Compassionate Use Act of 1996; and
4. In 2011, Assembly Bill 2650 was enacted (codified as California Health and Safety Code section 11362.768), which affirmed that counties could adopt ordinances that restrict the location and establishment of medical cannabis collectives and cooperatives; and
5. Assembly Bill 243, Assembly Bill 266, and Senate Bill 643 were enacted in 2015 and subsequently revised by Assembly Bill 21 and Senate Bill 837 in 2016 (codified, in part, as California Business and Professions Code sections 19300, *et seq.* and titled the "Medical Cannabis Regulation and Safety Act") (MCRSA). These bills also amended provisions of the Medical Marijuana Program Act related to the cultivation of medical cannabis; and
6. MCRSA established a comprehensive framework to license and regulate commercial medical cannabis cultivation, manufacturing, distribution, transportation, sales, and testing; and
7. On November 8, 2016, the voters of the State of California approved Proposition 64 (codified, in part, as California Business and Professions Code sections 26000 *et seq.* and titled the "Control, Regulate and Tax Adult Use of Marijuana Act"), which decriminalized the adult use of cannabis for non-medical purposes and established a regulatory scheme at the state level; and

8. On June 27, 2017, Senate Bill 94 (codified, in part, as California Business and Professions Code sections 26000, *et seq.* and titled the "Medicinal and Adult-Use Cannabis Regulation and Safety Act", or, "MAUCRSA") repealed and replaced MCRSA. MAUCRSA consolidates the medical and non-medical cannabis statutes (MCRSA and Proposition 64).
9. Pursuant to California Business and Professions Code section 26200, nothing in MAUCRSA 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 ordinances authorizing and regulating medical cannabis cultivation operations on September 12, 2017; and
11. This Ordinance is enacted, consistent with the Compassionate Use Act of 1996, the Medical Marijuana Program Act, and MAUCRSA to protect the public health, safety, and welfare of residents of the County of Alameda in relation to the cultivation of 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 in appropriate locations will help ensure that locally-produced cannabis cultivated pursuant to local and state regulatory schemes will be available to other businesses within the supply chain while preserving the character, health and safety of the surrounding area; and
14. Absent appropriate regulation, the cultivation of cannabis in the unincorporated area of the County poses a potential threat to public peace, health, and safety; and
15. 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 cannabis; and
16. The Board of Supervisors has determined that, although cultivation of cannabis shares some similarities with other agricultural activities, and as identified by recent state legislation, cultivation of cannabis raises health, safety and welfare concerns not raised by other traditional agricultural products and therefore, cannabis cultivation is not a permitted agricultural use by right for the purposes of land use and zoning; and
17. 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

18. The Board of Supervisors has determined that, with appropriate conditions, cultivation of cannabis may be an appropriate conditionally permitted use in the agricultural districts and outside of the urban growth boundary established by Measure D; and
19. Pursuant to MAUCRSA, the California Department of Food and Agriculture has promulgated regulations governing commercial cannabis cultivation and has begun issuing commercial cultivation licenses; and
20. On September 12, 2017, the County adopted a zoning ordinance amendment conditionally permitting medical cannabis cultivation sites to implement the County's pilot program for cannabis cultivation; and
21. Allowing a single cultivation site to produce cannabis that may eventually be sold to both medicinal and adult-use retail customers will have limited if any impact on other County residents and businesses because the cultivation operation will not be materially impacted by the designation of the eventual retail customer as either medicinal or adult-use; and
22. The Board of Supervisors acknowledges that regulation of cannabis activities is an evolving field at the state level, as evidenced by the recent passage of Proposition 64, adoption of MAUCRSA, and release of emergency regulations by various state licensing agencies. 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
23. 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
24. Nothing in this Ordinance shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) exempt cultivation operations from compliance with zoning, land use regulations and health and safety regulations, or, (3) 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 as follows:

The definition of "Cannabis Cultivation" is revised to read:

"Cannabis Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming, including any associated storage, of Cannabis, including cannabis for medicinal use and/or adult-use in accordance with the Medicinal and Adult-Use Cannabis Regulation and Safety Act.

Section 17.06.040 of the Alameda County General Ordinance Code, regarding conditional uses in the Agricultural district, is amended as follows:

Add "Cannabis Cultivation, subject to and in compliance with Chapter 6.106 of this code and Section 17.52.585 of this title." as paragraph S at the end of the list of conditional uses.

Delete the "." (period) following the penultimate conditional use listed and replace with ";" (semicolon).

Section 17.52.585 of the Alameda County General Ordinance Code is amended to read as follows:

**17.52.585 Conditional Use—Cannabis Cultivation.**

- 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 pursuant to Section 17.06.040(S).
- 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 pursuant to Chapter 6.106 and a valid and effective state license permitting Cannabis Cultivation.
- C. Cannabis Cultivation uses approved pursuant to this section shall meet the criteria established by section 17.06.040(S), 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; and
  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 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 \_\_\_\_\_, 2018, 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

**Attachment C**

**Public Comment Letters**



Morris Ranching  
7058 Morgan Territory Road  
Livermore, CA 94551  
(925-447-5760)

February 15, 2018

Alameda County Planning Commission  
224 W. Winton Avenue, Rm 111  
Hayward, CA 94544

Dear Members of the Planning Commission:

**Re: Proposed Amendments to the Cannabis Dispensary and Cultivation Ordinances and Addendum to Mitigated Negative Declaration**

Multiple cannabis cultivation sites will directly border my family's home if these proposed amendments are adopted. Our home and ranch is rich in history. We live and operate a cow-calf operation on the home ranch purchased in the early 1900's. Four generations have lived on this ranch, where we have farmed and to this day continue to raise cattle. Our southern property line is adjacent to the Manning Road property and our home is directly across from 7033 Morgan Territory Road. These properties are identified as potential cannabis cultivation sites. The Manning Road property (adjacent to our southern property line) received two permits for cannabis cultivation and 7033 Morgan Territory Road (directly across the road from my house) will receive a cultivation permit if the proposed amendments are adopted (as stated in the January 9<sup>th</sup> Board of Supervisors Planning meeting).

I am writing this letter to request that the Planning Commission reject these amendments, not increase the number of cultivation sites or permits, and not change the pilot program to a permanent use. If these changes are adopted, my neighborhood will have three clusters of cannabis cultivation grows, not only surrounding two sides of my property, but also adjacent to other multi generation agricultural families and families with young children. Our neighborhood will be the only location in Alameda County with three cultivation permits. A total of eight new cannabis cultivation permits have been discussed and three will be in my neighborhood within a half mile of each other.

Changing the pilot program to a permanent use will be detrimental. Legalizing cannabis is still a fresh concept and should not be taken lightly. Cannabis may be legalized by the state, but it is still considered illegal federally, is highly targeted for theft and crime, and historically cannabis cultivation has been destructive to the ecology. The pilot program was put in place as a means of evaluating the cultivation program and process. Changing it to a permanent use will eliminate the two-year review period where possible amendments to the program could be implemented. I believe there are already issues with the program and identified several items that need to be addressed:

- Require Site Visits Prior to Granting Permits
- Notify Neighbors and Landowners of Permit Applications

At the January 9<sup>th</sup> Board of Supervisors Planning meeting it was stated that there were no site visits prior to ranking the applications. This process needs to change and be a requirement of the RFP. In addition, a notification requirement is necessary to inform nearby neighbors and landowners of the application and include a specified time-period for neighbors to appeal a decision to grant a permit. Landowners are only notified after a CUP is filed for the site and neighbors objecting to the CUP are unable to void the cultivation permit (Section 31 RFP ADDENDUM RESPONSES TO QUESTIONS).

- Require Verification of an Adequate Water Supply Prior to Issuing a Cultivation Permit

Performance Standards and Standard Condition for Cultivation Sites require water to be sourced locally (on-site) and water shall not be trucked in for cultivation purposes. Many North Livermore properties have a limited water supply and truck water in for daily use just to supply their homes.

- Identify and Avoid Recreational Routes Prior to Issuing Dispensary and Cultivation Permits

Alameda County's Bicycle and Pedestrian Plan for Unincorporated Areas labels routes adjacent to the Cultivation Sites that are applying for permits.

[https://static1.squarespace.com/static/57573edf37013b15f0435124/t/5a67dad71c10bb4f07075e7/1516755686810/Alameda+BPMP+Bicycle+Vision+Network+Impacts+to+Parking\\_01-12-2018.pdf](https://static1.squarespace.com/static/57573edf37013b15f0435124/t/5a67dad71c10bb4f07075e7/1516755686810/Alameda+BPMP+Bicycle+Vision+Network+Impacts+to+Parking_01-12-2018.pdf)

- Identify and Avoid Rural Areas with Clusters of homes

Neighbors walk on our rural roads daily and these are the roads that are adjacent to the proposed cultivation sites. The security required to protect the



cultivation sites identifies these locations as high-risk criminal targets and our neighborhoods become unsafe to walk or continue with our outdoor activities.

