

**ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT**

STAFF REPORT

TO: Members of the Castro Valley Municipal Advisory Council
MEETING DATE: September 12, 2016
RE: Draft Medical Cannabis Dispensary and Cultivation Ordinances

GENERAL INFORMATION

The Medical Cannabis Regulation and Safety Act (MCRSA) was signed into law in October of 2015. Earlier this year, the Board Transportation and Planning Committee initiated and has been providing direction for amendments to the County's existing dispensary ordinance (Chapter 6.108 of the County General Code) to align with the local licensing provisions of MCRSA. A group of industry advocates who met with Supervisor Miley proposed draft ordinance revisions; staff representing various county agencies have reviewed the proposed revisions and prepared draft revised ordinances to regulate medical cannabis dispensaries and cultivation sites in the unincorporated county. The draft ordinances are attached.

On June 20th, 2016, your Council heard a presentation by the Office of the County Counsel on the MCRSA and the process underway to revise the existing county dispensary ordinance to make it consistent with the MCRSA. Councilmembers expressed concern about a potential increase in the number of dispensaries in the unincorporated area, the potential siting of a dispensary in Castro Valley, and the apparent rapid timeline for the ordinance revision process. Councilmembers expressed an interest in reviewing the draft ordinance and requested that residents of the unincorporated area be given greater opportunity to provide input.

Dispensary Ordinance

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

The following changes to the provisions of the existing dispensary ordinance are included in the draft ordinance:

- Increase the maximum number of dispensaries allowed in the unincorporated area from three to six, with no more than four in west county and no more than two in east county.
- Require dispensaries to comply with all zoning requirements in Title 17 of the Alameda County General Code and Alameda County Measure D (Save Agriculture and Open Space Lands), including the requirement to obtain any conditional use permits.
- Prohibit dispensaries in residential zoning districts.
- Allow up to two dispensaries in the "A" (Agricultural) Zoning District as a conditional agriculture-related use accessory to a permitted cannabis cultivation site.
- Reduce the buffer required between dispensaries and sensitive receptors from 1,000 feet to 600 feet

to align with the MCRSA.

- Require selection of new dispensaries through a “Request for Proposals” (RFP) process.
- Provide appropriate regulation for each license – deferring to anticipated state regulations and augmenting the state regulations as necessary.
- Allow an unlimited number of permits for the delivery of medical cannabis from permitted “brick-and-mortar” dispensaries located within the unincorporated area and in other jurisdictions to patients.
- Remove the twenty-pound limit on the amount of cannabis that can be stored at a dispensary.
- Allow the sale, distribution, and delivery of edibles if produced in a commercial facility (that does not produce food items) constructed in accordance with applicable building standards and health and safety standards as opposed to private home kitchens.

Potential Dispensary Locations

West County

The existing dispensary ordinance includes a map that overlays the boundaries of three areas onto the unincorporated communities of Ashland, Cherryland, Castro Valley, and San Lorenzo (see Map Option 1, Exhibit A - Medical Marijuana Dispensary Areas from County General Code Chapter 6.108 - Medical Marijuana Dispensaries attached). Area 1 includes San Lorenzo and a strip of Ashland that lies south of Interstate 238 and north of San Lorenzo Creek; Area 2 includes Cherryland and the remainder of Ashland; and Area 3 includes the Castro Valley urban area. The ordinance allows one dispensary in each of the three areas, for a maximum of three dispensaries. Currently, one dispensary is located in Area 1, on East Lewelling Boulevard in Ashland; and the other is located in Area 2, on Foothill Boulevard in Cherryland.

Because the draft ordinance would increase the maximum number of dispensaries allowed in the unincorporated west county to four, the existing method of allocating dispensaries among the communities needs to be revised (see Section 6.108.030.D. of the draft dispensary ordinance). Staff has proposed the following two options:

Option 1: Maintain the same three areas depicted on the map in the existing ordinance (see Map Option 1, attached); and allow a maximum of two dispensaries in any one of the three areas and one dispensary in each of the two remaining areas for a total of no more than four dispensaries.

Option 2: Allow one dispensary in each of the four unincorporated communities of Ashland, Cherryland, Castro Valley, and San Lorenzo as those areas are defined in the Eden Area General Plan and the Castro Valley General Plan (see Map Option 2, Urban Unincorporated County Zoning Designations and Sensitive Receptors 600 ft. Buffer (with boundaries of Unincorporated Communities of Ashland, Cherryland, San Lorenzo and Castro Valley), attached) for a total of no more than four dispensaries. As stated above, the two existing dispensaries are located in Ashland and Cherryland; therefore, under this option, the two additional dispensaries that would be allowed in this area under the revised ordinance would be limited to locations in San Lorenzo and Castro Valley.

East County

The proposed dispensary ordinance revisions would allow two dispensaries in the East County (see Map of Rural Unincorporated County Zoning Designations and Sensitive Receptors 600' Buffer, attached), where no dispensaries are permitted under the existing ordinance. Because almost all of the unincorporated area in the East County is zoned “A” (Agriculture) and subject to Measure D (Save Agriculture and Open Space Lands) which was adopted by County voters in 2000, the land uses allowed in this area are limited primarily

to agriculture-related uses. Proposed revisions to Section 17.06.040 of the Zoning Ordinance would allow medical cannabis dispensaries as a conditional use in the "A" (Agriculture) Zoning District only where accessory to a cannabis cultivation operation.

Cultivation Ordinance

The cultivation ordinance would establish a medical cannabis cultivation pilot program that would allow existing dispensaries that have been operating in good standing for at least one year to establish medical cannabis cultivation sites. Implementation of the cultivation pilot program will require revisions to Title 6 of the County General Code to establish requirements for the program, as well as amendments to the Zoning Ordinance in Title 17 to allow the cultivation of medical cannabis as a conditional use in the "A" (Agricultural) District and "M" (Industrial) districts.

The following code provisions are proposed to implement the cultivation pilot program:

- Limit the duration of the pilot to two years.
- Limit eligibility to obtain a ministerial cultivation permit to currently permitted dispensary operators in good standing.
- Allow medical cannabis cultivation as a conditional use in the "A" (Agricultural) and "M" (Industrial) Zoning Districts.
- Allow only indoor/greenhouse cultivation and limit the size of the cultivation canopy.
- Require each cultivation site to obtain a Conditional Use Permit subject to compliance with adopted performance standards before beginning operation.
- Require a 600-foot buffer between cultivation sites and sensitive receptors to align with the MCRSA.

California Environmental Quality Act

The California Environmental Quality Act (CEQA) requires that an environmental review be conducted for the proposed ordinance amendments and establishes a process for completing the review. The level of review necessary will be determined by the outcome of an Initial Study, which may conclude that a negative declaration, mitigated negative declaration, or environmental impact report is needed. The length of time required to complete the review will depend on the type of document determined to be appropriate. Staff is in the process of selecting a consultant to perform the CEQA review.

Fee Assessment

In order to set fees at an appropriate level to ensure that implementation of the medical cannabis ordinance will be revenue neutral and in compliance with the requirements of Proposition 26, it will be necessary for the County to conduct a fee assessment to determine appropriate fee levels to cover staffing and other costs associated with application processing, and ongoing administration and enforcement. Staff is in the process of hiring a consultant to conduct the assessment.

Continuing Public Outreach

In addition to your meeting on June 20th, County Counsel made a presentation regarding MCRSA and proposed ordinance amendments to the Unincorporated Services Committee on June 29, 2016. At that meeting, speakers expressed concern regarding potential negative impacts of increasing the number of dispensaries in unincorporated communities and requested adequate opportunity to review the ordinances and provide input.

On July 26th, the Agricultural Advisory Committee heard a presentation on proposed revisions to the existing county dispensary ordinance which would include allowing dispensaries in unincorporated east county; and an ordinance to implement a cultivation pilot program. Committee members were concerned that the presence of dispensaries and cultivation sites in rural areas would result in an increase in crime and that it would be difficult for the Sheriff's Office to respond to calls quickly in remote areas. Concerns were also raised about potential illegal diversion of water from creeks and potential difficulties with tracking cannabis crops to prevent diversion for illegal sales.

CONCLUSION

On September 7th, the Board Transportation and Planning Committee will consider the draft ordinances and may provide additional direction to staff regarding the provisions of the ordinances. Staff will report on the outcome of the September 7th meeting at your September 12th meeting. The table below contains the proposed schedule to complete the ordinance approval process, including public meetings throughout the County to reach all potentially affected communities.

The meeting schedule, including times and locations, is also available on the County website at: <http://www.acgov.org/cda/planning/landuseprojects/medical-cannabis.htm>. In addition, this webpage provides a list of past meetings and links to presentations and written materials from those meetings.

Medical Cannabis Ordinance Revision Public Meeting Schedule	
September 12	Castro Valley Municipal Advisory Council Land Use Meeting
September 15	San Lorenzo Village Homes Association Meeting
September 19	First Planning Commission Meeting
September 21	Sunol Citizens Advisory Committee Meeting
September 28	Unincorporated Services Committee Meeting
October 3	Transportation/Planning Committee Meeting
October 17	Second Planning Commission Meeting
October 25	Agricultural Advisory Committee Meeting
October 26	Unincorporated Services Committee Meeting (if needed)
November 7	Transportation/Planning Committee Meeting (if needed)
November 8	Board of Supervisors
November 22	Board of Supervisors
December 23	New ordinances become effective

STAFF RECOMMENDATION

Staff requests that the MAC review the attached draft ordinances, hear the presentation by staff, take public testimony, and provide a recommendation on the proposed ordinances.

ATTACHMENTS

1. Draft Ordinance Amending Chapter 6.108 of the Alameda County General Code to Conform the Medical Marijuana Dispensaries Ordinance to the California Medical Cannabis Regulatory and Safety Act, and to Permit and Regulate the Delivery of Medical Cannabis in the Unincorporated Area of Alameda County, and to Regulate the Sale, Dispensing and Delivery of Edibles.

2. Draft Ordinance Amending Title 17 of the Alameda County General Code to Conditionally Permit Medical Cannabis Dispensaries in Specified Districts within the Unincorporated Area of Alameda County
3. Draft Ordinance Amending Chapter 6.106 and Title 17 of the Alameda County General Code to Implement a Pilot Program Regulating the Cultivation of Medical Cannabis in the Unincorporated Area of Alameda County
4. Draft Performance Standards and Standard Conditions for Cultivation Sites

Map Option 1: Exhibit A - Medical Marijuana Dispensary Areas from County General Code Chapter 6.108 - Medical Marijuana Dispensaries

Map Option 2: Urban Unincorporated County Zoning Designations and Sensitive Receptors 600 ft. Buffer (with boundaries of Unincorporated Communities of Ashland, Cherryland, San Lorenzo and Castro Valley)

Map - Rural Unincorporated County Zoning Designations and Sensitive Receptors 600' Buffer

PREPARED BY: Liz McElligott, Assistant Planning Director

ATTACHMENT 1

ORDINANCE NO. 2016-_____

AN ORDINANCE AMENDING CHAPTER 6.108 OF THE ALAMEDA COUNTY GENERAL CODE TO CONFORM THE MEDICAL MARIJUANA DISPENSARIES ORDINANCE TO THE CALIFORNIA MEDICAL ~~CANNABIS~~MARIJUANA REGULATORY AND SAFETY ACT, ~~AND~~ TO PERMIT AND REGULATE THE DELIVERY OF MEDICAL ~~CANNABIS~~MARIJUANA IN THE UNINCORPORATED AREA OF ALAMEDA COUNTY, AND TO REGULATE THE SALE, DISPENSING AND DELIVERY OF EDIBLES.

