



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY

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Agenda Item ____ June 18, 2019

June 3, 2019

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

Dear Board Members:

SUBJECT: SECOND READING OF AMENDMENTS TO THE CANNABIS CULTIVATION ORDINANCE (GENERAL CODE CHAPTER 6.106), THE CANNABIS RETAIL ORDINANCE (CHAPTER 6.108), SECTIONS 17.04.010, 17.06.040, 17.38.030, 17.40.030, 17.52.585, AND 17.52.586 OF Title 17, SECTIONS 6.6 AND TABLE 6.2.3 OF THE ASHLAND CHERRYLAND BUSINESS DISTRICT SPECIFIC PLAN, AND THE ADDITION OF A COMBINED CANNABIS OPERATIONS ORDINANCE (GENERAL CODE CHAPTER 6.109)

RECOMMENDATION:

- A. Conduct the second reading and adopt the proposed ordinance amending Chapter 6.106 of the Alameda County General Ordinance Code to regulate the cultivation and distribution of cannabis in the Unincorporated Area of the County of Alameda.
- B. Conduct the second reading and adopt the proposed ordinance amending Chapter 6.108 of the Alameda County General Ordinance Code to regulate the retail sale of cannabis.
- C. Conduct the second reading and adopt the proposed ordinance adding Chapter 6.109 to the Alameda County General Ordinance Code to regulate combined cannabis operations.
- D. Conduct the second reading and adopt the proposed ordinance amending Title 17 of the Alameda County General Ordinance Code and the Ashland Cherryland Business District Specific Plan to regulate combined cannabis operations and cannabis testing laboratories in the unincorporated area of the County of Alameda.

BACKGROUND:

The Board of Supervisors conducted the first reading of the proposed ordinances at its May 21, 2019 Planning Meeting (Item No. 8). Prior to the first reading, Supervisor Haggerty proposed, and the Board approved, additional amendments to the cultivation ordinance (Chapter 6.106 of the County General Ordinance Code), provided below. This second reading fulfills the statutory legal requirement, and the ordinances will take effect 30 days following a favorable action by the Board.

DISCUSSION/SUMMARY:

The Board approved the following additional amendments to Chapter 6.106, Section 6.106.125 of the County General Ordinance Code at the May 21st Board Planning meeting. Additions are underlined and deletions crossed out.

6.106.125 - Standard conditions for cannabis cultivation operators.

- A. Throughout the term of the cannabis cultivation operator permit, each permittee shall not violate this chapter, shall comply with the following standard conditions and shall not allow or tolerate violations of these standard conditions to occur at the cultivation site:
 1. Limited Authorization. Permittee may conduct activities involving the planting, growing, harvesting, drying, curing, grading, or trimming and associated storage of cannabis, including but not limited to nursery operations, and distribution of cannabis produced on the same lot as the premises. Such cultivation activities may only commence upon issuance of and pursuant to a conditional use permit. All cultivation activities that do not comply with the provisions of Sections 26000, et seq., of the Business and Professions Code, CalCannabis Regulations at 3 C.C.R. Div. 8, Ch. 1 (Sections 8000, et seq.), and the terms of the permit and this chapter are prohibited.
 2. Outdoor Cultivation. Outdoor cultivation may be permitted ~~on any cultivation site~~ if approved by the permittee's conditional use permit. Continuation of the outdoor cultivation will be considered at the time of conditional use permit review. The cultivation area must be secured by fencing and the cannabis must not be visible from the exterior of the premises. All drying, curing, grading, or trimming and associated storage and distribution of cannabis must occur either onsite within the interior of an enclosed, secured structure or offsite at licensed Processor or Distributor. The minimum parcel size for outdoor cultivation activity eligibility shall be no less than 25 acres.
 3. Indoor or Mixed-Light Cultivation. ~~Subsequent to the first two years of operation of any cultivation site, To qualify as an indoor or mixed-light cultivation site,~~ all planting, growing, harvesting, drying, curing, grading, or trimming and associated storage and distribution of cannabis must occur within the interior of an enclosed, secured structure, such as a greenhouse or hoop house. Cannabis must not be visible from the exterior of the premises.

4. Maximum Cultivation Area. The maximum area permitted for ~~growing~~ cultivating mature cannabis plants ~~is limited to 22,000 square feet, inclusive, of total canopy size.~~ shall be consistent with the maximum allowance pursuant to the MAUCRSA for a Medium Type 3A (indoor) or 3B (mixed light) up to 22,000 square feet of canopy or a Medium Type 3 (outdoor) up to one (1) acre of canopy until 2023. Canopy size shall be determined in accordance with the following:

CONCLUSION:

Attachments A through D contain the proposed ordinances as amended at the May 21st Board Planning meeting. Staff recommends that your Board conduct the second reading and adopt the proposed ordinances.