- **Identify All Negative Impacts to Neighbors Prior to Issuing Cultivation Licenses**

Impact of exterior lighting for the security of the premises, noise from the ventilation equipment, multiple permits issued on one site that increases the size of the cultivation site to possibly 2.5 acres, safety of neighbors, odors, pollutants, additional illegal activity and unforeseen impacts in the future.

My family lives and depends on our ranch and we are concerned about the severe negative impacts the investors in the cultivation sites will impose on our neighborhood. One of the proposed cultivation sites is directly across the street from my front porch and bedroom window and is next door to four of my neighbors who have young children. Cannabis cultivation is not protected by the Right to Farm Ordinance and requires an abundance of security measures to protect employees on site and the product from adverse criminal activities. Cannabis cultivation sites do not belong in neighborhoods that put families at risk of increased criminal activity. The security measures in place at one cultivation co-op, 9782 South Flynn Road Livermore, were not enough to prevent an armed robbery (Alameda County Sheriff Incident Report #17-015098) which is still under investigation.

In efforts to keep my neighborhood safe and to protect my family's heritage and livelihood, I am requesting that the Alameda County Planning Commission reject the Proposed Amendments to the "Cannabis Dispensary and Cultivation Ordinances and Addendum to Mitigated Negative Declaration."

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Brenda Morris', with a long horizontal flourish extending to the right.

Brenda Morris



Steve and Cindy Gallagher  
PO Box 1184  
3225 Cross Road  
Livermore, CA 94550

Alameda County Planning Commission

RE: Cannabis Dispensary and Cultivation Ordinances

To Whom It May Concern,

My name is Cindy Gallagher, I am writing to protest ANY and ALL Alameda County Cultivation and Dispensary's in rural areas for the following reasons.

- Our ground water will be contaminated by run off of manmade chemicals for fertilizing as well as the components of the plants themselves.
- Crime will increase, in fact, there was already a grow on Flynn Rd., that had an armed home invasion, theft of truckloads of plants, and money. Because we are rural we only have access to a limited number of Deputies and CHP officers, those 4 officers who happen to be on-duty are spread out over many miles, making response times to anything a joke. There will be crops worth millions of dollars....this attracts low life criminals as well as highly trained criminals who will be in our backyards. There are 1000's of articles backing this fact...a simple Google search will leave you in panic if this were going to come to your neighborhood.
- Our roads in the county are already horrendous with potholes and commuters, and now you are going to add more trucks to burden the roadways.

I beg of you to read this quote from an article from NBC news:

***"The potential for people to get ripped off and for people to use guns to have to defend themselves against robbers is very real," said Keith Stroup, founder and chief legal counsel for the National Organization for the Reform of Marijuana Laws. "But it's nothing to do with medical marijuana. It is to do with the failure of states to regulate this."***

This is your chance, to take a stand, to stop this before it becomes a warzone. Ask yourselves, if these grows and dispensaries were going to be operated on YOUR neighbor's parcel, would you want your children or grandchildren around this??? I think not...Please stand up for what is right.

Sincerely,

*Cindy Gallagher*





February 16, 2018

Alameda County Board of Supervisors

As you may know, Elemental Wellness Center was an applicant for a retail location under the Alameda County cannabis program. We were a runner up on the competitive process.

Elemental Wellness Center is writing this letter to encourage Alameda County Board of Supervisors to expand the county cannabis program.

Alameda County deserves recognition for its efforts in cannabis regulation and for providing access to cannabis for its constituents. It is what the public voted for, it is what they want, and in many instances, it is what they need, i.e., cancer patients.

Our concern, at Elemental Wellness Center, is greater access for your constituency and residents of surrounding and nearby municipalities.

As you are probably aware, many of the cities in the area have moratoriums or bans in place. This means that there are large populations of underserved medical and adult cannabis users. In addition to being contrary to the expressed desire of the public, this has been shown to encourage unlawful activity by furthering unlicensed/unregulated operators who don't pay taxes that fund necessary and vital programs.

We feel that an additional dispensary along the 680 corridor would promote a number of goals. An additional dispensary will allow greater access for medical cannabis patients and generate increased tax revenue for social services in the county and the very municipalities that are failing their residents by banning medical and adult use cannabis. It would also improve traffic flow by dispersing the customers to more than one location.

Sincerely

A handwritten signature in black ink, appearing to read "Derik Howard", is written over a faint, illegible printed name.

Derik Howard

Chairman

985 timothy Drive, San Jose, Ca 95133  
P 408-433-3344 f 408-433-3353  
[www.elementalwellnesscenter.com](http://www.elementalwellnesscenter.com)



121 Twin Oaks Lane  
Livermore CA 94551  
18 February 2018

Alameda County Planning Commission  
224 W. Winton Avenue, Rm 111  
Hayward CA 94544

Dear Planning Commissioners:

In the past few weeks, I have become aware of significant activity in our neighborhood regarding applications for cannabis cultivation permits. Previously, we were neither notified nor aware of any postings regarding this activity, either preliminary permits already granted or a proposed increase in the number of sites permitted.

We live in a rural area covered by County Measure D, passed by the voters in 1992. Its purpose was to maintain the rural character of the area. Cultivation for industrial-scale production of a recreational drug which produces mental and physical effects in humans when consumed is, I believe, inconsistent with the rural character of the area around Morgan Territory Road and Manning Road.

Although rural, our area has numerous family residences, many containing young children. In addition, the local roads are well used by the residents and others for recreational purposes such as walking, running and bicycle riding. We also drive frequently to Livermore for shopping and cultural events.

Agriculture used for the growing of a product known to affect human cognition, is incompatible with the livelihoods of the residents of the area. In addition, it is well documented that cannabis cultivation activities are a draw for criminal activities related to stealing the product. Recently, there was an armed robbery in the county at a cultivation site on S. Flynn Road, a mere 6 miles from where we live. While I understand that security is required at these grow sites (fencing, lights, etc.), there are no requirements to protect us or our property.

I urge the Commission to re-examine this issue, especially before permitting any more cultivation sites in a domestic rural area. In addition, prior permits, preliminary or not, should be re-examined.

Thank you for your attention and I look forward to more communication from you with the neighbors in this area.

Robert N Schock  
925 606-1440  
bob@bontekoe.net





9015 Doubletree Lane  
Livermore, CA 94551


February 18, 2018

Alameda County Planning Commission  
224 W. Winton Avenue, Room 111  
Hayward, CA 94544

Gentlemen:

My husband and I have lived on Morgan Territory Road for over 40 years. There is a reason we have lived here that long. Peace, quiet, serenity, safety, relaxing are thoughts which come to mind. If you have ever been out on Morgan Territory Road you know what I am talking about. The neighborhood has worked hard to keep this serenity and keep the neighborhood safe. The thought of putting a cannabis farm on our beloved road we find to be repulsive. We would not feel safe with the types of people around which this cultivation would draw. Hopefully you know of an armed robbery at the cultivation site on Flynn Road. The thought of looking out on exterior lights, security fences etc. breaks the beauty of the area. This is not to mention the added traffic on an already overcrowded road. Would you want a marijuana farm next to your house?

Sincerely,

A handwritten signature in cursive script that reads "Jean & Ed Miracle". The signature is written in black ink and is positioned above the printed name.

Jean and Ed Miracle



# Buchalter

55 Second Street  
Suite 1700  
San Francisco, CA 94105  
415.227.0900 Phone  
415.227.0770 Fax  
  
File Number: G4075.0002  
415.227.3508 Direct  
aguerra@buchalter.com

February 20, 2018

Mr. Richard Rhodes, Chair  
Alameda County Planning Commission  
224 West Winton Avenue, Suite 111  
Hayward, CA 94544

Re: Amendments to Cannabis Dispensary and Cultivation Ordinances and Addendum to Mitigated Negative Declaration

Dear Chair Rhodes and Members of the Planning Commission:

Buchalter represents Sunol Ranch LLC and its managing member, Ernest L. Goble, Jr. Sunol Ranch LLC ("Sunol Ranch") is the owner of the real property located at 3515 Andrade Road in Sunol in the East County Area Plan area of unincorporated County of Alameda ("County").