WHEREAS, 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

WHEREAS, the intent of Proposition 215 was to enable persons who are in need of marijuana for medical purposes to be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances; and

WHEREAS, 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

WHEREAS, in 2011, Assembly Bill 2650 was enacted (codified as California Health and Safety Code section 11362.768). This law affirms that counties can adopt ordinances that restrict the location and establishment of medical marijuana collectives and cooperatives; and

WHEREAS, 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 marijuana; and

WHEREAS, in 2016, Senate Bill 837 was enacted to change all references to medical marijuana or marijuana to medical cannabis or cannabis, including changing the name of the Medical Marijuana Regulation and Safety Act to the Medical Cannabis Regulation and Safety Act; and

WHEREAS, the Medical ~~Cannabis~~Marijuana Regulation and Safety Act establishes a comprehensive framework to license and regulate commercial medical ~~cannabis~~marijuana cultivation, manufacturing, distribution, transportation, sales, and testing; and

WHEREAS, pursuant to California Business and Professions Code section 19315(a), nothing in the Medical ~~Cannabis~~Marijuana Regulation and Safety Act shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local permit or licensing requirements; and WHEREAS, this Ordinance is enacted, consistent with the Compassionate Use Act of 1996, the Medical Marijuana Program Act, and the Medical ~~Cannabis~~Marijuana Regulation and Safety Act to protect the public health, safety, and welfare of Alameda County residents in relation to the distribution and delivery of medical ~~cannabis~~marijuana; and

WHEREAS, in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4th 729, the California Supreme Court concluded that nothing in the Compassionate Use Act nor the Medical Marijuana Program Act preclude a local jurisdiction from regulating or prohibiting facilities that distribute medical marijuana; and

WHEREAS, although not authorized by the County, it is believed that the ~~illegal~~ delivery of medical ~~marijuana~~ cannabis has been occurring in the unincorporated area of Alameda County; and

WHEREAS, permitting the delivery of medical ~~marijuana~~ 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

WHEREAS, absent appropriate regulation, the delivery of medical ~~cannabis~~ marijuana in the unincorporated area of Alameda County poses a potential threat to the public peace, health, and safety; and

WHEREAS, medical ~~cannabis~~ marijuana dispensaries have been dispensing food products containing ~~cannabis~~ marijuana, 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

WHEREAS, the County of Alameda intends to proceed with further study and public meetings to consider additional ordinances that most effectively regulate and license all facets of medical ~~cannabis~~ marijuana activities, including cultivation and manufacturing; and

WHEREAS, the County of Alameda has a compelling interest in protecting the public health, safety, and welfare of its citizens, residents, visitors and businesses, in preserving the peace and quiet of the neighborhoods within the unincorporated areas of the County by regulating the distribution and delivery of medical ~~cannabis~~ marijuana and the production and packaging of edibles; and

WHEREAS, nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. § ~~801 et seq.~~ 841 or to license any activity that is prohibited under said Act except as mandated by State law; and

WHEREAS, 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~~ marijuana for non-medical purposes; (3) exempt dispensaries or delivery operations from compliance with zoning and land use regulations, or, (4) allow any activity relating to the cultivation, distribution, or consumption of ~~cannabis~~ marijuana that is illegal under state or federal law;

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

SECTION 1. That Chapter 6.108 of the Alameda County General Code be amended to read as follows:

Chapter 6.108 – Medical Marijuana Dispensaries. Delivery Operations and Edibles

6.108.010 - Purpose and intent.

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

(Ord. 2005-52 § 2 (part); Ord. 2005-25 § 2 (part))

6.108.020 - Definitions.

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

- A. "Applicant" means a person who shall seek a permit under this chapter by filing an application as provided for in this chapter. "Application" means that form provided by the ~~directorsheriff~~ in accordance with this chapter for the purpose of seeking a permit.
- B. "Bureau" or "BMCR" means the Bureau of Medical Cannabis Regulation within the California Department of Consumer Affairs.
- C. "Cannabis" or "Marijuana" shall have the same definition as in Business and Professions Code section 19300.5(f), which defines "cannabis" as all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" also means marijuana as defined by Section 11018 of the California Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For purposes of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.
- D. "Cannabis concentrate" or "Concentrate" shall have the same definition as in Business and Professions Code section 19300.5(g), which defines "cannabis concentrate" to mean manufactured cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this chapter. A cannabis concentrate is not considered food, as defined by Section 109935 of the California Health and Safety Code, or a drug, as defined by Section 109925 of the California Health and Safety Code.
- E. "Community Development Agency" means the community development agency of the County of Alameda.
- G. "County" means the county of Alameda.
- H. "Cultivate" or "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of medical cannabis.

- I. "Delivery" means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined by the Bureau of Medical Cannabis Regulation or, until the BMCR establishes an allowed amount, the amount allowed by California Health and Safety Code Section 11362.77, to a primary caregiver or qualified patient as defined in Section 11362.7 of the California Health and Safety Code, or a testing laboratory. "Delivery" also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed by the BMCR, that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.
- J. "Delivery Operator" means a person holding a permit under this Chapter to engage in the delivery of medical cannabis or medical cannabis products.
- K. "Director" means the director of the Community Development Agency or his designee.
- L. "Dispensing" means any activity involving the retail sale of medical cannabis or medical cannabis products from a dispensary.
- M. ~~"Medical marijuana dispensary" or "dispensary"~~ means any premises facility where medical cannabis, medical cannabis marijuana products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to Business and Professions Code Section 19340, medical cannabis and medical cannabis products as part of a retail sale is made available and/or distributed under the authority of the California Compassionate Use Act, the Medical Marijuana Program Act, or the California Medical Cannabis Regulation and Safety Act and as regulated by this chapter; provided, however, that the following facilities are exempt from the requirement of a permit:
1. A clinic that is licensed under Chapter 1 of Division 2 of the California Health and Safety Code.
 2. A health care facility that is licensed under Chapter 2 of Division 2 of the California Health and Safety Code.
 3. A residential care facility for persons with chronic life-threatening illness that is licensed under Chapter 3.01 of Division 2 of the California Health and Safety Code.
 4. A residential care facility for the elderly that is licensed under Chapter 3.2 of Division 2 of the California Health and Safety Code.
 5. A residential hospice or a home health agency that is licensed under Chapter 8 of Division 2 of the California Health and Safety Code.
- N. "Distribution" means the procurement, sale, and transport of medical cannabis and medical cannabis products between entities licensed pursuant to Chapter 3.5 of the California Business and Professions Code.
- O. "Edible cannabis product", "Edible" or "Edibles" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the California Food and Agricultural Code. An edible medical cannabis product is not considered food, as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code. ~~"State" means the state of California.~~

- PG.** "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.
- QD.** "Identification card" has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended.
- R.** "Labeling" means any label or other written, printed, or graphic matter upon a medical cannabis product, or upon its container or wrapper, or that accompanies any medical cannabis product.
- S.** "Manufactured cannabis" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.
- T. E.**—"Medical cannabis," "medical cannabis product," or "cannabis product" means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code. For the purposes of this chapter, "medical cannabis" does not include "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.
- U.** "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of medical cannabis.
- VF.** "Permit" means a permit issued by the county to a medical ~~cannabismarijuana~~ dispensary or delivery operator under this chapter. "Permittee" means a person who holds an effective and current permit under this chapter.
- WE.**—"Person" means any human being or an incorporated or unincorporated business entity or association established under the laws of the state.
- XH.** "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 has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended. Until such time as the state implements a program for issuance of identification cards under Section 11362.7 of the California Health and Safety Code throughout California, any identification card issued under the authority of the state or a local agency in California shall be deemed to comply with this section.~~
- YI.** "Premises" means the building in which a medical ~~cannabismarijuana~~ dispensary is operated and, in addition, any accessory structures and appurtenant areas.
- Z.** "Primary caregiver" means the individual, designated by a qualified patient or a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, and may include those persons identified in subdivision (e) of Section 11362.5 of the California Health and Safety Code, as it may be amended.
- AA.** "Qualified patient" means a person who is entitled to the protections of Section 11362.5 of the California Health and Safety Code, but who does not have an identification card issued pursuant to Article 2.5 of the California Health and Safety Code.
- BB.** "School" means an institution of learning for minors, whether public or private, that offers a regular course of instruction ~~and any child or day care facility.~~

CCJ. "Sheriff" means the sheriff of the county of Alameda and his or her authorized representatives.

DD. "State" means the state of California.

~~K. "Primary caregiver" has the same definition as in Section 11362.5 of the California Health and Safety Code, as it may be amended.~~

~~L. "Qualified patient" has the same definition as in Section 11362.5 of the California Health and Safety Code, as it may be amended.~~

~~M. "School" means an institution of learning for minors, whether public or private, that offers a regular course of instruction and any child or day care facility.~~

(Ord. 2005-52 § 2 (part); Ord. 2005-25 § 2 (part))

6.108.030 — Dispensary ~~p~~Permit required.

- A. It shall be unlawful for any person to conduct, engage in or allow to be conducted or engaged in, the operation of a medical ~~cannabismarijuana~~ dispensary in the unincorporated portion of Alameda County, unless such medical ~~cannabismarijuana~~ dispensary has been granted a legally effective permit issued under this chapter. Notwithstanding the above, the permits issued under this chapter do not provide any protection or immunity for any person from state or federal laws, or from prosecution pursuant to any applicable state or federal laws.
- B. The owner, managing partner, officer of a corporation or such other person who shall be primarily responsible for the operation of a proposed medical ~~cannabismarijuana~~ dispensary shall apply for a permit under this chapter and, if granted, shall maintain the operation of the medical ~~cannabismarijuana~~ dispensary in conformity with the terms of this chapter and of the permit.
- C. The fact that an applicant possesses other types of state or county permits or licenses other than those identified in Section 6.108.020 shall not exempt the applicant from obtaining a permit under this chapter, nor shall the terms and conditions of any other such permit or license modify the requirements of a permit granted under this chapter.

OPTION NO. 1:

- D. At no time shall the county have in effect more than ~~six three~~ permits, ~~which shall not consisting of exceed~~ a maximum of ~~two one~~ permits in ~~any one each~~ of the areas shown in Exhibit A (West County) or in Exhibit B (East County) at the end of this chapter ~~but in no event shall the total number of permits for all areas shown in Exhibit A (West County) exceed four or the total number of permits for all areas shown in Exhibit B (East County) exceed two.~~ No permit shall be issued in any portion of the unincorporated area that is not within one of the areas delineated in Exhibit A ~~or Exhibit B.~~

OPTION NO. 2:

- D. At no time shall the county have in effect more than ~~six three~~ permits, ~~consisting of a maximum of one permit in each of the areas shown in Exhibit A at the end of this chapter.~~ No permit shall be issued in any portion of the unincorporated area that is not within one of the areas delineated in Exhibit A (West County) and Exhibit B (East County) at the end of this chapter. ~~At no time shall the number of permits issued exceed a total of four for all areas shown in Exhibit A (West County) or more than one for each individual area shown in~~

Exhibit A (West County), which includes Unincorporated Ashland, Unincorporated Cherryland, and Unincorporated San Lorenzo, as those areas are more accurately defined in the Eden Area General Plan, adopted March 2010, and Unincorporated Castro Valley, as that area is more accurately defined in the Castro Valley General Plan, adopted March 2012. At no time shall the number of permits exceed a maximum of two permits in all areas shown in Exhibit B (East County) at the end of this chapter.