FINANCING:

There is no increase in Net County Cost as a result of this action.

VISION 2026:

The cannabis cultivation ordinance and related uses amendments for the General Ordinance Code meets the 10x goal pathways of **Eliminate Poverty and Hunger** and **Healthcare for All** in support of our shared visions of **Safe and Livable Communities, Thriving and Resilient Population,** and **Healthy Environment.**

Very truly yours,



Chris Bazar, Director
Community Development Agency

Attachments

- A. An Ordinance Amending Chapter 6.106 and Repealing Chapter 6.107 of the Alameda County General Ordinance Code to Regulate the Cultivation and Distribution of Cannabis in the Unincorporated Area of the County of Alameda
- B. An Ordinance Amending Chapter 6.108 of the Alameda County General Ordinance Code to Regulate the Retail Sale of Cannabis
 - o Exhibit A (map of West County)
 - o Exhibit B (map of East County)
- C. An Ordinance Adding Chapter 6.109 to the Alameda County General Ordinance Code to Regulate Combined Cannabis Operations
 - o Exhibit A (map of West County)
 - o Exhibit B (map of East County)
- D. An Ordinance Amending Title 17 of the Alameda County General Ordinance Code and the Ashland Cherryland Business District Specific Plan to Regulate Combined Cannabis

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Operations and Cannabis Testing Laboratories in the Unincorporated Area of the County
of Alameda

cc: Susan S. Muranishi, County Administrator
Donna R. Ziegler, County Counsel
Melissa Wilk, Auditor-Controller
Jennifer Schulz, County Administrator's Office
Heather M. Littlejohn, Office of the County Counsel
Sandra Rivera, Community Development Agency

ORDINANCE NO. 2019-_____

AN ORDINANCE AMENDING CHAPTER 6.106 AND REPEALING CHAPTER 6.107 OF THE ALAMEDA COUNTY GENERAL ORDINANCE CODE TO REGULATE THE CULTIVATION AND DISTRIBUTION OF CANNABIS IN THE UNINCORPORATED AREA OF THE COUNTY OF ALAMEDA

SECTION 1

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

1. In 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code section 11362.5 and titled the “Compassionate Use Act of 1996”); and
2. The intent of Proposition 215 was to enable persons who are in need of cannabis for medical purposes to be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances; and
3. In 2004, Senate Bill 420 was enacted (codified as California Health and Safety Code section 11362.7 *et seq.* and titled the “Medical Marijuana Program Act”) to clarify the scope of the Compassionate Use Act of 1996; and
4. In 2011, Assembly Bill 2650 was enacted (codified as California Health and Safety Code section 11362.768), which affirmed that counties could adopt ordinances that restrict the location and establishment of medical cannabis collectives and cooperatives; and
5. In 2015, Assembly Bill 243, Assembly Bill 266, Senate Bill 643 were enacted and were subsequently revised by Assembly Bill 21 in 2016 (codified, in part, as California Business and Professions Code sections 19300, *et seq.* and titled the “Medical Marijuana Regulation and Safety Act”). These bills also amended provisions of the Medical Marijuana Program Act related to the cultivation of medical cannabis; and
6. In 2016, Senate Bill 837 was enacted to change all references to medical marijuana or marijuana to medical cannabis or cannabis, including changing the name of the Medical Marijuana Regulation and Safety Act to the Medical Cannabis Regulation and Safety Act (MCRSA); and
7. MCRSA established a comprehensive framework to license and regulate commercial medical cannabis cultivation, manufacturing, distribution, transportation, sales, and testing; and
8. On November 8, 2016, the voters of the State of California approved Proposition 64 (codified, in part, as California Business and Professions Code sections 26000 *et seq.* and titled the “Control, Regulate and Tax Adult Use of Marijuana Act”), which decriminalized