We understand that the Planning Commission is proposing to consider recommending at its meeting on Tuesday, February 20, 2018 that the Board of Supervisors adopt proposed amendments to the Medical Cannabis Dispensary and Cultivation ordinances set forth in Chapters 6.106 and 6.108 of Title 17 of the County General Ordinance Code ("Cannabis Ordinances"). The purpose of the amendments is to allow the cultivation and sales of both medicinal and adult-use cannabis among other changes to the County's adopted Cannabis Ordinances (the "Amended Cannabis Ordinances"). While we have significant concerns about the County's failure to evaluate the environmental impacts associated with proposed expansion of allowable cannabis cultivation activities for *both* the cultivation and commercial retail cannabis ordinances, our client primarily opposes the addition of the sale and delivery of adult use cannabis under the revised cannabis dispensary regulations set forth in Chapter 6.108 Title 17 of the County General Ordinance Code (the "Cannabis Dispensary Ordinance").

For the reasons set forth below, we oppose the County's proposed amendments to the Cannabis Dispensary Ordinance, and request that the Planning Commission recommend denial of the proposed Amended Cannabis Ordinance that would otherwise allow adult-use cannabis

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activities at dispensaries in the Sunol portion of the East County Area Plan area on the basis that such additional commercial uses conflict with Measure D and violate County zoning laws. Furthermore, we request that the Planning Commission recommend denial of the associated Addendum to the Mitigated Negative Declaration because the County has failed to conduct *any* analysis or to disclose the environmental impacts of the proposed Amended Cannabis Ordinances in violation of the California Environmental Quality Act (Pub. Resources Code §§ 21000 *et seq.*; 14 Cal. Code Regs. §§ 15000 *et seq.*) (“CEQA”). We hereby request that the County cease further deliberations on the Amended Cannabis Ordinance until it conducts complete and thorough environmental review of the Amendments and complies with the process required by Measure D as further discussed below.

**Since 2017, the County has allowed medical cannabis retailers (or, “dispensaries”) in the East County to include the sale and delivery of medicinal cannabis without complying with Measure D.**

The County Adopted Ordinances Authorizing and Regulating Medical Cannabis Cultivation Operations on September 12, 2017. The County has allowed dispensaries within agriculturally-zoned districts because the County has considered dispensaries as “visitor-serving agricultural uses” or “agriculture enhancing commercial uses” under Measure D even though these zoning districts did not include dispensaries in the list of allowable land uses at the time that Measure D was adopted by the voters. The County Selection Committee recently recommended selection of four applicants for cultivation permits under the existing ordinance, and the Board of Supervisors recommended expanding the cultivation ordinance from six medical cannabis cultivation permits to a total of 10 permits. Additionally, the Dispensary Ordinance would be amended to allow for the sale of both medical and adult use cannabis in accordance with the State’s Medical and Adult Use Cannabis Regulation and Safety Act (MAUCRSA). While the changes are proposed to expand allowable uses in accordance with MAUCRSA, expanding the uses would unlawfully expand the land uses allowed under Measure D for the East County Area Plan area.

**The Amendments to the Cannabis Dispensary Ordinance Should be Subject to an Election Under Measure D.**

The Alameda County Medical Cannabis Dispensary Ordinance governs the issuance of permits to operate a dispensary. Section 6.108.030(F) states that,

“Each cannabis cultivation site shall comply with all requirements in the Alameda County General Plan, including Measure D (Save Agriculture and Open Space Lands)...”

The proposed amendments to the Cannabis Ordinance are intended to expand allowable uses from medical cannabis to include adult recreation use. The Amended Cannabis Dispensary

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Ordinance does not require that agricultural cultivation occur on a dispensary site under the Amended Cannabis Dispensary Ordinance. As an agricultural use within Measure D, the only allowable new development is agricultural use, including “agriculture-enhancing commercial uses” such as stables, fruit stands, feed stores, and other uses demonstrating an economic connection to agricultural use.” A stand-alone medical dispensary without cultivation was not included in the definition of agricultural use or agricultural enhancing commercial uses when Measure D was enacted by the voters in 2000.

Section 23 of Measure D states that,

“The provisions of this ordinance may be changed only by vote of the people of Alameda County.”

Measure D also provides that,

“The Board may also make technical or nonsubstantive modifications to the terms of this ordinance ... for purposes of reorganization, clarification or formal consistency within a Plan. Any modifications must be consistent with the purposes and substantive content of this ordinance.”

Measure D added Policy 96 to the East County Area Plan (ECAP) and this policy states,

“In areas outside the County Urban Growth Boundary designated Large Parcel Agriculture, Resource Management or Water Management Lands, the number of parcels that may be created, the residential units permitted on each parcel, the size of the development envelope, the maximum floor areas and floor area ratios, and the uses permitted by the Plan on February 1, 2000, or by the Initiative, whichever is less, may not be increased.”

The County is proposing to unlawfully increase the types of uses that may be included as agricultural uses or agricultural enhancing commercial uses by allowing commercial retail brick and mortar buildings without *any* agricultural use. Commercial uses alone are not “agriculture-enhancing commercial uses” or “visitor-serving agricultural uses” allowed by Measure D for agriculturally zoned property because the Alameda County Zoning Ordinance did not include commercial medical or recreational dispensaries in that list in 2000 when Measure D was adopted by the voters. As my client previously noted in its appeal of the dispensary permit for the property located at 3220 Andrade Road (PLN2017-00226), a medical cannabis dispensary is still a commercial retail use similar to a pharmacy, especially when that use does not have a cultivation component (see December 29, 2017 Letter from Shartsis Friese LLP regarding Approval of Permit No. PLN2017-0026). Thus, the County’s attempts to improperly include commercial dispensaries which do not have any agricultural cultivation in the list of “agriculture-enhancing commercial uses” or “visitor-serving agricultural uses” unlawfully

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increases the uses under Measure D without subjecting that increase in use to a vote of the people.

**The County Failed to Conduct Environmental Review of the Amended Cannabis Ordinances in Accordance with CEQA and Further Environmental Review is required pursuant to Section 21166 of the Public Resources Code.**

CEQA requires that a lead agency conduct environmental review of a discretionary action for a project at the earliest possible step in the approval process for the Project, and the CEQA document must evaluate the “whole of the project action” (see e.g., *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, 132-134; *Cedar Fair, L.P. v. City of Santa Clara* (2011) 194 Cal.App.4th 1150, 1170). Where a lead agency determines to prepare a mitigated negative declaration, CEQA requires that the lead agency must find that the project's significant environmental effects identified in a mitigated negative declaration have been avoided or mitigated clearly to a less than significant level (see 14 Cal. Code Regs. § 15070(b)). The purpose of the analysis is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made (see e.g., *Laurel Heights II, supra*, 6 Cal.4th at page 1123, 26 Cal.Rptr.2d 231, 864 P.2d 502).

After the County has prepared and adopted the initial environmental document, subsequent environmental review is required to evaluate any subsequent changes in the project, changes in circumstances in which the project must be undertaken and new information regarding mitigation measures and alternatives as set forth in Public Resources Code Section 21166 and CEQA Guidelines Section 15162. An addendum to a negative declaration is appropriate only where minor technical changes or additions are necessary (see 14 Cal. Code Regs. § 15164(b); *Mani Brothers Real Estate Group v. City of Los Angeles* (2007) 153 Cal.App.4th 1385, 1400). Further, the basis of the decision to utilize an addendum to a mitigated negative declaration must be supported by substantial evidence (14 Cal. Code Regs. § 15164(e); *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2017) 11 Cal.App.5th 596, 608).

While the County previously prepared an Initial Study/Mitigated Negative Declaration (the “IS/MND”) for the adoption of the Medical Cannabis Ordinance in September 2017, the IS/MND generally provided little, if any, analysis of the impacts of the adoption of the ordinance and instead deferred its evaluation to future analyses of site specific dispensary permits. The County has done the same thing here in its Addendum to the Mitigated Negative Declaration for Medical Cannabis Ordinance Amendments, Alameda County, February 2018 (“Addendum”). The Addendum lacks basic information or substantial evidence required under CEQA regarding the analysis of any environmental impacts and associated mitigation measures that must be provided before the Planning Commission can recommend approval and Board of Supervisors can adopt the document as adequate in accordance with CEQA. The County here cannot base its

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decision to prepare only an addendum on finding that the underlying Mitigated Negative Declaration remained relevant, but instead must “assess whether there is substantial evidence that the change to the project for which a negative declaration was previously approved might have a significant environmental impact not previously considered in connection with the project as originally approved” (*Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2017) 11 Cal.App.5th 596, 608). This Addendum does not provide any information to be able to determine if there would be new significant impacts or a substantial increase in the severity of the previously identified impacts by now allowing dispensaries to include retail purchases of cannabis.