E. Notwithstanding subsection D of this section, each medical ~~cannabis~~marijuana dispensary shall comply with all zoning requirements in Title 17 of the Alameda County General Code and Alameda County Measure D (Save Agriculture and Open Space Lands), including the requirement to obtain any conditional use permits, and shall also meet all of the following locational standards:

1. No dispensary may be closer than ~~six hundred one thousand~~ (1,0600) feet from any other dispensary.
2. No dispensary may be closer than ~~six hundred one thousand~~ (1,0600) feet from any school, ~~child or day care facility~~, public park or playground, drug recovery facility or recreation center.
3. ~~No Each~~ dispensary shall be located in a ~~residential commercial or industrial~~ zone or ~~its~~their equivalent.

F. ~~The county has the ability to reduce the location requirement as it applies to schools by fifteen (15) percent upon a finding that the dispensary would not endanger the health and safety of students.~~

(Ord. 2005-52 § 2 (part): Ord. 2005-25 § 2 (part))

6.108.035 – Delivery permit required.

A. It shall be unlawful for any person, including a legally permitted medical cannabis dispensary, to conduct, engage in or allow to be conducted or engaged in the delivery of medical cannabis or medical cannabis products in the unincorporated portion of Alameda County, unless such person has been granted a legally effective delivery permit issued under this chapter. Notwithstanding the above, the permits issued under this chapter do not provide any protection or immunity for any person from state or federal laws, or from prosecution pursuant to any applicable state or federal laws.

B. The owner, managing partner, officer of a corporation or such other person who shall be primarily responsible for the operation of a proposed medical cannabis delivery operation shall apply for a permit under this chapter and, if granted, shall maintain the operation of the medical cannabis delivery operation in conformity with the terms of this chapter and of the permit.

C. The fact that an applicant possesses other types of state or county permits or licenses shall not exempt the applicant from obtaining a delivery permit under this chapter, nor shall the terms and conditions of any other such permit or license modify the requirements of a permit granted under this chapter.

D. A medical cannabis delivery permit shall be issued only to a "brick and mortar" dispensary holding a valid license or permit to dispense medical cannabis issued by the State of California or by a California city, county, or city and county. Mobile dispensaries that do not have a permanent physical dispensary location (a "brick and mortar" dispensary) are not eligible for and shall not be issued a delivery permit.

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

6.108.040 - Term of permits and renewals.

A. Each dispensary permit shall expire two years after the date of its issuance. The term of each delivery permit shall run concurrent with the term of the delivery permit holder's dispensary permit, but in no event longer than two years after the date of its issuance. Any permit may be renewed by the ~~director~~sheriff for successive two-year periods upon the submission of an 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, in addition, the HCSA may review and revise the mission statement of the dispensary in accordance with the requirements of Sections 6.108.090 and 6.108.100.

B. ~~Notwithstanding subsection A of this section, any permit shall expire upon the effective date of an ordinance that provides for the operation of a medical marijuana dispensary by the county, whether as a county facility or under contract with the county.~~

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

~~C.D.~~ 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.

(Ord. 2005-25 § 2 (part))

6.108.050 — Dispensary permit ~~a~~Application ~~and~~, renewal ~~and~~ revocation procedures.

A. When one or more dispensary permits authorized by Section 6.108.030 is available for award, ~~t~~The ~~director~~will~~sheriff~~ shall initiate an application process upon receipt of an application to solicit applications for the establishment of a dispensary within an area where a dispensary could be established based upon the provisions of ~~subsection D of~~ Section 6.108.030.

B. Each application for the establishment of a dispensary or renewal of an existing dispensary permit shall be filed with the ~~director~~sheriff and the ~~director~~sheriff shall be responsible for administering the application solicitation and renewal application processes as set forth in this chapter.

C. The ~~director~~board of supervisors shall, ~~by resolution,~~ adopt such forms and procedures as are necessary to implement this chapter with respect to the initial selection, future selection, renewal, revocation and suspension of permits.

- D. Wherever this chapter requires the county to give notice to an applicant, appellant or permittee, such notice shall be given by the ~~director~~ sheriff, in writing, and shall be delivered either by personal delivery or by certified U.S. mail, postage prepaid, return receipt requested. In addition, any such notice shall be posted at the address of the dispensary on the date of the mailing of notice.
- E. No person or facility that purports to have distributed ~~or delivered cannabis~~ marijuana 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. ~~Other than specifically provided in Section 6.108.080, no preference shall be given to any applicant due to an existing or prior operation of such a facility.~~

(Ord. 2005-25 § 2 (part))

6.108.060 - Contents of dispensary permit application.

- A. In response to a solicitation for applications initiated by the director. ~~Each application for a dispensary permit~~ shall set forth or incorporate by reference the following information in a standard form adopted by the ~~director~~ board of supervisors:
1. Address of the proposed dispensary and the name and address of the owner of the premises.
 2. The full name, date of birth, social security number, present address and telephone number of the applicant.
 3. The address to which notice of action on the application is to be mailed.
 4. All residential addresses of the applicant for the five years immediately prior to the date of the application.
 5. Written proof that the applicant is eighteen (18) years of age or older (i.e., California driver's license, California identification card or birth certificate).
 6. The height and weight and the color of eyes and hair of the applicant.
 7. Photographs of the applicant for identification purposes to be taken by the sheriff.
 8. The names and addresses of all businesses operated by and the employment of the applicant for the five years immediately prior to the date of the application.
 9. The address of any dispensaries that had previously been operated by the applicant and a statement of whether the authorization for any such operation had been revoked or suspended and, if so, the reason therefor.
 10. The names and telephone numbers of the person or persons to be regularly engaged in the operation of the proposed dispensary, whether an employee, volunteer or contractor. The application shall also identify those persons, including telephone numbers (i.e., emergency contact), having management and supervisory responsibilities for the proposed dispensary. Every person listed as owner, manager, supervisor or employee must submit fingerprints and other necessary information for a background check to the Alameda County sheriff's office, and be photographed for identification purposes. In addition, any new employees, independent contractors, other persons and/or volunteers who will work at the proposed medical ~~cannabis~~ marijuana dispensary must submit their information to the sheriff's office within five days prior to their employment.

11. A security plan containing a detailed description of the proposed security arrangements for insuring the safety of persons from theft and robbery and protection of the premises from theft and burglary. The security plan shall be approved by the Sheriff, and shall include a lighting plan showing existing and proposed exterior premises and interior lighting levels, alarms and security surveillance cameras. Security video shall be maintained for 30 business days and shall be made available to the Sheriff upon request. The video system for security cameras must be located in a locked, tamper-proof compartment. A professionally monitored robbery alarm system shall be installed and maintained in good working condition. The security plan shall include the provision of a suitable locked safe on the premises for after-hours storage of medical cannabis.
12. A floor plan, consisting of a sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the dispensary. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus twelve (12) inches. The dispensary must have a lobby waiting area at the entrance to receive clients, and a separate and secure designated area for dispensing medical cannabis to qualified patients or designated caregivers. The primary entrance shall be located and maintained clear of barriers, landscaping or similar obstructions so that it is clearly visible from public streets, sidewalks, or site driveways.
13. A description of external appearance of the dispensary, including a precise depiction of any signage, which shall not obstruct the entrance or windows of the dispensary. All signage shall comply with the County Zoning Ordinance and be approved by the director.
14. A description of products to be sold or dispensed by the dispensary.
15. The mission statement of the dispensary with respect to meeting the medical needs of patients in its area, as delineated by subsection D of Section 6.108.030.
16. A description of the methods by which the applicant will mitigate any potentially adverse impacts, such as loitering, odors or noise, on surrounding property owners. The dispensary shall be designed to provide sufficient odor absorbing ventilation and exhaust systems to that any odor generated inside the dispensary is not detected outside the building in which it operates, on adjacent public rights-of way, or within other units located within the same building as the dispensary if it occupies only a portion of the building.
17. Authorization for the county, its agents and employees to seek verification of the information contained in the application.
18. Written certification that the applicant has reviewed and understands and accepts the standard conditions that are set forth in Section 6.108.120.
19. Certification, under penalty of perjury, that all the information contained in the application is true and correct.
20. A statement by the applicant that it has the ability to comply with all laws regulating businesses in the state of California and that it shall maintain compliance during the term of the permit.
21. An operating plan specifically describing how the dispensary will operate consistent with State and local law, including but not limited to: the minimum staffing levels for operation of the dispensary, policies and procedures for record keeping, specific details

of the dispensary's track and trace program, specific details of the dispensary's product testing, and other relevant information regarding the operation of the proposed dispensary and including a copy of the dispensary's labor peace agreement when the dispensary is required by California Business & Professions Code Section 19322(a)(6) to enter into or abide by a labor peace agreement.

- B. The filing of an application shall be deemed complete upon the submission of an application in conformance with this section and payment of the application fees required by Section 6.108.070.
- C. An application may be reviewed and copied by any member of the public in accordance with the California Public Records Act.

(Ord. 2005-52 § 2 (part); Ord. 2005-25 § 2 (part))

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

A. The owner, managing partner, officer of a corporation of a licensed or permitted medical cannabis dispensary or such other person who shall be authorized by the licensed or permitted medical cannabis dispensary may apply for a delivery permit or for renewal of a delivery permit under this chapter and, if granted, shall maintain the operation of the medical cannabis delivery operation in conformity with the terms of this chapter and of the permit.

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

C. The filing of an application for a delivery permit or renewal of a delivery permit shall be deemed complete upon the submission of an application in conformance with this section and payment of the application fees required by Section 6.108.070.

D. An application may be reviewed and copied by any member of the public in accordance with the California Public Records Act.

6.108.070 - Fees.

- A. Every application or renewal of a dispensary or delivery permit shall be accompanied by a nonrefundable fee, as established by the board of supervisors, in order to reimburse the county for the cost of reviewing and acting upon the application.
- B. In addition, each dispensary and delivery operator shall pay an annual fee, as established by the board of supervisors, for the administration of the permit, including monitoring and enforcing compliance with terms of the permit.
- C. The board of supervisors may enact such other fees as may be necessary to recover the county's costs of inspection and corrective actions in relation to dispensaries and delivery operations.
- ~~D. The board of supervisors may enact fees to be paid to schools located in the three areas where dispensaries are permitted for reimbursement for drug and alcohol treatment and education for students.~~

(Ord. 2005-25 § 2 (part))

~~6.108.080 - Selection of permittees.~~

- ~~A. Each of the medical marijuana dispensaries that is identified in Exhibit B at the end of this chapter shall be allowed to file an application not later than one hundred twenty five (125) days after the effective date of this chapter. At the time of filing such application the applicant is to provide notice of such application to all neighboring business and/or residences within one thousand (1,000) feet of the proposed dispensary. All such applications shall be acted upon in accordance with the procedures set forth in this chapter. No other application may be considered until all of the medical marijuana dispensaries listed in Exhibit B have either been issued or denied a permit or have otherwise failed to qualify for a permit.~~
- ~~B. For each dispensary that is identified in Exhibit B, no finding shall be made that the dispensary is in violation of this chapter until the earliest of any of the following dates:~~
- ~~1. Upon one hundred twenty five (125) days following the effective date of this chapter, no application has been filed for the operation of the dispensary.~~
 - ~~2. Upon failure to submit an application by an existing dispensary or denial of an application that was timely filed for operation of the dispensary and rejection of all appeals of the denial by the applicant.~~
 - ~~3. Issuance of an order of suspension or revocation by the county under Section 6.108.160.~~
 - ~~4. Upon the effective date of an ordinance that provides for the operation of a medical marijuana dispensary by the county, whether as a county facility or under contract with the county.~~
- ~~C. After conclusion of all actions on all applications filed under subsection A of this section, the sheriff shall accept applications and conduct a selection process in accordance with Section 6.108.030.~~

~~(Ord. 2005-52 § 2 (part); Ord. 2005-25 § 2 (part))~~

6.108.090 - Initial review of application.

- A. The ~~director~~sheriff shall commence review of any application immediately upon its filing and shall complete such initial review within the time period established in the solicitation process for dispensary permits, but in no event shall the initial review exceed one hundred and twenty (120) days, and within forty-five (45) days for delivery permits, delivery permit renewal applications, and dispensary renewal applications thirty (30) days. In conducting this review, the following county agencies shall comment on specific portions of the application:
1. The sheriff shall be responsible for verifying factual information in the application, including names, addresses and other information on the applicant operator and its employees of the proposed dispensary or delivery operation.
 2. The sheriff shall comment upon the adequacy of security measures that are described in the application, the security plan, the floor plan, and other relevant aspects of the application.

3. The community development agency shall comment upon the proposed location's compliance with the requirements of subsections D and E of Section 6.108.030 and conditions that are needed to mitigate adverse impacts on surrounding uses.

4. The health care services agency shall comment upon the services to be provided and the mission statement set forth in the application.

5. The environmental health services agency shall comment upon the application's compliance with the requirements of Section 6.108.230.

B. Within twenty (20)~~ten~~ business days after the filing of an application, the director~~sheriff~~ 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~~sheriff~~ shall notify the applicant of the results of the initial review of the application.

(Ord. 2005-25 § 2 (part))

6.108.100 - Action upon completion of initial review.

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

1. The proposed dispensary or delivery operation does not comply with requirements of this chapter.

2. The applicant has knowingly made a false statement of material fact or has knowingly omitted a material fact from the application.

3. The operation of the proposed dispensary at the proposed location is prohibited by any state or local law or regulation.

4. Any person who is listed on the application pursuant to subsection (A)(10) of Section 6.108.060 or subsection (A)(10) of Section 6.108.065 has been convicted of a felony or a drug related misdemeanor reclassified by Section 1170.18 of the California Penal Code (Proposition 47) within the past ten (10) years. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

5. The applicant or the operator listed in the application is less than eighteen (18) years of age.

6. The health care services agency has determined that the application for a dispensary has failed to state a health care purpose that fulfills the purposes of Section 11362.5 et seq. of the California Health and Safety Code.

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.

(Ord. 2005-25 § 2 (part))

6.108.110 - Final selection of medical cannabis~~marijuana~~ dispensaries.

- A. The final selection phase of the solicitation process shall be comprised of selection of which eligible applications shall be submitted for final selection and the establishment of operating conditions of any permits issued under this chapter. The final selection process shall not exceed one hundred and twentythree (30120) days in the absence of an appeal.
- B. The final selection process for dispensaries shall commence with the separation of all eligible applications into the areas that are delineated in subsection D of Section 6.108.030. If an area has a number of eligible applications that is the same as or less than the allowable number of medical cannabismarijuana dispensaries for such area, then all applications for that area shall be submitted for establishment of operating conditions as set forth in subsection C of this section. If any area has a number of eligible applications that exceeds the maximum number of dispensaries for such area, the eligible applications to be submitted for final selection shall be designated by a competitive evaluation process in which applicants are scored and ranked with the director recommending issuance of a permit to the highest ranked, eligible applicants in each geographic area where dispensary permits are available~~drawing or other method that ensures that each eligible application has an equal chance of being selected for the area.~~
- C. The sheriff ~~and~~, the ~~director~~community development agency and the health care services agency shall establish operating conditions, in addition to the standard conditions contained in Section 6.108.120 for dispensaries and in Section 6.108.120 for delivery operations, for each eligible application that has been submitted for final review. The operating conditions shall be limited to those that are necessary to carry out the purposes of this chapter ~~and~~, to mitigate specific and foreseeable adverse impacts on properties in the vicinity ~~and to achieve the mission statement in the application.~~
- D. At the conclusion of the final selection, the ~~director~~sheriff shall give notice to the dispensary permit applicant of the operating conditions that would attach to the permit. Within ten days after notice, the applicant shall either:
 - 1. Certify acceptance of the operating conditions and the standard conditions of the permit, and the permit shall thereupon issue immediately.
 - 2. If the applicant refuses or fails to certify agreement with any operating condition or standard condition, the application shall be denied. The applicant may appeal any condition within ten days after notice of the conditions. Upon either the failure to file a timely appeal or the rejection of the appeal, the application shall be deemed denied.
- E. The operating conditions established by the director shall include the requirement for each eligible applicant to obtain (1) any required state permits or licenses for the operation of a dispensary and delivery operation, if applicable, and (2) all land use entitlements required to operate a dispensary and delivery operation, if applicable. No dispensary or delivery permit shall be effective until these conditions of approval are satisfied.

(Ord. 2005-25 § 2 (part))

6.108.120 - Standard conditions for medical cannabis dispensaries.

- A. Throughout the term of the medical cannabis dispensary permit, each permittee shall not violate this chapter and shall comply with the following standard conditions:
 - 1. It shall be a violation of this chapter for a dispensary to distribute, provide or allow to be provided cannabismarijuana to any person except those persons who are primary caregivers or qualified patients who are in possession of an identification card which is

in compliance with the regulations established by the California Department of Health or health care services agency or have a verifiable written recommendation from a licensed physician for medical cannabis. All distribution that does not strictly comply with Section 11362.5 of the California Health and Safety Code and the terms of the permit and this chapter is prohibited. It shall be the responsibility of the permittee to ensure that a good faith effort be made to verify the validity of any identification card and written recommendation provided to the dispensary.

2. Each dispensary shall maintain records of persons who have received ~~cannabismarijuana~~ from the dispensary. These records shall set forth only the identification card number issued pursuant to California Health and Safety Code Section 11362.71 et seq., as a protection of the confidentiality of the cardholders or a copy of such documentation that authorizes such distribution under this chapter.
3. No dispensary shall be open for business between the hours of 12:00 a.m. and 9:00 a.m. or between the hours of 9:00 p.m. and 11:59 p.m. on any day. Additionally, to avoid conflict with the travel of students to and from the school, no dispensary located within one thousand (1,000) feet of any school shall be open during the one and one-half hour period immediately following the cessation of classes. No activities that are undertaken in the operation of the dispensary shall be conducted outside the interior premises of the dispensary.
4. Unless and until a local and state nursery or cultivation license or permit has been issued for the dispensary location, cannabisMarijuana may not be grown or cultivated on the premises. It shall be a violation of this chapter if at any time the amount of marijuana on the premises exceeds the lesser of:
 - a. ~~An amount of marijuana equal to eight ounces per qualified patient, primary caregiver and person with an identification card who has received marijuana from the dispensary during the previous thirty (30) calendar days, or~~
 - b. ~~A total of twenty (20) pounds of marijuana.~~

A dispensary shall actively regulate and monitor its purchasing limits, such that no qualified patient is permitted to purchase in excess of eight ounces of cannabis in any calendar month.
5. No ~~cannabismarijuana~~ shall be smoked, ingested or otherwise consumed on the premises of a dispensary, provided that ingestion by a vaporization device may be authorized in writing by the health care services agency.
6. A dispensary shall ensure that~~label~~ its products are in tamper-evident packages and labeled as required by California Business and Professions Code Section 19347, regulations established by the BMCR, and requirements of the California Department of Food and Agriculture and by stating the name of the dispensary and the weight of cannabis. Any edible cannabis product ~~feed products~~ must be contained in a package that is labeled to indicate the ingredients, including the amount of cannabis contained in the package, identify the product, state who is responsible for the product, and such other information as may be required by state or local law.
7. Medical cannabis may be provided by a dispensary in an edible form, provided that the edibles meet all applicable state and county requirements, including but not limited to the provisions in Section 6.108.230.
8. No person who is less than eighteen (18) years of age may be employed or otherwise engaged in the operation of the dispensary. No person under the age of eighteen (18)

shall be allowed on the premises. It shall be unlawful for any dispensary to provide medical cannabis to any person under the age of eighteen (18) unless that person is a qualified patient or a primary caregiver with a valid identification card in accordance with California Health and Safety Code section 11362.7 or have a verifiable written recommendation from a licensed physician for medical cannabis.

98. The entrance to a dispensary shall be posted with a notice that states the restrictions on the presence of persons under the age of eighteen (18) and that smoking, ingesting or consuming ~~cannabis~~marijuana on the premises is prohibited. In addition, each dispensary shall conspicuously display the permit.

109. No dispensary may hold a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, nor may it include a business that sells alcoholic beverages. No alcohol may be stored, sold, dispensed or used on the premises.

110. Each permittee shall maintain a current registry of persons, including, but not limited to, employees, contractors and volunteers, who are engaged in the operation of the dispensary. The registry shall be provided to the director and the sheriff at any time upon request. The registry shall include the name, current residential address, telephone number, date of birth and the height, weight and color of eyes and hair of each such person.

124. No person who has been convicted of a felony or a drug related misdemeanor reclassified by Section 1170.18 of the California Penal Code (Proposition 47) within the past ten years may be actively engaged in the operation of any dispensary. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

132. A dispensary shall provide adequate security on the premises, including lighting and alarms, to insure the safety of persons and to protect the premises from theft.

143. The permittee shall provide the director~~sheriff~~ with the name, telephone number and facsimile number of a community relations contact to whom one can provide notice of problems associated with the dispensary. The permittee shall make a good faith effort to resolve problems without the need for intervention by the county.

154. A dispensary shall provide litter removal services twice each day of operation on and in front of the premises and, if necessary, on public sidewalks within one hundred (100) feet of the premises.

165. A dispensary shall comply with county building, zoning and health codes, and shall allow inspections to ensure conformance with such regulations.

176. A dispensary shall not be delinquent in the payment of fees required by this chapter.

187. All activities of the dispensary must take place within the interior of the building ~~and not be visible from the street. A dispensary may not cover or alter the windows or building doors to comply with this requirement.~~

198. A dispensary must have appropriate restroom facilities that will accommodate both male and female customers.

20. A dispensary shall ensure that a representative sample of its Cannabis and Cannabis Products have been submitted for analytical testing at a licensed testing laboratory, as defined in Business and Professions Code section 19300.5(ak), before the Cannabis and Cannabis Products are delivered to the dispensary.

21. A dispensary shall package all cannabis flowers sold on its premises in child resistant packaging.

22. A dispensary shall implement a track and trace program with a unique identifier for every product, both for inventory stored in a safe and inventory packaged for sale, pursuant to Section 11362.777 of the California Health and Safety Code and in compliance with Section 19335 of the California Business and Professions Code and all applicable regulations.

23. A dispensary shall use devices that meet the standards of the California Department of Food and Agriculture's Division of Measurement Standards for all weighing and measuring devices, including but not limited to scales and scanners; register with Alameda County Sealer of Weights of Measures; allow inspections and sealing of all weighing and measuring devices, including scanners or POS systems; and comply with all other requirements in Division 5 of California Business and Professions Code related to weights and measures, Title 4 Division 9 of the California Code of Regulations, and any relevant Alameda County ordinance.

24. No dispensary shall (a) enter into any agreement or employ a physician for the purpose of evaluating patients for the issuance of a medical marijuana recommendation or identification card; (b) allow a physician to locate on the dispensary premises at any time for the purpose of issuing a medical marijuana recommendation or identification card; (c) give or offer to give any form of remuneration to a physician if the physician or his or her immediate family have a financial interest (as that term is defined in California Business and Professions Code section 650.01) in the dispensary; and (d) not distribute any form of advertising for physician recommendations for medical cannabis in California unless the advertisement bears the notice to consumers contained in California Business and Professions Code section 2525.5.