My client has previously identified for the County’s consideration the types of significant environmental impacts that may occur and would need to be evaluated under CEQA for dispensary permits in the context of my client’s appeal of Permit No. PLN2017-0026. Here, as with the original Initial Study/Mitigated Negative Declaration for the Medical Cannabis Ordinance, the County staff disregarded the impacts by failing to conduct *any* environmental review of the proposed Amendments to the Cannabis Ordinances and simply stated that the impacts either will be addressed later on a site specific basis or that there are no new or substantially more severe impacts because the physical development of dispensaries or cultivation sites would not be affected with any explanation. For example, the Addendum states:

- There will be no air quality or objectionable odor impacts *without conducting* an air quality analysis of construction or mobile source emissions due to more traffic in East County.
- There will be no impacts to biological resources *without identifying* sensitive habitats and biological resources that are present throughout the East County as noted in the City of Livermore’s January 2, 2018 appeal letter objecting to Dispensary Permit for Larry Gosselin at 7699 Altamont Pass Road which letter is incorporated by reference.
- There will be no traffic impacts when the County has *failed to include any* trip generation information or traffic analyses for prospective dispensaries that could be located in agriculturally zoned areas in East County. Moreover, the Addendum does not include any analysis of vehicle access and circulation concerns especially in the context of potential dispensary locations that may be located in rural residential areas or with limited access.

The list goes on...

In addition to evaluating a project's direct and indirect environmental effects, CEQA also requires that a lead agency evaluate cumulative impacts (see e.g., 14 Cal. Code Regs. §15065). Here, while the IS/MND included a brief statement about cumulative impacts and quickly

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dismissed them as less than significant, the Addendum does not include *any* analysis of cumulative impacts associated with the increase in medicinal and recreational dispensaries and cultivation sites throughout the unincorporated agriculturally-zoned properties. Instead, the County concludes that there are no changes that would constitute substantial changes (see the conclusion of the Addendum) and the County dismisses the need for any further review. That analysis must be concluded in order to understand the impacts on East County with the increased dispensaries and cultivation sites that may be developed on agriculturally zoned properties.

## Conclusion

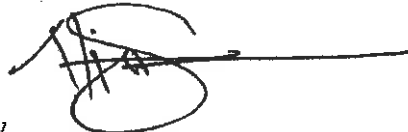
As there is a serious question as to the validity of any amendments to the Cannabis Ordinances that would expand commercial recreational cannabis dispensary uses under Measure D without subjecting such amendments to a vote of the citizens of Alameda County, we also request that if the County proceeds any further with its efforts to expand the scope of the Cannabis Ordinances that it conduct an election in accordance with Measure D.

We appreciate the County's consideration of our comments on the Addendum and the proposed Amended Cannabis Ordinances. Please notify Mr. Goble, Mr. Mauch and me if the County issues further notifications regarding the Amended Cannabis Ordinances in the future.

Sincerely,

BUCHALTER

A Professional Corporation

A handwritten signature in black ink, appearing to read 'Alicia Guerra', is written over a circular stamp or seal. The signature is somewhat stylized and includes a long horizontal line extending to the right.

By

Alicia Guerra

AG:sl

cc (via email):

Chris Bazar, Community Development Director

County Clerk

Heather Littlejohn, Deputy County Counsel

Roy Goble

Joe Mauch





February 20, 2018

Planning Commission of Alameda County  
224 West Winton Avenue  
Hayward, CA 94544

Attention: Planning Commissioners – Alameda County Planning Commission

**Subject: Amendments to Cannabis Cultivation and Dispensary Ordinances**

Dear Commissioners:

I am a long time resident of Livermore and lived on Tesla Road for many years. My mother currently resides on Tesla Road near the 4.79 mile marker.

While I am not opposed to the legalization of marijuana, I support the Alameda County Sherriff's Office in their opposition to the cultivation and dispensing of marijuana in residential areas. I am also opposed to the conversion of the status of the current program to permanent from the current pilot program status. The rapid pace of the ordinance amendment process and the limited opportunities for public input is a concern to the residents that live in the areas near these proposed operations.

Tesla Road is experiencing traffic problems due to extreme traffic demand generated by employment opportunities in the South and East Bay combined with relatively low housing costs in the Central Valley. Expanding cultivation operations and dispensing and delivery services will exacerbate an already critical traffic problem.

Cultivation and dispensing of marijuana products has an impact on adjacent properties and on the surrounding neighborhoods. The high value of marijuana requires security measures that make this commercial use inappropriate for residential neighborhoods. This type of operation can, and should be, limited to industrial areas and conducted indoors where security can be safely managed and adjacent properties are not negatively affected.

Thank you for your consideration. If you have any questions please feel free to contact me.

Sincerely,

A handwritten signature in black ink that reads "Kevin Duffus".

Kevin Duffus, P.E.  
Associate Civil Engineer  
City of Livermore  
(925) 667-6500



## McElligott, Elizabeth, CDA

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**From:** LYNN ALLEN <lynnallen4779@gmail.com>  
**Sent:** Monday, February 19, 2018 9:03 PM  
**To:** Lopez, Albert, CDA; McElligott, Elizabeth, CDA; Trask, Erica, BOS Dist1  
**Subject:** Cannabis Cultivation in District 1

We just found out tonight via Next Door Tesla that the county is proposing changes to the existing Cannabis Cultivation Ordinances to increase the number of permitted cultivation sites in East County (District 1), and also to allow both cultivation and dispensing of cannabis at that same site.

Why is it that residents were not informed of this proposed change? This would have a major impact on an already bad situation. The roads here are crazy busy and the commuters are just plain crazy! How could you possibly consider adding this additional problem to an area that is already suffering major inconvenience and unsafe conditions. Every time we venture out onto the roads we take our lives into our hands and are subjected to the busy roads and crazy drivers.

Most of us that live here moved here to be away from the congestion of the cities and every day we are faced with more congestion than we ever anticipated. Just yesterday i was passed as I turned from Tesla onto Cross and was almost run off of the road; this is a weekly occurrence for me and members of my family.

We hope you will take the residents' wishes into consideration when making a decision of this magnitude.

Thank you.



## McElligott, Elizabeth, CDA

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**From:** ka noonan <kanoonan2@gmail.com>  
**Sent:** Monday, February 19, 2018 9:12 PM  
**To:** Lopez, Albert, CDA; McElligott, Elizabeth, CDA; Trask, Erica, BOS Dist1; Singh, Nilma, CDA  
**Cc:** Philip Miller  
**Subject:** TESLA CANNABIS CULTIVATION

We do not support amendments to the Cannabis Dispensary and Cultivation Ordinances!



## McElligott, Elizabeth, CDA

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**From:** Pam Galbraith <billandpamgalbraith@gmail.com>  
**Sent:** Tuesday, February 20, 2018 1:21 AM  
**To:** McElligott, Elizabeth, CDA  
**Subject:** Proposed increase in Cannabis Cultivation Permits

February 19, 2018

Ms McElligott,

I am writing to you today to express my concern and opposition to the Alameda County proposal to extend the number of Cannabis Cultivation permits by four in the unincorporated areas of Livermore and also the proposal to illuminate the pilot program intended to monitor and assess the effects of cannabis cultivation in our County.

My husband and I have been residents of Tesla Rd for the past 38 years and are very concerned about the changes that will come to our area if cannabis cultivation is allowed. Two of the sites that are being considered for the cultivation permits are located less than a mile from each other in the most densely populated area of Tesla Rd. This particular half-mile on Tesla already has safety issues, with multiple accidents reported at Cross Road alone.

The residents of Tesla Road have fought hard to make our road and everyone who drives it safe. We appreciate the help that we have received from the County officials in creating a plan to make our road safer. But now we face a new problem that is again threatening our safety and the quality of life in our neighborhood. The voice of the people living in the area and affected the most must be heard.

We need to be able to voice our concerns about the decisions that will affect our safety and quality of life. We need to share our concerns about the risks and the crime that can come to our area with the cultivation of cannabis. We need to voice our concerns not only about the increase in cultivation permits but the elimination of the Pilot Program , after only two months, that was created to monitor and assess the safety and effects of cannabis cultivation in our county. How can the county gain the experience and wisdom to know if and how to create a program that will be safe, control growth, monitored through experienced over site and avoid the pitfall that this program can bring if they eliminate the Pilot Program that will give them the needed information.

One of the permits that are being proposed is adjacent to our back fence line and only 50 feet from our home and yet we were never notified by the County of the upcoming meeting on Feb 20<sup>th</sup> concerning this permit. That is why I am asking that the decision be postponed on the proposed increase in cultivation permits and the elimination of the pilot program until proper notice goes out to all the residents of the affected area. The hold another another meeting be held in Livermore where the residents' can voice their concerns in the area where the counties decision will have the most impact.

Thank you for taking the time to listen to my concerns. Any help you can provide to alleviate our concerns and keep our neighborhood safe would be appreciated.