25. Each dispensary shall fully comply with the terms of its approved security plan, floor plan and operating plan.

- B. In order to minimize any adverse impacts on surrounding properties or residents, the standard operating conditions that are set forth in this section may be modified upon the issuance of the permit or upon ten days' notice during the term of the permit.**
- C. During the term of each permit, the county shall require the permittee to comply with the standard operating conditions that are set forth in this section or as they may be modified in accordance with subsection B of this section and, in addition, any such operating conditions that may be established pursuant to subsections C and D of Section 6.108.110.**
- D. At any time during the operation of a dispensary and without notice, the director or sheriff, acting in conjunction with other appropriate county officials, may enter the premises for the purpose of observing compliance of the dispensary with the conditions of its permit.**
- E. Release of the county from liability. The owner and permittee of each dispensary and delivery operation shall release the county, and its agents, officers, elected officials, and employees from any injuries, damages, or liabilities of any kind that result from any arrest or prosecution of dispensary or delivery operator owners, operators, employees, or clients for violation of state or federal laws in a form satisfactory to the director.
- F. County indemnification. The owners and permittee of each dispensary and delivery operator shall indemnify and hold harmless the county and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by adjacent or nearby property owners or other third parties due to the operations at the dispensary or by the

delivery operator, and for any claims brought by any of their clients for problems, injuries, damages or liabilities of any kind that may arise out of the distribution, delivery and/or on- or off-site use of cannabis provided at the dispensary or delivered by the delivery operator in a form satisfactory to the director.

(Ord. 2005-52 § 2 (part): Ord. 2005-25 § 2 (part))

6.108.125 - Standard conditions for delivery operations.

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

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

7. No person who is less than eighteen (18) years of age may be employed or otherwise engaged in the delivery of medical cannabis.
8. It shall be unlawful for any delivery operation to provide medical cannabis to any person under the age of eighteen (18) unless that person is a qualified patient or a primary caregiver with a valid identification card in accordance with California Health and Safety Code section 11362.7 or have a verifiable written recommendation from a licensed physician for medical cannabis.
9. Each permittee shall maintain a current registry of persons, including, but not limited to, employees, contractors and volunteers, who are engaged in delivery operations. The registry shall be provided to the director and sheriff at any time upon request. The registry shall include the name, current residential address, telephone number, date of birth and the height, weight and color of eyes and hair of each such person. Every person listed as owner, manager, supervisor or employee must submit fingerprints and other necessary information for a background check to the Alameda County sheriff's office, and be photographed for identification purposes. In addition, any new employees, independent contractors, other persons and/or volunteers who will work at or for the delivery operation must submit their information to the sheriff's office within five days prior to their employment.
10. No person who has been convicted of a felony or a drug related misdemeanor reclassified by Section 1170.18 of the California Penal Code (Proposition 47) within the past ten years may be actively engaged in delivery operations. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
11. Delivery vehicles shall not include signage or markings that identify the vehicle.
12. Delivery operators shall provide adequate security for their delivery personnel and vehicles, to insure the safety of persons and to protect the vehicle operators from theft.
13. The delivery permit holder will satisfy the release of liability and County indemnification requirements in subdivision E and F of Section 6.108.120.

6.108.130 - Appeal from administrative determinations.

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

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

(Ord. 2005-25 § 2 (part))

6.108.140 - Administrative review of appeal.

- A. Within thirty (30) days after the filing of an appeal of an administrative determination, the directorsheriff 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 directorsheriff 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.

(Ord. 2005-25 § 2 (part))

6.108.150 - Hearing by the board of supervisors.

- A. Within ninetythirty (~~30~~) 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.

(Ord. 2005-25 § 2 (part))

6.108.160 - Suspension and revocation.

- A. The sheriff or the director may initiate the revocation or suspension of a permit when it shall appear that the permittee has committed any of the following actions:

1. Violates the operating or standard conditions of the permit or the requirements of state or local laws.
 2. Fails to take reasonable measures to control disturbances, loitering or such other problems on the premises.
- B. No permit shall be revoked or suspended by virtue of this section until a hearing has been held in the same manner as described in Sections 6.108.140 and 6.108.150. Notice of the hearing shall contain a brief statement of the grounds for revoking or suspending the permit and the time and date for the hearing.
 - C. The decision of the administrative panel may include suspension, revocation or the modification of the permit by adding conditions that are designed to reduce or remove the problems that caused the proposed revocation or suspension of the permit.
 - D. Within ten days after conclusion of the hearing of the appeal by the administrative panel, the ~~sheriff~~director shall give notice of the decision of the panel.
 - E. Any appellant may appeal the determination of the administrative panel to the board of supervisors within ten days after the date of the notice of the decision of the administrative panel. The board of supervisors shall act upon the appeal in accordance with Section 6.108.150.

(Ord. 2005-25 § 2 (part))

6.108.170 - Transfer of the permit.

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

(Ord. 2005-25 § 2 (part))

6.108.180 - Prohibited operations.

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

(Ord. 2005-25 § 2 (part))

6.108.190 - Misdemeanor violation.

Any person violating any of the provisions or failing to comply with Section 6.108.120(A)(2)—~~(6), (8)(7)~~ or ~~(119)~~ or Section 6.108.125(A)(4)-(8) of this chapter shall be guilty of a misdemeanor. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter or the permit is committed, continued or allowed in conjunction with the operation of a dispensary and shall be punishable accordingly.

(Ord. 2005-25 § 2 (part))

6.108.200 - Civil injunction.

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

(Ord. 2005-25 § 2 (part))

6.108.210 - Severability.

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

(Ord. 2005-25 § 2 (part))

6.108.220 - Judicial review.

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

(Ord. 2005-25 § 2 (part))

6.108.230 — Sale, Distribution and Dispensing Edibles. ~~Six month review.~~

~~The board of supervisors will conduct a formal review of the ordinance codified in this chapter within six months after its effective date.~~

~~(Ord. 2005-25 § 2 (part))~~

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

A. Preparation of Edibles.

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

B. Packaging and Labeling of Edibles.

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; (b) a warning that the item is a medication containing cannabis and the total weight (in ounces or grams) and amount of Active Ingredients in the package; (c) the date of manufacture; (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-evident and child resistant.

C. Edible Product Log. Producers of edibles that are not 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 facility for the Cannabis.

SECTION 2. That Chapter 6.108 of the Alameda County General Code be amended to delete Exhibit A, including the list of Assessor parcel numbers for each area, and Exhibit B. and to adopt the new Exhibits A and B attached to this Ordinance.

SECTION 3. This ordinance shall take effect and be in force thirty (30) days from and after the date of passage and before the expiration of fifteen (15) days after its passage it shall be published once with the names of the members voting for and against the same in the Inter-City Express, a newspaper published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on the ____ day of _____, 2016, by the following called vote:

AYES:

NOES:

EXCUSED:

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: _____
Name: _____
Title: _____

Exhibit A ~~and Exhibit B~~ — Medical ~~Cannabis~~Marijuana Dispensary Areas
[~~new maps to be provided~~]

Exhibit B
Existing Medical Marijuana Dispensaries

- ~~1. The Health Center (THC), 15998 E. 14th Street, San Leandro, California~~
- ~~2. Alameda County Resource Center (ACRC), 16250 E. 14th Street, Suite B, San Leandro, California~~
- ~~3. We Are Hemp, 913 E. Lewelling Boulevard, Hayward, California~~
- ~~4. Compassionate Caregivers, 16045 E. 14th Street, San Leandro, California~~
- ~~5. A Natural Source, 16360 Foothill Blvd., San Leandro, California~~
- ~~6. Compassionate Collective of Alameda County (CCAC), 21222 Mission Boulevard, Hayward, California~~
- ~~7. Garden of Eden, 21227 Foothill Boulevard, Hayward, California~~

ATTACHMENT 2

ORDINANCE NO. 2016-_____

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

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

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

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

20. The County's General Ordinance Code currently regulates medical cannabis dispensaries, but does not include provisions in the Zoning Ordinance authorizing or regulating land uses for such dispensaries; and
21. The Board of Supervisors has determined that, with appropriate conditions, dispensaries may be appropriately located in certain commercial and industrial districts; and
22. The Board of Supervisors has determined that, although cultivation of medical cannabis shares some similarities with other agricultural activities, and as identified by recent state legislation, cultivation of medical cannabis raises health, safety and welfare concerns not raised by other traditional agricultural products and therefore, medical cannabis is not a permitted agricultural use by right for the purposes of land use and zoning; and
23. The Board of Supervisors has determined that, with appropriate conditions, cultivation of medical cannabis may be an appropriate conditionally permitted use in the agricultural districts and outside of the urban growth boundary established by Measure D; and
24. Accordingly, the Board of Supervisors has determined that, with appropriate conditions, an on-site dispensary accessory to such a permitted cultivation 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" or as a "visitor-serving commercial use"; and
25. The Board of Supervisors acknowledges that regulation of medical cannabis is an evolving field at the state level, as evidenced by the recent adoption and revision of the Medical Cannabis Regulation and Safety Act and the related regulations being drafted by various state agencies that are not expected to be finalized and implemented until 2018. As a result, the field of local regulation is also expected to continue to evolve over the next several years including possible further revisions to the County ordinances, policies and performance standards; and
26. Nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. § 801 *et seq.* or to license any activity that is prohibited under said Act except as mandated by State law; and
27. Nothing in this Ordinance shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) allow the use of cannabis for non-medical purposes; (3) exempt dispensaries or delivery operations from compliance with zoning and land use regulations, or, (4) allow any activity relating to the cultivation, distribution, or consumption of cannabis that is illegal under state or federal law;

SECTION 2

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

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

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

"Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

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

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

17.06.040 - Conditional uses—Board of zoning adjustments.

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

- A. Additional dwellings for persons employed in the agricultural use of subject property and the families of those persons, and/or living quarters for farm laborers, when found by the board of zoning adjustments to be necessary to the farming operation;
- B. Outdoor recreation facility;
- C. Animal hospital, kennel;
- D. Killing and dressing of livestock, except when accessory as specified in Section 17.06.050;
- E. Public or private hunting of wildlife or fishing, and public or private hunting clubs and accessory structures;
- F. Packing house for fruit or vegetables, but not including a cannery, or a plant for food processing or freezing;
- G. Flight strip when accessory or incidental to a permitted or conditional use;
- H. Hog ranch;
- I. Drilling for and removal of oil, gas or other hydrocarbon substances;
- J. Radio and television transmission facilities;
- K. Public utility building or uses, excluding such uses as a business office, storage garage, repair shop or corporation yard;

- L. Administrative offices accessory to the principal use on the premises including activities by the same occupancy which are not related to the principal use providing such activities not so related are accessory to the administrative office activity;
- M. Occupancy of one mobile home by persons directly related to an on-site agricultural pursuit on a parcel containing a minimum of one hundred (100) acres where there is no single-family dwelling or on a parcel containing a minimum of two hundred (200) acres where it can be demonstrated that security cannot be obtained by existing single-family dwelling occupancy; provided, however, that no such conditional use permit shall be issued for a period to exceed three years;
- N. Administrative support and service facilities of a public regional recreation district;
- O. Privately owned wind-electric generators;
- P. Remote testing facility;
- Q. Winery or olive oil mill related uses;
- R. Medical cannabis dispensary only where accessory to a cannabis cultivation operation permitted pursuant to Section 17.585 of this Title and Chapter 6.106 of this Code or other Alameda County ordinance regulating the cultivation of cannabis in the unincorporated areas of the county.

Section 17.17.040(A) of the Alameda County General Code, regarding the Sunol Downtown district, is amended to read as follows, while the remainder of Section 17.17.040 shall remain unchanged:

17.17.040 - Conditional uses—Planning commission.

A. In addition to the uses listed in Sections 17.52.480 and 17.52.580, the following are conditional uses in an SD district and may be permitted or expanded if approved by the planning commission as provided in Section 17.54.135 and 17.19.010:

1. Any other uses listed as conditional in the R-1 district, Section 17.08.040, subject to the provisions of that district;
2. Alcohol outlet;
3. Animal hospital;
4. Bank or lending institution;
5. Barber shop/beauty parlor;
6. Bed and breakfast establishment as defined in Section 17.30.170(F)(2)(a);
7. Blue print/copying;
8. Church;
9. Dental laboratory;
10. Events center;
11. Hotel, motel;
12. Indoor recreation facility;
13. Library;
14. Medical cannabis dispensary;
15. Medical clinic;
16. Nursery;
17. Office;
18. Parking lot;
19. Pharmacy;
20. Private clubhouse;
21. Public utility substation;
22. Repair shop;

- 23. Restaurant;
- 24. Retail store;
- 25. Service station Type A;
- 26. Tailor;
- 27. Tavern;
- 28. Theater;
- 29. On any parcel that meets the minimum building site requirement for this district and has frontage on a county road, residential units, up to a maximum density of one unit per each eight thousand (8,000) square feet of lot area of the residential portion of the building site, disregarding any fraction, subject to design review by the planning commission as part of its review of the conditional use permit to ensure consistency with the historic, architectural, and visual context of the downtown Sunol plan area. For purposes of this section, the residential portion of the building site shall be that part of the building site not occupied by commercial uses, including accessory uses such as storage or parking.

[Sections B, C and D remain unchanged]

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

17.38.030 - Conditional uses—Board of zoning adjustments.

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

- A. Community facility;
- B. Animal hospital, kennel;
- C. Clubhouse, or rooms used by members of an organized club, lodge, union or society;
- D. Mortuary;
- E. Commercial recreation facility other than a theater, if within a building;
- F. Storage garage, and storage lots for recreational vehicles and boats;
- G. Theater, drive-in theater;
- H. Drive-in business;
- I. Hotel, motel, boarding house;
- J. Automobile sales lot;
- K. Service station, Type A; or a facility retailing automotive parts and supplies which are installed and serviced on the site but does not include, engine, transmission or differential rebuilding or body repair;
- L. Plant nursery including the sale of landscaping materials, excluding wet-mix concrete sales providing all equipment, supplies, and merchandise other than plant materials are kept within a completely enclosed building;
- M. Tavern;
- N. Massage parlor;
- O. Recycling centers, when operated in conjunction with a permitted use on the same premises;
- P. Advertising signs, provided that no single sign shall be flashing or intermittent, contain moving parts or be located so as to be directed towards lands in any adjacent R district, except pursuant to Section 17.52.515(A)(3) and in conformance with Section 17.54.226;
- Q. In-patient and out-patient health facilities as licensed by the State Department of Health Services;
- R. Tattoo studio;
- S. Alcohol outlet;

- T. Firearms sales;
- U. Beauty school or business school; and
- V. Unattended collection box(es) placed in conjunction with an approved community facility as defined in Section 17.04.010;
- W. Medical cannabis dispensary.

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

17.40.030 - Conditional uses—Board of zoning adjustments.

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

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

Section 17.42.040 of the Alameda County General Code, regarding the Industrial Park district, is amended to read as follows:

17.42.040 - Conditional uses—Board of zoning adjustments.

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

- A. Public utility building or structure, but not including service yard, storage of materials or vehicles, or repair facilities;
- B. Parking lot;

- C. Mobile outdoor business that directly serves the needs of the occupants of existing industrial uses or workers, patrons, or clients of businesses in the immediate vicinity;
- D. Medical cannabis dispensary;
- E. Other uses which are found by the board of zoning adjustments to meet the requirements of Section 17.42.020 of this chapter.

Section 17.44.040 of the Alameda County General Code, regarding the Light Industrial district, is amended to read as follows:

17.44.040 - Conditional uses—Board of zoning adjustments.

In addition to the uses listed in Sections 17.52.480 and 17.52.580, the following are conditional uses in an M-1 district, and shall be permitted only if approved by the board of zoning adjustments, pursuant to Section 17.54.130:

- A. Restaurant, retail store, or shop needed to serve the occupants of existing industrial buildings in the immediate vicinity;
- B. Contractor's or other outdoor storage yard for equipment and supplies, if conducted within an area enclosed by a solid wall or fence;
- C. Animal hospital, kennel;
- D. Storage of liquefied petroleum gas;
- E. Recreation facility, within an enclosed building;
- F. Drive-in theater;
- G. Sale at retail of building materials, or of industrial equipment or machinery;
- H. Concrete or asphalt batching plant;
- I. Advertising sign, provided that no single sign shall exceed three hundred (300) feet in area, and except as regulated by Section 17.52.550, and no sign shall be flashing or intermittent, contain moving parts, or be located so as to be directed towards lands in any adjacent R district;
- J. Service station, Type A and Type B;
- K. Mobile outdoor business that directly serves the needs of the occupants of existing industrial uses or workers, patrons, or clients of businesses in the immediate vicinity;
- L. Medical cannabis dispensary;
- M. Other uses which are found by the board of zoning adjustments as may meet the intent of the district and the requirements of Section 17.44.100 of this chapter.

Section 17.46.030 of the Alameda County General Code, regarding the Heavy Industrial district, is amended to read as follows:

17.46.030 - Conditional uses—Board of zoning adjustments.

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

- A. Restaurant, retail store, or personal service establishment, when necessary to serve the needs of the occupants of existing industrial buildings or employees in the immediate vicinity;
- B. Advertising signs, provided that no single sign shall be flashing or intermittent, contain moving parts or be located so as to be directed towards lands in any adjacent R district, except pursuant to Section 17.52.515(A)(3) and in conformance with Section 17.54.226;
- C. Salvage yards;

- D. Abattoir, stockyard;
- E. Kennel, animal hospital, menagerie (collection of wild or strange animals);
- F. Drive-in theater, amusement park, race track;
- G. Service station, Type A or Type B;
- H. Housemovers storage yard;
- I. Mobile outdoor business that directly serves the needs of the occupants of existing industrial uses or workers, patrons, or clients of businesses in the immediate vicinity;
- J. Medical cannabis dispensary.

Any use excluded from an M-2 district solely by reason of conflict with the performance standards set forth in Section 17.46.080 may, upon application, be considered by the board of zoning adjustments and approved as a conditional use if it finds that, under all the circumstances, including the conditions imposed, the use will be properly located in all respects as specified in Section 17.54.130.

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 _____, 2016, by the following called vote:

AYES:

NOES:

EXCUSED:

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: _____
Name: _____
Title: _____

ATTACHMENT 3

ORDINANCE NO. 2016-_____

AN ORDINANCE AMENDING CHAPTER 6.106 AND TITLE 17 OF THE ALAMEDA COUNTY GENERAL CODE TO IMPLEMENT A PILOT PROGRAM AUTHORIZING AND REGULATING THE CULTIVATION OF MEDICAL CANNABIS IN THE UNINCORPORATED AREA OF ALAMEDA COUNTY

SECTION 1

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

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

8. Pursuant to California Business and Professions Code section 19315(a), nothing in the Medical Cannabis Regulation and Safety Act shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local permit or licensing requirements; and
9. This Ordinance is enacted, consistent with the Compassionate Use Act of 1996, the Medical Marijuana Program Act, and the Medical Cannabis Regulation and Safety Act to protect the public health, safety, and welfare of Alameda County residents in relation to the cultivation of medical cannabis; and
10. 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
11. 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
12. 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
13. Absent appropriate regulation, the cultivation of medical cannabis in the unincorporated area of Alameda County poses a potential threat to the public peace, health, and safety; and
14. 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
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
16. Pursuant to the Medical Cannabis Regulation and Safety Act, the California Department of Food and Agriculture is responsible for promulgating regulations governing commercial cannabis cultivation and issuing cultivation licenses, which are anticipated to become effective in or around the year 2018; and
17. 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

18. 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
19. 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 any take any other actions within its power to protect the health, safety and welfare of County residents.
20. The existing dispensaries operating in the County have demonstrated an ability to operate secure and responsible medical cannabis dispensary establishments and to comply with existing county and state laws concerning the dispensing of medical cannabis; and
21. Expanding the permissible operations of these dispensaries to include 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 one responsible entity at both the beginning and end of the supply chain in a closed-loop, vertically integrated structure; and
22. Nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. §§ 840 et seq. or to license any activity that is prohibited under said Act except as mandated by State law; and
23. 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 cultivation operations from compliance with zoning and land use regulations, or, (4) allow any activity relating to the manufacturing, distribution, or consumption of cannabis that is illegal under state or federal law.

SECTION 2

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

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

"Cannabis" shall have the same definition as in Business and Professions Code section 19300.5(f), which defines "cannabis" as all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the

resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" also means marijuana as defined by Section 11018 of the California Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For purposes of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

"Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

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

17.52.585 Conditional use—Pilot Program for Cultivation of Medicinal Cannabis.

- A. Cultivation of cannabis for medicinal uses shall be permitted as a conditional use in the A, M-P, M-1 and M-2 districts 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 the cultivation of medicinal cannabis established by Chapter 6.106 of this code.
- B. A cultivation permit must be issued in accordance with Chapter 6.106 of this code prior to submission of 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 cultivation permit or license pursuant to Chapter 6.106 or a subsequent ordinance permitting or licensing cultivation and a valid and effective state license permitting cultivation, when such license become available.
- C. 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 cultivation shall issue unless the following additional findings are made by the board of zoning adjustments based on sufficient evidence:
 - 1. The premises are safe and secure;
 - 2. Theft and diversion of cannabis cultivated on the premises is prevented;
 - 3. Artificial light shall not escape structures used for 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 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 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 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.
- 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 Code is hereby amended to read as follows:

17.54.130 - Conditional uses.

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

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

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

Chapter 6.106 of the Alameda County General Code is hereby amended to read as follows:

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.

6.106.020 Definitions.

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

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

- G. "Director" means the director of the Community Development Agency or his designee.
- H. "Manufacture" means the process by which the raw agricultural cannabis product is transformed into a concentrate, an edible product, or a topical product. Manufacturing includes producing, preparing, propagating, or compounding manufactured cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.
- I. "Permitted dispensary" means a facility in possession of a permit issued pursuant to Chapter 6.108 where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, 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, and/or the California Medical Cannabis Regulation and Safety Act and as regulated by chapter 6.108.
- J. "Permit" means a cultivation permit issued by the county to a permitted dispensary to operate a cultivation site under this chapter.
- K. "Permittee" means a person who holds an effective and current permit under this chapter.
- L. "Person" means any human being or an incorporated or unincorporated business entity or association established under the laws of the state.
- M. "Premises" means the parcel or parcels containing a medical cannabis cultivation site, including any buildings, greenhouses, accessory structures and appurtenant areas.
- N. "School" means an institution of learning for minors, whether public or private, that offers a regular course of instruction.
- O. "Sheriff" means the sheriff of the county of Alameda and his or her authorized representatives.
- P. "State" means the state of California.

6.106.030 General Requirements and Program Terms.

- A. A permitted dispensary with a record of good standing with the County for at least one year may apply for a permit to cultivate medical cannabis on a temporary basis until such time as the County adopts a permanent cannabis cultivation ordinance regulating or banning cultivation in the unincorporated County.
- B. The county shall have in effect no more than two cultivation permits throughout the duration of the pilot program.