Pamela Galbraith  
Tesla RD





## McElligott, Elizabeth, CDA

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**From:** Phil Barnett <phil@barnettplumbing.com>  
**Sent:** Tuesday, February 20, 2018 8:49 AM  
**To:** Lopez, Albert, CDA; McElligott, Elizabeth, CDA; Trask, Erica, BOS Dist1  
**Subject:** Alameda County Cannabis Cultivation Ordinances

Hello,

I live at 10069 Tesla Road in Livermore. I wont be able to be at the meeting today but I wanted you all to know I strongly oppose allowing more cultivation sites in Alameda county. The additional sites on Tesla road are in what is essentially a residential neighborhood and would negatively impact our community. Please hear my concerns and decline adding the additional cultivation sites.

Thank you,



**Phil Barnett**  
**President**  
925.872.0805 office





## McElligott, Elizabeth, CDA

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**From:** Singh, Nilma, CDA  
**Sent:** Tuesday, February 20, 2018 8:55 AM  
**To:** McElligott, Elizabeth, CDA  
**Subject:** FW: cannabis cultivation in Livermore CA

Forwarding....

**From:** JEFF AND LINDA JENSEN [mailto:jljen@comcast.net]  
**Sent:** Sunday, February 18, 2018 8:21 PM  
**To:** Singh, Nilma, CDA <nilma.singh@acgov.org>  
**Subject:** cannabis cultivation in Livermore CA

Ms Singh,

Thank you for ensuring that this email reaches the Alameda County Planning Commission.

This email is addressed to the Planning Commission for Alameda County:

My husband and I own our home in Livermore, in a small neighborhood named Doubletree Ranch, directly off of Morgan Territory Road, just north of Manning Rd and N. Livermore. We moved here less than two years ago, drawn to the rolling hills, quiet and peaceful area after living in Fremont for thirty years.

We are concerned about the permits requested for cannabis cultivation in this rural area. There are many families with children, and outdoor enthusiasts who walk, run and bike along N. Livermore, Manning and Morgan Territory on a daily basis. We have commuter traffic both in the morning and in the evening, who must share very narrow roads. There is also a beautiful regional preserve up Morgan Territory Road drawing many hikers to the area.

It is very concerning that we did not receive adequate warning about the permits for cannabis cultivation when they were requested, discussed and given preliminary approval. Considering this type of development for N. Livermore and Manning does not take into account the current use of the roads by both pedestrians and cars, the condition of the roads, the lack of adequate lighting, and the quiet countryside. It is truly heartbreaking to think of what these sites would bring to our beloved area.

It is critical that the commission take a closer look, in person, to each and every one of the sites proposed, considering the impact of the traffic, high water usage, land use for cannabis instead of livestock and housing, the loss of open space, the potential for increased crime due to having a business enterprise in a largely residential area. Surely there are better places, farther out from the midst of our neighborhoods, where their presence will not threaten the safety of our families and children.

It is disconcerting to hear that the planning commission approved permits for cannabis cultivation without giving those being asked to live with it, adequate time to weigh in. Please reconsider the permits for the Tesla neighborhoods as well as those slated for N. Livermore and Manning roads. We hope that you will take this written opinion into account when you meet on Tuesday, Feb. 20 as, due to the late notice, we will not be able to attend in person.

Thank you,

Jeff and Linda Jensen

Doubletree Ranch

Livermore

**McElligott, Elizabeth, CDA**

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**From:** Corey Chapeta <corey@fexperformance.com>  
**Sent:** Tuesday, February 20, 2018 1:37 PM  
**To:** Singh, Nilma, CDA; Lopez, Albert, CDA; McElligott, Elizabeth, CDA; Trask@acgov.org  
**Cc:** brettddcaires@gmail.com; Mary Ann; Brenda Morris; Charles & Michelle Sweet  
**Subject:** Pot grow operations

To whom it may concern,

I am totally against bringing more armed robberies into my neighborhood from these pot grow operations, you all know about the hush hush Flynn Road held at gun point thefts and you still want to shove this down our throats?? Lets make this public, news worthy and see what happens. There is no known track record out here for one grow facility and now you want to push how many more on us? NO, THIS HAS GOT TO STOP!! Move it all into town next to the police station and see how LPD likes it.

As you all know Calaveras County has a major problem with pot growing and people are arming themselves for the sake of protecting their family and properties do you want the same thing here? Because that is what it's going to come down to, burglaries, shootings and death will be on the hands of you greedy bureaucrats.

Corey Chapeta  
4036 Cross Road  
Livermore, Ca. 94550



## **McElligott, Elizabeth, CDA**

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**From:** Andrea Marino Bodin <andrea@marinobodin.com>  
**Sent:** Tuesday, February 20, 2018 4:52 PM  
**To:** Singh, Nilma, CDA; Lopez, Albert, CDA; McElligott, Elizabeth, CDA; Trask, Erica, BOS Dist1  
**Cc:** Mats Bodin  
**Subject:** We oppose the proposal of Cannabis Cultivation on Tesla Road

Hello Nilma Singh, Albert Lopez, Elizabeth Mcelligott and Erica Trask,

We have many concerns and oppose the proposal of Cannabis Cultivation on Tesla Road, and we the residents of Buena Vista Avenue and adjoining roads (Tesla Road, etc.) will be negatively affected by any changes in the current Alameda County Cannabis Cultivation Ordinances (ACCCO). Please reply to acknowledge receipt of this important message and confirm you will forward this email to the appropriate entities and staff.

Thank you,  
Andrea and Mats Bodin  
2600 Buena Vista Avenue  
Livermore, CA 94550  
Tel: 925-784-6195





## McElligott, Elizabeth, CDA

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**From:** Shawn Peterson <speterson17@icloud.com>  
**Sent:** Tuesday, February 20, 2018 8:27 PM  
**To:** McElligott, Elizabeth, CDA  
**Subject:** Powers that Be

I was informed about the expansion of further grow plots for cannabis in the Tesla rd area of Livermore. I thought that this area of Eastern Alameda County would be considered to be populated to allow growing of pot. It seems that the County Supervisor should be aware of how many people live on Tesla during his meeting about the traffic problem. You all are opening a can of worms if you allow the growing of pot in our neighborhood, it will become a greater problem than the traffic is. I'm very concerned about my family's safety, it's a proven fact that the corrupt drug cartels and dangerous gangs will be infiltrating the legal grow farms. This will cost the county more than the revenue it will bring in for the county. If things aren't thought out and law enforcement isn't in place before the decisions are made to allow the growing of pot in Eastern Alameda County it's just a matter of time before lives will be lost over drug deals gone bad.

I'm ashamed to be from California and very disappointed with our local County Representatives.

A concerned neighbor,  
Shawn Peterson  
Office 925-422-7520  
Sent from my iPhone



**Perkins, Cheryl, CAO**

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**From:** Carol Gerich <carolgerich@gmail.com>  
**Sent:** Saturday, March 3, 2018 11:57 AM  
**To:** Perkins, Cheryl, CAO  
**Cc:** Brenda; bontekoe  
**Subject:** Marijuana farms in North Livermore  
**Attachments:** Marijuana letter to Planning Comm..docx

**Dear Alameda County Board of Supervisors:**

I am writing to request that you not approve any permits for marijuana farms on Manning Road in North Livermore near the intersection with Morgan Territory Road. As my previous letter to the Alameda County Planning Commission (below) demonstrates, this is a rural, not an agricultural area, with many (approximately 80) neighborhood homes. There are also issues of adequate water for any large-scale farming in a very dry area with all residents on wells.

Thank you!

Carol Gerich  
12885 Morgan Territory Road  
Livermore, CA 94551

cc: BOVS  
CAO  
PLN  
CBS

February 15, 2018

**Alameda County Planning Commission  
224 W. Winton Avenue, Room 111  
Hayward, CA 94544**

Dear Commissioners:

I am writing on behalf of my Morgan Territory/Manning Road neighbors who are very concerned about the issues involved in granting three preliminary marijuana cultivation permits for our neighborhood. We live in a rural area with most homes on small acreages about five (5) acres. There is definitely a sense of community among the numerous homeowners, and no large-scale agricultural growing exists here.

I have counted 14 homes within 1 mile of the three planned sites. Homes on Morgan Territory Road (up to the top) number 74. These are family homes—many with children.

We have received no official notice of these future marijuana farms and only learned of them through local newspaper articles. As far as I can determine, no site inspections have been performed. These three farms are located in a very small area (1/2 half mile) but one that is very large part of our community here. If the Planning Commission or representatives would visit this area, I think its unsuitability would be obvious.

We do not argue with the recently changed law legalizing marijuana or the need for medical uses. We do, however, argue with the placement of three cultivation sites so close to each other and their placement within a rural community, not one that features any other agricultural sites. Any large properties are devoted to cattle-raising, not crops.