- C. Each cultivation permit shall expire two years after the date of its issuance.
- D. The fact that an applicant possesses other types of state or county permits or licenses shall not exempt the applicant from obtaining a 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. A cultivation permit shall automatically expire, be suspended or revoked when the permit holder's dispensary permit expires, is suspended or revoked.

6.106.040 Land Use Approval.

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

6.106.050 Contents of cultivation permit application.

- A. Each application for a cultivation permit shall set forth or incorporate by reference the following information:
 - 1. The full name, date of birth, social security number, present address and telephone number of the applicant.
 - 2. Name and location of applicant's permitted dispensary.
 - 3. The address to which notice of action on the application is to be mailed.
 - 4. A statement by the applicant that it has the ability to comply with all laws regulating businesses in the state of California and that it shall maintain compliance during the term of the permit.
 - 5. The names of each person with an ownership interest of more than 10 percent in the proposed cultivation operation.
 - 6. Certification, under penalty of perjury, that all the information contained in the application is true and correct.
 - 7. Authorization for the county, its agents and employees to seek verification of the information contained in the application.
 - 8. The applicant's agreement to hold harmless and indemnify the county from all costs and expenses, including attorney's fees, that the county incurs or that is held to be the liability of the county in connection with the county's defense of its actions in any proceeding challenging the county's actions with respect to the permit or cultivation project.
- B. The filing of an application shall be deemed complete upon the submission of an application in conformance with this section and payment of the application fees required by Section 6.106.080 and any fee schedule adopted by the County.

- C. An application may be reviewed and copied by any member of the public in accordance with the California Public Records Act.

6.106.060 Application review and action.

- A. The director shall commence review of any application upon its filing. Within thirty business days after the filing of an application, the director shall reject any application and so notify the applicant if the application has been improperly completed or if it is incomplete. The applicant may amend and refile the application within thirty days after such rejection.
- B. Upon receipt of a complete application, the director shall approve the application and grant the cultivation permit if each of the following conditions are met:
 - 1. The applicant operates a permitted dispensary;
 - 2. The applicant's permitted dispensary has a record of good standing with the county for at least one year. For the purposes of this section, "good standing" means that the dispensary permit has not been suspended or revoked and that there are no pending proceedings for the suspension or revocation of the dispensary permit.
 - 3. No person who is listed on the application pursuant to subsection (1) or (5) of Section 6.106.060 has been convicted of a felony or a drug related misdemeanor reclassified by Section 1170.18 of the California Penal Code (Proposition 47) within the past ten years. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
 - 4. The applicant or the operator listed in the application is at least eighteen (18) years of age.
- C. Upon receipt of a complete application, the director shall deny the application if one or more of the conditions set forth in subsection (B) above are not met.

6.106.070 Appeal.

- A. An applicant aggrieved by the decisions described in Section 6.106.060 may appeal that decision to the board of supervisors within ten (10) days following the date of issuance of that decision by filing with the clerk of the board of supervisors or the director a notice of appeal specifying the grounds for such appeal. Filing such notice shall stay all proceedings in furtherance of the decision appealed from. The director is designated as an agent of the clerk of the board for purposes of receiving a notice of appeal.
- B. The board of supervisors shall give written notice of the time and place for hearing any appeal filed pursuant this section. Such notice shall be given to the applicant and to the agency which made the order appealed, and to any other person requesting

such notice and depositing with the clerk of the board a self-addressed, stamped envelope to be used for that purpose.

- C. The board of supervisors may hear additional evidence and may sustain, modify, or overrule any order brought before it on appeal pursuant to Section 17.54.670, and may make such findings and decisions as are not inconsistent with state law and county ordinances. The board of supervisors may also remand the decision to the director for reconsideration of his or her decision in light of new information not previously presented to the director. If no motion relative to the order appealed attains a majority vote of the board of supervisors within thirty (30) days from the date of the hearing by said board thereon, said order of the director shall stand sustained and be final.

6.106.080 Fees.

Each applicant shall reimburse the county for all staff costs, any consultant costs and any direct costs attributable to reviewing the application, conducting any required studies, acting upon the application, and verifying and enforcing compliance. The board of supervisors may establish a nonrefundable fee in order to reimburse the county for such costs.

6.106.090 Prohibited operations.

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

6.106.100 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.

6.106.110 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 thirty (30) days after the day the decision becomes final.

6.106.120 Sunset and termination.

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

SECTION 3

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

Adopted by the Board of Supervisors of the County of Alameda, State of California, on the ____ day of _____, 2016, by the following called vote:

AYES:

NOES:

EXCUSED:

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: _____
Name: _____
Title: _____

ATTACHMENT 4

Performance Standards and Standard Conditions for Pilot Program Cultivation Sites.

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

1. **Limited Authorization.** Permittee may conduct activities involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis only at a site approved pursuant to a conditional use permit.
2. **Indoor cultivation only.** All planting, growing, harvesting, drying, curing, grading, or trimming of cannabis must occur within the interior of an enclosed structure, such as a greenhouse. Cannabis must not be visible from the exterior of the premises.
3. **Maximum cultivation area.** The maximum area permitted for growing cannabis plants, including both mature and immature plants, is limited to 22,000 square feet, inclusive, of total canopy size. The canopy includes all areas occupied by any portion of a cannabis plant, inclusive of all vertical planes, whether contiguous or noncontiguous on any one site.
4. **Vertical Integration.** Cannabis cultivated at permittee's cultivation site and any cannabis products derived from cannabis cultivated at permittee's cultivation site must be dispensed only at the permittee's permitted dispensary.
5. **No Dispensing.** Permittee shall not dispense cannabis at the site, unless and until a dispensary permit is issued by the County permitting a dispensary to operate at the site.
6. **Track and Trace.** Permittee shall institute a track and trace program to be approved by the director to ensure that cannabis cultivated at the site is dispensed only at permittee's permitted dispensary. Unique identifiers shall be attached at the base of each plant and shall be traceable through the supply chain back to the cultivation site. Each permittee shall maintain records of each plant cultivated at the site and its ultimate destination.
7. **No Manufacturing.** Permittee shall not manufacture cannabis products at the cultivation site.
8. **Testing.** A cultivation site shall submit its Cannabis Products for analytical testing at an accredited testing laboratory, as defined in Business and Professions Code section 19300.5(z).
9. **Lighting.** Permittees using artificial lighting shall shield structures, including greenhouses, so that little to no light escapes. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise. Lighting that is visible from the exterior of the cultivation area is prohibited, except such lighting as is reasonably utilized for the security of the premises.
10. **Minimum Age.** No person who is less than eighteen (18) years of age may be employed or otherwise engaged in the cultivation operation. No person under the age of eighteen (18) shall be allowed on the premises. The entrance to the building area of the cultivation site shall be posted with a notice that states the restrictions on the presence of persons under the age of eighteen (18).
11. **No Ingesting.** On-site smoking, ingesting or consuming of cannabis cultivated at the cultivation site and not obtained at a dispensary is prohibited.

12. **Display Cultivation Permit.** Each cultivation site shall conspicuously display the cultivation permit.
13. **Registry of employees.** Each permittee shall maintain a current registry of persons, including, but not limited to, employees, contractors and volunteers, who are engaged in the operation of the dispensary. The registry shall be provided to the director and the sheriff at any time upon request. The registry shall include the name, current residential address, telephone number, date of birth and the height, weight and color of eyes and hair of each such person.
14. **Criminal Background Checks.** No person who has been convicted of a felony within the past ten years may be actively engaged in the operation of any cultivation site. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
15. **Safety and security.** Permittees shall provide adequate security on the premises, including lighting and alarms, to insure the safety of persons and to protect the premises from theft.
16. **Compliance with state law.** Permittees must comply with all state statutes, regulations and requirements. Permittees must obtain and maintain any permit, license, certification or registration required by the state. Permittees must pay all required state taxes and fees. Compliance with all applicable requirements established by the following agencies is specifically required:
 - a. California Department of Food and Agriculture
 - b. California Department of Fish & Wildlife
 - c. California Water Quality Control Board
 - d. Bay Area Air Quality Management District
 - e. CALFIRE
 - f. California Department of Pesticide Regulation
 - g. California Environmental Protection Agency
 - h. California Franchise Tax Board
17. **Compliance with local law.** Permittees must comply with all local ordinances, regulations, guidelines, standards and requirements of all local agencies and departments. Permittees must obtain and maintain any permit, license, certification or registration required by a local agency or department. Permittees must pay all local taxes and fees. Compliance with all applicable requirements established by the following agencies and departments is specifically required:
 - a. Alameda County Public Works Agency
 - b. Alameda County Planning Department
 - c. Alameda County Treasurer-Tax Collector
 - d. Alameda County Fire Department
 - e. Alameda County Agricultural Commissioner
 - f. Alameda County Environmental Health Department

- g. Alameda County Sheriff's Office
 - h. Zone 7 Water Agency or other agency having jurisdiction over water supply and/or flood control
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- 18. Inspections. Permittees must consent to periodic on-site compliance inspections to be conducted by appropriate officials.
 - 19. Fees. Permittees must timely remit payment for all application, program, and inspection fees.
 - 20. Conditions. Permittees must comply with any special conditions or conditions of approval applicable to the permit, parcel, or project.
 - 21. Fuels and agricultural additives. Storage, use and handling of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide shall be in compliance with applicable state and local laws and regulations, and in such a way that prevents spillage.
 - 22. Noise. Permittees must comply with the County Noise Ordinance.
 - 23. Water. Water is to be sourced locally (on-site) and trucked water shall not be allowed for general cultivation purposes, but may be used for emergencies (e.g., fire).
 - 24. Employer Certification. Pursuant to the Medical Cannabis Regulation and Safety Act, Health and Safety Code section 19322(a)(9), an applicant seeking a cultivation license shall "provide a statement declaring the applicant is an 'agricultural employer,' as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law."
 - 25. Labor Conditions. Permittees shall comply with all applicable federal, state, and local laws and regulations governing California agricultural employers, which may include: federal and state wage and hour laws, CAL/OSHA, OSHA, California Agricultural Labor Relations Act, and the County General Ordinance Code. Permittees shall provide a copy of its labor peace agreement when the dispensary is required by California Business & Professions Code Section 19322(a)(6) to enter into and abide by a labor peace agreement. A cultivation site must have restroom facilities that will accommodate both male and female staff.
 - 26. Cultivation Liaison. The permittee shall provide the director with the name, telephone number and facsimile number of a community relations contact to whom one can provide notice of problems associated with the cultivation site. The permittee shall make a good faith effort to resolve problems without the need for intervention by the county.
 - 27. Processing Safety.
 - a. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment.
 - b. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis.
 - c. Employees handling cannabis in processing operations must have access to facemasks and gloves in good operable condition as applicable to their job function.
 - d. Employees must wash hands sufficiently when handling cannabis or use gloves.

28. Employee Safety Practices.

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

- 8) Description of increased road use resulting from processing and a plan to minimize that impact.
- 9) Description of on-site housing, if any.

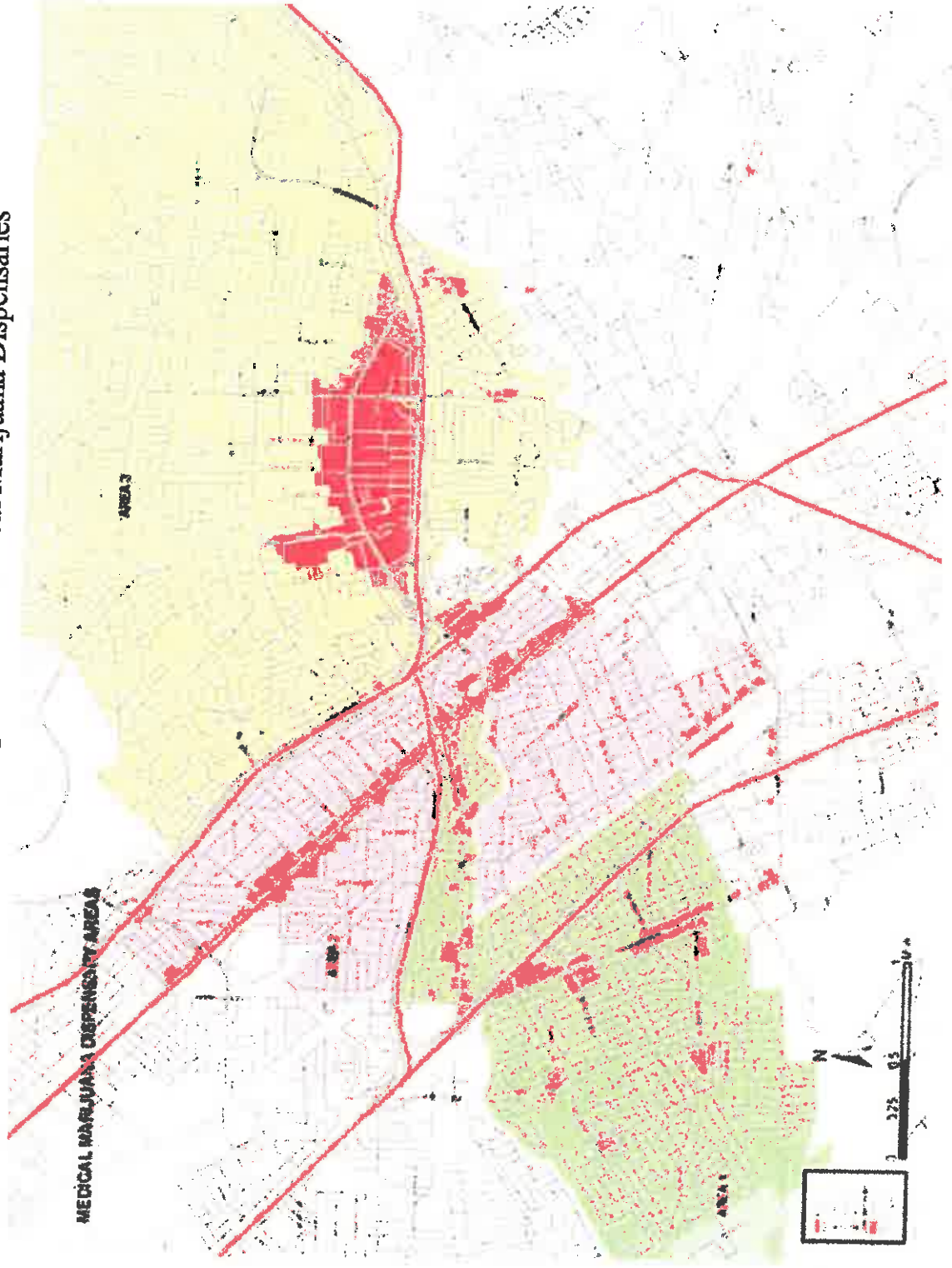
29. Waste.

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

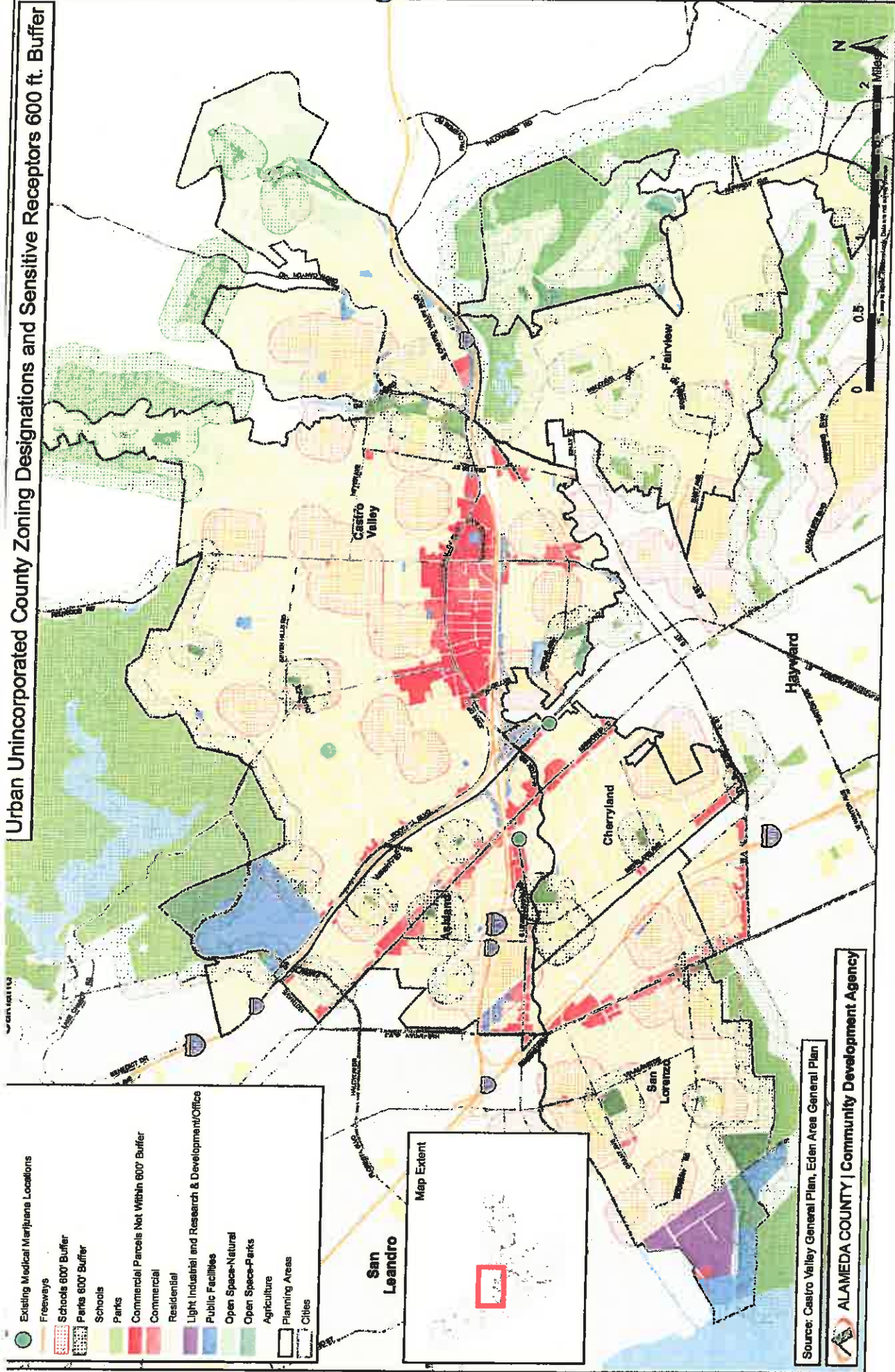
30. Required Operations Plan. All applicants shall, at the time of the application for a conditional use permit, include an Operations Plan with their application materials that addresses the following elements in sufficient detail for the County to evaluate the proposed cultivation operation against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

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

Option 1 Map: Exhibit A - Medical Marijuana Dispensary Areas
County General Code Chapter 6.108 - Medical Marijuana Dispensaries

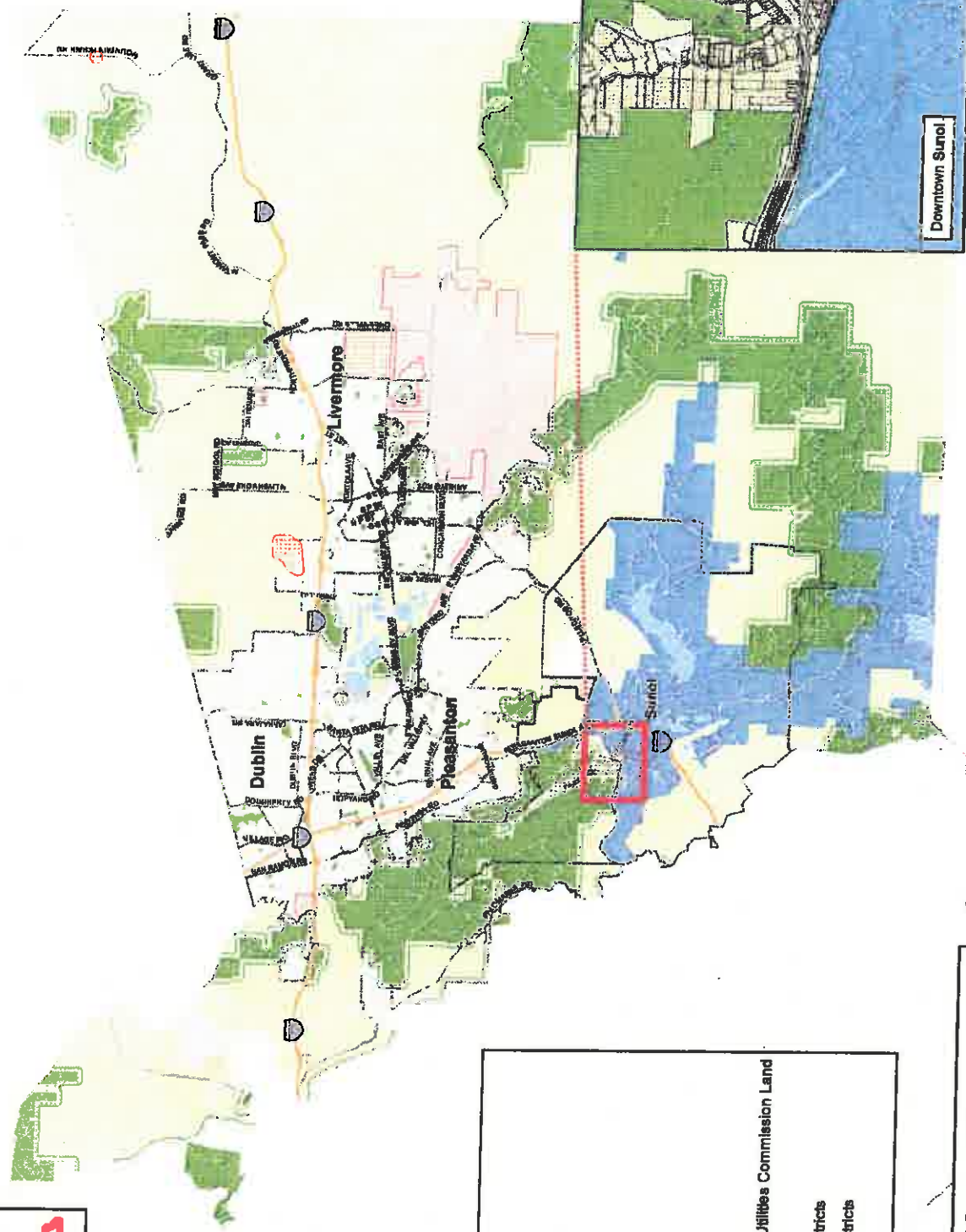


Urban Unincorporated County Zoning Designations and Sensitive Receptors 600 ft. Buffer



Source: Castro Valley General Plan, Eden Area General Plan

ALAMEDA COUNTY | Community Development Agency



Legend

- Parks 600' buffer
- Schools 600' buffer
- Planning Areas
- Freeways
- Major Roads
- Schools
- Parks
- Specific Plan
- San Francisco Public Utilities Commission Land
- Cities
- Residential Zoning Districts
- Agricultural Zoning Districts
- PD