This new type of cultivation promises to bring many more visitors, some undesirable, to the area. Exterior lights, security guards, and tall fencing are likely results as well. These changes detract significantly from our community ambiance and friendliness. Manning and Morgan Territory Roads are also popular places for residents and others to walk, jog, and bicycle—as well as many commuters along Manning Road.

Therefore, I respectfully request that the Planning Commission visit our neighborhood before any cannabis cultivation sites are approved. Communication with the local residents who will be affected is imperative as well.

**Carol Gerich  
12885 Morgan Territory Road  
Livermore, CA 94551**

## Perkins, Cheryl, CAO

**From:** Knott, Jessica <Jessica.Knott@us.gt.com>  
**Sent:** Saturday, March 3, 2018 2:50 PM  
**To:** Perkins, Cheryl, CAO  
**Subject:** Opposition to the Cannabis Cultivation Ordinance Amendments

Hi Cheryl:

I am a Livermore resident and I would like to express my opposition to the cannabis cultivation ordinance amendments and the following concerns:

1. There were no site visits prior to issuing preliminary cultivation permits.
2. Neighbors and adjacent landowners were not notified of cultivation permits granted.
3. The cultivation sites are proposed in rural neighborhoods near families with young children (mine included). There needs to be a much greater distance of at least 5 miles between the cultivation sites and family residences.
4. Exterior lights, security, and fencing is required to protect the employees and cannabis on cultivation sites but there are no requirements to protect neighbors and their property. There was an armed robbery in the summer at a cultivation site on South Flynn Road. There was also a burglary on Tesla Road on the property bordering one of the proposed cultivation sites, which is currently alleged to already be an illegal cultivation site and was previously alleged to be a cockfighting operation.
5. Neighbors exercise daily on local roads that will be adjacent to proposed cultivation sites.
6. Water is a limited resource and the County requires cultivation sites to use water sourced locally (on-site) and water shall not be trucked in for cultivation purposes.
7. Multiple cultivation permits can be issued on one property increasing the size of the grows.
8. The meetings related to cannabis cultivation have been held during work hours and in areas not directly impacted by the ordinances. Please provide more advanced notice of these meetings to allow those impacted in rural areas to prepare in advance to attend the meetings and hold the meetings closer to the rural areas that will be directly impacted.

Please confirm this email will be provided to the Board of Supervisors for their consideration prior to their related meeting on March 8, 2018.

Thanks,  
Jessica Knott



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cc: BOS  
CAO  
PLN  
CBS



**Perkins, Cheryl, CAO**

**From:** Robert Vieira <vieiraranch@gmail.com>  
**Sent:** Saturday, March 3, 2018 6:07 PM  
**To:** Perkins, Cheryl, CAO; Haggerty, Scott, Supv BOS Dist 1  
**Cc:** assemblymember.baker@assembly.ca.gov  
**Subject:** Proposed Cannabis Amendments-Alameda County BOS

I'm sure you've been following the cannabis situation in Calaveras County. It's a mess. They didn't clean up their illegal grows before expanding their legal sites and now recall petitions are circulating for several of their Supervisors. Here's an update:

<http://sanfrancisco.cbslocal.com/2018/02/25/green-rush-goes-bust-in-calaveras-county/>

Regarding the proposed amendments:

By increasing the number of cultivation sites before any of the 6 permitted sites are operating, the County is heading down the same path as Calaveras County. Alameda County has no experience regulating cultivation. Working with the 6 cultivators over the next 2 years is that chance to gain the experience needed to expand responsibly.

Changing the terms of the RFP after the deadline to submit a proposal is most-likely illegal. The 4 applicants that were not selected should have no "special status" going forward. They submitted their proposals; they were unsuccessful; some appealed and were denied; end of story.

There are many other potential growers who were content to wait and see how the County would administer the RFP for the 2 year pilot program, and then they would apply for the next round. Many of these potential growers are, arguably, more qualified than the 4 that didn't make the cut in the RFP process. How is it fair for them, to now have the rules changed. The amendment would exclude these potential growers from applying for the next 4 cultivation permits and give a permit to everyone who submitted a proposal and were unsuccessful--no matter how they scored during the RFP process. Surely you must see how illogical and unfair the addition of the lowest scoring 4 applicants would be.

There are 3 alternatives:

1. Leave the number of cultivators at 6, and administer the pilot program as laid out in the original RFP.
2. Issue a new RFP for the 4 additional cultivation permits and allow all interested parties to apply.
3. Amend the RFP after the fact (as proposed by the current amendment), allowing the additional 4 RFP applicants to cultivate (excluding all others) and deal with the legal proceedings that will follow.

Number 1 is the best option, and in addition, would preserve some integrity of the BOS as it would be following through with the terms of the RFP and not attempting to change the "rules of the game" in the middle of the "game".

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Calaveras County officials admit they didn't anticipate the current situation and are attempting to fix it, however they have a huge problem to fix.

The 2 year pilot program will help address situations not previously anticipated by the County when qualifying cultivation permits.

For example: How is it possible to only judge applicants based on paper applications--not site visits and personal interviews? From what prior experience did the evaluators draw to conclude these "optional" steps

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were not necessary? Are they current growers? Why wouldn't they take the time to learn from the extra experience they could have garnered? Isn't that, at least partially, what the pilot program is about?

Security issues are huge. In my neighborhood, on Flynn Rd. at a grow site, there was a kidnapping and armed robbery in August 2017. Has the County learned anything about site security from that incident? Why hasn't the incident report been released more than 6 months after the robbery? Citing that there is an "ongoing investigation" that long after the robbery is getting less believable every day. Couldn't we learn something from the incident report that could prevent another robbery? What about the grower in the Santa Rosa area who's front door was knocked down, was shot & killed, then robbed of his product. He lived in a very nice home and had a professionally run grow operation.

Shouldn't the County consult with security experts when qualifying the security plan of a grow site? If not, then the criminals will always have the upper hand and neighbors will be paying the price right along with the cultivators. Why are the location of grow sites made public? Some experts say that practice makes the site a target for out-of-the-area thieves. It is my understanding that Colorado keeps cultivation site addresses confidential.

One applicant was proposing cultivating on a parcel of less than 5 acres. That parcel has a home and several outbuildings, as well as about 75 vehicles parked on the property at any given time. Further, some of the property cannot be utilized for cultivation because there is a creek crossing it. It is on a busy road and has an ungated right-of-way along the side that leads to another home (security issues). I have also been informed that the property owner or occupant is a convicted felon (I have not verified this, however). Do any of the above "features" of this potential cultivation site put up any red flags? Do you think the County and/or the RFP evaluators could have done a better job qualifying that site and the property owner? Would you allow this property to cultivate marijuana? Is there a written process in place where approved sites can be immediately shut down if facts not discovered prior to approval come to light?

Do you now think the qualifying process has potential to be revised?

Of course it should be revised, and this is exactly why the pilot program needs to remain a pilot program and at it's current size: Work with 6 cultivators for 2 years and adjust procedures before expanding the number of sites any further using the current inexperienced and dangerously flawed process.

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One last point is one that has been discussed numerous times in our rural community. Cultivating on small parcels--or on the edge of larger parcels near neighboring homes, barns, etc.--will affect neighbors negatively due to the overwhelmingly offensive odor given off by growing marijuana plants. The County has conceded that a permit is required to grow this agricultural product, however the odors' drift onto neighboring properties, into homes and barns, is offensive at best, but not reflected in the selection process for cultivation sites. These odors can only adversely affect the quality of life for a neighbor and will certainly discourage many potential buyers from purchasing a neighboring rural home as they will need to be listed on the real estate disclosure form all sellers must complete. This is another serious issue that needs to be addressed before additional cultivation permits are issued--yet another reason to stay the course of the pilot program with 6 cultivators.

I certainly don't want to go down the road of legal action regarding the RFP and it's modification after the fact. I believe you might feel the same way. There are a huge number of County residents who have expressed their concern over these proposed amendments and are completely against them. I would think there are extremely few who are for them, as common sense would dictate moving forward in a slow and careful manner. I'm asking that common sense and compassion for all County residents be considered and that you reject the proposed amendments in their entirety.

Sincerely submitted, Bob Vieira



Bob Vieira  
Vieira Ranch  
cell / emergency: 925-784-2991



## McElligott, Elizabeth, CDA

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**From:** Npasut@yahoo.com  
**Sent:** Sunday, March 4, 2018 9:05 AM  
**To:** McElligott, Elizabeth, CDA  
**Subject:** Tesla and marijuana

E-mail submitted from following website: [williamson\\_act\\_revision\\_website](#)

**Name:**

**EmailAddress:** Npasut@yahoo.com

**Comments:** The last thing our country folks need is more drugs. Put the facility in a commercial zone where police have the ability to patrol. Our CHP officers are stretched to their max out on Tesla. Drugs will only breed criminal behavior, and we prefer to breed our livestock.



**Attachment D**

**Addendum to the Mitigated Negative Declaration for Medical Cannabis Ordinance Amendments**





**ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY  
PLANNING DEPARTMENT**

**ADDENDUM  
to the MITIGATED NEGATIVE DECLARATION for  
Medical Cannabis Ordinance Amendments  
Alameda County, California**

**FEBRUARY 2018**

**I. INTRODUCTION AND SUMMARY**

**Background**

The Mitigated Negative Declaration for Medical Cannabis Ordinance Amendments (MND) (attached) was adopted by the Alameda County Board of Supervisors on July 11, 2017. On September 12, 2017, the Board approved the medical cannabis ordinance amendments. The project included 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 ordinance amendments pertaining to medical cannabis dispensaries and delivery included revisions to Chapter 6.108 of the County General Code, as well as amendments to the Zoning Ordinance in Title 17 of the General Code. The revisions to Chapter 6.108 increased 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. The ordinance amendments added requirements for selection of new dispensaries through a “Request for Proposals” (RFP) process; and established a permitting process for delivery of medical cannabis to patients from permitted “brick-and-mortar” dispensaries located within the unincorporated area and in other jurisdictions. Amendments to the Zoning Ordinance added medical cannabis dispensaries as a conditional use in specified commercial zoning districts and in the “A” (Agricultural) Zoning District as a conditional agriculture-related uses.

Cultivation Ordinance and Cultivation Zoning

The ordinances pertaining to cannabis cultivation established a medical cannabis cultivation pilot program that allows up to two dispensaries that have been operating in good standing for at least one year to establish medical cannabis cultivation sites, and allows an additional four cultivation sites to be selected through a “Request for Proposals” (RFP) process. Chapter 6.106 was added to Title 6 of the County General Code to establish requirements for the program, and the Zoning Ordinance in Title 17 was

amended to allow the cultivation of medical cannabis as a conditional use in the "A" (Agricultural) District.

### **Additional Proposed Ordinance Amendments**

Since the adoption of the MND in July of 2017 and the medical cannabis ordinances in October of 2017, further changes to the ordinances have been proposed. An addendum to the MND is necessary to assess the potential environmental effects of the additional ordinance amendments. The proposed changes to the ordinances that may have relevance to CEQA are:

- increasing the allowable number of cultivation sites from six to ten;
- removing the pilot nature of the ordinance; and
- expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis.

### **Purpose of this Addendum**

Under CEQA Guidelines Section 15162, after a negative declaration has been adopted for a project, a subsequent or supplemental negative declaration shall not be required unless the lead agency determines one or more of the following:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
  - (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
  - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
  - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
  - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

For the proposed ordinance amendments, staff considered whether any of the foregoing criteria have been met since original approval of the MND and concluded that, using these criteria, a supplemental or subsequent MND is not appropriate. Where a supplemental or subsequent MND is not appropriate, CEQA Guidelines Section 15164(b) allows for the preparation of an Addendum to an adopted negative declaration only if there are minor technical changes or additions that do not meet the conditions of Section 15162.



## **II. ANALYSIS OF PROPOSED PROJECT IMPACTS**

Staff's review of the proposed ordinance amendments focused on whether the proposed changes to the project require MND revisions due to the involvement of new significant environmental impacts, whether substantial changes have occurred with respect to the circumstances under which the project is being undertaken, and whether previously unavailable and important new information within the meaning of CEQA Guidelines Section 15162 has become available.

For each environmental factor analyzed in the MND, a summary of the original analysis is provided below, followed by an explanation of why the proposed project changes would not result in additional significant impacts or exacerbate existing impacts to the point where additional mitigation would become necessary.

### **A. Aesthetics**

#### **1. Original Medical Cannabis Ordinance MND Analysis**

The Medical Cannabis Ordinance MND analyzed the effects of the project with respect to aesthetic impacts and found that the ordinances would have no effect on scenic vistas, scenic resources, or the visual character or quality of a site or its surroundings. The analysis also concluded that any potential impacts resulting from a new source of substantial light or glare from the use of artificial light in the cultivation process would be less than significant due to required performance standards which require shielding of artificial lights so they are not visible from neighboring properties.

#### **2. Proposed Project Changes**

The proposed ordinance changes would have no additional impact on scenic vistas, scenic resources, or the visual character or quality of a site or its surroundings. As any potential impacts related to the use of artificial light at cultivation sites would be addressed on a site-specific basis at the time of construction through the implementation of existing performance standards, any potential impacts that may result from the proposed increase in the number of allowable cultivation sites from six to ten would remain less than significant. Removing the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to aesthetics would result from these proposed ordinance changes.

There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

### **B. Agriculture Resources**

#### **1. Original Medical Cannabis Ordinance MND Analysis**

The Medical Cannabis Ordinance MND analyzed the effects of the project on agricultural resources and concluded that the medical cannabis ordinances would have no impacts. The MND found that cannabis cultivation is compatible with agricultural 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, the MND found that 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.

## 2. Proposed Project Changes

The proposed ordinance changes would have no additional impacts on agricultural resources. As cultivation sites and dispensaries have been determined to be compatible with existing agricultural uses, no additional impacts on agricultural resources would result from the proposed increase in the number of allowable cultivation sites from six to ten. Removing the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to agricultural resources would result from these proposed ordinance changes.

There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

## C. Air Quality

### 1. Original Medical Cannabis Ordinance MND Analysis

Analysis of potential air quality impacts in the Medical Cannabis Ordinance MND found that there would be no potential conflict with the Clean Air Plan and; therefore, no impacts from potential conflicts. In addition, with the implementation of provisions included within the ordinance amendments and the performance standards associated with the cultivation program, there would be no impacts resulting from the creation of objectionable odors. The MND also concluded that cannabis cultivation sites and dispensaries permitted as a result of the project would not be expected to generate significant criteria air pollutant emissions; therefore, potential impacts associated with such emissions would be less than significant.

The MND did find that the project could result in significant impacts caused by dust emissions from construction activities; however, construction-period air quality effects would be reduced to less than significant with the application of a mitigation measure requiring implementation of standard Best Management Practices for construction activity.

### 2. Proposed Project Changes

As any potential impacts related to air quality would be addressed on a site-specific basis at the time of construction through the implementation of the prescribed mitigation measure, any potential impacts that may result from the proposed increase in the number of allowable cultivation sites from six to ten would remain less than significant. Removing the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to air quality would result from these proposed ordinance changes.

There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

#### **D. Biological Resources**

##### **1. Original Medical Cannabis Ordinance MND Analysis**

The Medical Cannabis Ordinance MND analyzed the effects of the project with respect to biological resources in the unincorporated area and found that any potential impacts would be less than significant. Any future development of new or reuse of existing structures pursuant to the project would be individually evaluated against biological resource criteria at each location, based on applicable federal, state, and local regulatory requirements. With effective implementation of these existing regulations, the MND concluded that 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. In addition, the MND found that project implementation will not conflict with any local policies or ordinances protecting 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.

##### **2. Proposed Project Changes**

As any potential impacts related to biological resources would be addressed on a site-specific basis at the time of construction through the implementation of existing federal, state and local requirements, any potential impacts that may result from the proposed increase in the number of allowable cultivation sites from six to ten would remain less than significant. Removing the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to biological resources would result from these proposed ordinance changes.

There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

#### **E. Climate Change and Greenhouse Gas Emissions**

##### **1. Original Medical Cannabis Ordinance MND Analysis**

The Medical Cannabis Ordinance MND analyzed the effects of the project with respect to climate change and greenhouse gas emissions and found that greenhouse gas emissions from indoor and mixed-light cultivation sites may exceed the calculated threshold, potentially resulting in a significant impact; however, the effects of these emissions would be reduced to less than significant with the

application of a mitigation measure requiring implementation of measures to reduce energy consumption or purchase of carbon credits.

## 2. Proposed Project Changes

As any potential impacts related to climate change and greenhouse gas emissions would be addressed on a site-specific basis at the time of construction through the implementation of the prescribed mitigation measure, any potential impacts that may result from the proposed increase in the number of allowable cultivation sites from six to ten would remain less than significant. Removing the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to climate change and greenhouse gas emissions would result from these proposed ordinance changes.

There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

## F. Cultural Resources

### 1. Original Medical Cannabis Ordinance MND Analysis

The Medical Cannabis Ordinance MND analyzed the effects of the project with respect to cultural resources in the unincorporated area and found that any potential impacts would be less than significant. 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 applicable federal, state, and local statutes, regulations, and requirements. The MND concluded that, 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.

### 2. Proposed Project Changes

As any potential impacts related to cultural or historical resources would be addressed on a site-specific basis at the time of construction through the implementation of existing state and local requirements, any potential impacts that may result from the proposed increase in the number of allowable cultivation sites from six to ten would remain less than significant. Removing the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to cultural resources would result from these proposed ordinance changes.

There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new

mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

## **G. Geology and Soils**

### **1. Original Medical Cannabis Ordinance MND Analysis**

The Medical Cannabis Ordinance MND analyzed the effects of the project with respect to geology and seismicity in the unincorporated area and found that any potential impacts would be less than significant. 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. The MND concluded that, with effective implementation of all applicable state statutes, regulations and requirements, as well as applicable County ordinances, regulations, guidelines, standards and requirements, 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.

### **2. Proposed Project Changes**

As any potential impacts related to geology or seismicity would be addressed on a site-specific basis at the time of construction through the implementation of existing state and local requirements, any potential impacts that may result from the proposed increase in the number of allowable cultivation sites from six to ten would remain less than significant. Removing the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to geology or seismicity would result from these proposed ordinance changes.

There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

## **H. Hazards and Hazardous Materials**

### **1. Original Medical Cannabis Ordinance MND Analysis**

The Medical Cannabis Ordinance MND analyzed the effects of the project with respect to hazards and hazardous materials and found that, with state and local regulations imposed on operations through the permit review and issuance process, any potential impacts resulting from the creation of 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 would be less than significant. No other potential impacts related to criteria for hazards and hazardous materials were identified.

## 2. Proposed Project Changes

As any potential impacts related to hazards and hazardous materials would be addressed on a site-specific basis at the time of construction through the implementation of existing state and local requirements, any potential impacts that may result from the proposed increase in the number of allowable cultivation sites from six to ten would remain less than significant. Removing the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to hazards and hazardous materials would result from these proposed ordinance changes.

There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

## I. Hydrology and Water Quality

### 1. Original Medical Cannabis Ordinance MND Analysis

The Medical Cannabis Ordinance MND analyzed the effects of the project with respect to hydrology and water quality impacts and found that, with state and local laws and regulations pertaining to wastewater disposal and stormwater management imposed through the permit review and issuance process, the project would not result in significant impacts related to wastewater treatment or construction of necessary storm water facilities. In addition, the review and permitting process to which all cannabis related activities would be subject, pursuant to the terms of the proposed Ordinance Amendments, would 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. No other potential impacts related to criteria for hydrology and water quality were identified.

### 2. Proposed Project Changes

As any potential impacts related to hydrology and water quality would be addressed on a site-specific basis at the time of construction through the implementation of existing state and local laws and requirements, any potential impacts that may result from the proposed increase in the number of allowable cultivation sites from six to ten would remain less than significant. Removing the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to hydrology and water quality would result from these proposed ordinance changes.

There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

## **J. Land Use and Planning**

### **1. Original Medical Cannabis Ordinance MND Analysis**

Analysis of potential land use and planning related impacts in the Medical Cannabis Ordinance MND found that the cannabis ordinances would not create the potential to divide an established community, and would not conflict with any applicable land use plan, policy, or regulation; therefore, the project would have no impacts related to land use and planning criteria.

### **2. Proposed Project Changes**

Consistency with local plans and policies would be determined through the permitting process for cultivation sites and dispensaries; therefore, no additional impacts with regard to land use and planning would result from the proposed increase in the number of allowable cultivation sites from six to ten. Removing the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to land use and planning would result from these proposed ordinance changes.

There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

## **K. Mineral Resources**

### **1. Original Medical Cannabis Ordinance MND Analysis**

The Medical Cannabis Ordinance MND analyzed the effects of the project with respect to mineral resources and found that the project would 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 of a locally-important mineral resource recovery site; therefore, the project would have no impacts related to mineral resources.

### **2. Proposed Project Changes**

The proposed ordinance changes would have no additional impacts with regard to mineral resources as existing County plans and policies would prevent cannabis cultivation sites and dispensaries from locating in areas identified as containing known mineral resources; therefore, no additional impacts on mineral resources would result from the proposed increase in the number of allowable cultivation sites from six to ten. Removing the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to mineral resources would result from these proposed ordinance changes.

There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance

amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

## **L. Noise**

### **1. Original Medical Cannabis Ordinance MND Analysis**

The Medical Cannabis Ordinance MND analyzed the effects of the project with respect to potential noise impacts and found that, with County ordinances and policies imposed through the permit review and issuance process, there would be no noise related impacts resulting from the project.

### **2. Proposed Project Changes**

As any potential impacts related to noise would be addressed on a site-specific basis at the time of construction through the implementation of existing County ordinances and policies, no additional impacts would result from the proposed increase in the number of allowable cultivation sites from six to ten. Removing the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to noise would result from these proposed ordinance changes.

There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

## **M. Population/Housing**

### **1. Original Medical Cannabis Ordinance MND Analysis**

The Medical Cannabis Ordinance MND analyzed the effects of the project with respect to population and housing and found that, as the project would not involve any form of subdivision, no new housing or infrastructure that could induce housing growth is contemplated, and no housing would be demolished, the project will not induce population growth in the area or displace existing housing or people necessitating the construction of housing elsewhere; therefore, the project would have no impacts related to population and housing.

### **2. Proposed Project Changes**

The proposed increase in the number of allowable cultivation sites from six to ten would have no additional impacts with regard to population and housing. In addition, removing the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to population and housing would result from these proposed ordinance changes.



There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

## **N. Public Services**

### **1. Original Medical Cannabis Ordinance MND Analysis**

The Medical Cannabis Ordinance MND analyzed the effects of the project on public services and found that the ordinances would have no effects on schools or parks and recreation facilities; and, with local ordinances and regulations imposed through the permit review and issuance process, the project would not result in significant impacts related to fire protection. The analysis also concluded that any potential impacts on police protection would be less than significant as 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.

### **2. Proposed Project Changes**

The proposed increase in the number of allowable cultivation sites from six to ten would have no additional impacts with regard to public services. In addition, removing the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to public services would result from these proposed ordinance changes.

There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

## **O. Transportation**

### **1. Original Medical Cannabis Ordinance MND Analysis**

The Medical Cannabis Ordinance MND analyzed the effects of the project with respect to transportation impacts and found that any development resulting from approval of the ordinances would be consistent with transportation policies in the County General Plans and Specific Plans applicable in the areas where the facilities would be permitted. In addition, as 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 would be considered as part of the site-specific permit review process, the project would not result in significant impacts related to transportation. The Medical Cannabis Ordinance MND concluded that traffic generated by the proposed cannabis 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.

## 2. Proposed Project Changes

As any potential site-specific impacts related to transportation would be identified and addressed through the permitting process, any potential impacts that may result from the proposed increase in the number of allowable cultivation sites from six to ten would remain less than significant. Removing the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to transportation would result from these proposed ordinance changes.

There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

## P. Utilities and Service Systems

### 1. Original Medical Cannabis Ordinance MND Analysis

The Medical Cannabis Ordinance MND analyzed the effects of the project on utilities and service systems and found that, 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. The analysis also concluded that, because cannabis cultivation permittees' demand for water was estimated to represent a small percentage of Zone 7 water that is available to East County agricultural users, 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. Also, cannabis cultivation water customers would be subject to system-wide restrictions and cut-backs during drought conditions. For these reasons, potential impacts to water resources resulting from cannabis cultivation sites would be less than significant. The analysis also found that 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; therefore, no significant impacts related to solid waste disposal would occur as a result of the proposed project's implementation.

### 2. Proposed Project Changes

As the permittee for any cannabis facility 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; and any potential impacts related to utilities and service systems would be addressed on a site-specific basis through the implementation of existing local requirements; any potential impacts that may result from the proposed increase in the number of allowable cultivation sites from six to ten would remain less than significant. In addition, removing

the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to utilities and service systems would result from these proposed ordinance changes.

There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

### **III. CONCLUSION OF THIS ADDENDUM**

Based on the analysis in this addendum the proposed cannabis ordinance amendments do not result in circumstances that would justify the preparation of a subsequent or supplemental CEQA analysis for this project, pursuant to Section 15162 of the CEQA Guidelines. There have been no changes proposed that constitute substantial changes in the project which will require major revisions of the previous negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; there have been no changes in project circumstances or previously unavailable new information that indicate that the project will have new or substantially more severe significant impacts than predicted in the 2017 Medical Cannabis Ordinance MND, or that new mitigation measures or alternatives would substantially lessen the project's significant impacts. This should not be taken to imply that additional or amended Conditions of Approval for cannabis operations approved pursuant to these ordinances should not be considered for items of concern that may be raised by Planning Staff, the Planning Commission or the County Board of Supervisors.