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

9. On June 27, 2017, Senate Bill 94 (codified, in part, as California Business and Professions Code sections 26000, *et seq.* and titled the “Medicinal and Adult-Use Cannabis Regulation and Safety Act”, or, “MAUCRSA”) repealed and replaced MCRSA. MAUCRSA consolidates the medical and non-medical cannabis statutes (MCRSA and Proposition 64).
10. Pursuant to California Business and Professions Code section 26200, nothing in MAUCRSA shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local permit or licensing requirements; and
11. This Ordinance is enacted, consistent with the Compassionate Use Act of 1996, the Medical Marijuana Program Act, and MAUCRSA, to protect the public health, safety, and welfare of residents of the County of Alameda in relation to the cultivation and distribution of cannabis; and
12. The cultivation and distribution of cannabis in appropriate locations will help ensure that locally-produced cannabis cultivated pursuant to local and state regulatory schemes will be available to other cannabis businesses within the supply chain while preserving the character, health and safety of the surrounding area; and
13. Absent appropriate regulation, the cultivation and distribution of cannabis in the unincorporated area of the County poses a potential threat to public peace, health, and safety; and
14. The County has a compelling interest in protecting the public health, safety, and welfare of its citizens, residents, visitors and businesses, in preserving the safety, peace and quiet of the neighborhoods and agricultural districts within the unincorporated areas of the County by regulating the cultivation and distribution of cannabis; and
15. Pursuant to MAUCRSA, the California Department of Food and Agriculture has promulgated regulations governing commercial cannabis cultivation and is responsible for issuing state cultivation licenses; and
16. Pursuant to MAUCRSA, the California Bureau of Cannabis Control has promulgated regulations governing commercial cannabis distribution and is responsible for issuing state distribution licenses; and
17. The existing retail operators in the County have demonstrated an ability to operate secure and responsible cannabis retail operations and to comply with existing county and state laws concerning the sale and dispensing of cannabis; and

18. A limited number of cannabis cultivation sites were issued permits to cultivate cannabis, subject to approval of a subsequent conditional use permit; and
19. Allowing approved cannabis cultivation operators to distribute cannabis grown on the same lot as their cultivation site will streamline the County's regulation of cannabis sites and will have limited if any impact on other County residents and businesses because the cannabis operation will not be materially impacted by the distribution activities, such as transportation and packaging, occurring on-site as opposed to off-site; and
20. All commercial cultivation and distribution operations will be required to obtain requisite state licenses in order to conduct business; and
21. All commercial cultivation operations will be required to comply with state law and state regulations, including but not limited to the requirement to record the movement of cannabis cultivated or distributed on-site through the supply chain via the state's track and trace system; and
22. The Board of Supervisors acknowledges that regulation of cannabis activities is an evolving field at the state level, as evidenced by the passage of Proposition 64, adoption of MAUCRSA, and recent release of permanent regulations by various state licensing agencies. As a result, the field of local regulation is also expected to continue to evolve over the next several years including possible further revisions to the County ordinances, policies and performance standards; and
23. Nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. sections 801, *et seq.* or to license any activity that is prohibited under said Act except as mandated by state law; and
24. Nothing in this Ordinance shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) exempt cultivation or distribution operations from compliance with zoning and land use regulations, or, (3) allow any activity relating to cannabis operations or consumption that is illegal under state or federal law.

SECTION 2

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

Chapter 6.106 of the Alameda County General Ordinance Code is hereby repealed in its entirety.

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

Chapter 6.106 – Cannabis Cultivation

6.106.010 Purpose.

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

6.106.020 Definitions.

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

- A. "Applicant" means a person who seeks a permit under this chapter by filing an application as provided for in this chapter.
- B. "Application" means that form provided by the Director and submitted in accordance with this chapter for the purpose of seeking a permit.
- C. "Cannabis" shall have the same definition as in Business and Professions Code section 26001(f), which defines "cannabis" as all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For purposes of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the California Health and Safety Code.
- D. "Cannabis cultivation" or, as used in this chapter, "Cultivation" or "Cultivate", means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming, including any associated storage, of cannabis, including cannabis for medicinal use and/or adult-use in accordance with the Medicinal and Adult-Use Cannabis Regulation and Safety Act. Cannabis cultivation includes the operations of a cannabis nursery. Cannabis cultivation does not mean the temporary maintenance and selling of clones from a permitted retail operation, where such activities are incidental and subordinate to the primary retail operation.
- E. "Cannabis cultivation site" means a premises where one or more commercial cannabis cultivation activities takes place.
- F. "Cannabis distribution" or, as used in this chapter, "Distribute" or "Distribution" means the procurement, sale, and transport of cannabis and cannabis products between

entities licensed pursuant to the provisions of Division 10 of the California Business and Professions Code.

- G. "Cannabis nursery" means an operation that produces only immature plants (including clones), seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.
- H. "Cannabis operator" or "operator" as used in this chapter means the natural person or designated officer responsible for the operation of any permitted cannabis operation.
- I. "Cannabis product" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.
- J. "Canopy" means the designated area(s) at a premises that will contain mature plants at any point in time.
- K. "Clone" means the cutting of a cannabis plant that has been re-planted and is non-flowering.
- L. "Community Development Agency" means the community development agency of the County of Alameda.
- M. "County" means the County of Alameda.
- N. "Director" means the director of the Community Development Agency or his or her designee.
- O. "Field hoop house" means agricultural equipment consisting of a light-weight frame of PVC or 12 gauge or thinner wall steel tubing, or low-pressure air support system, and a removable continuous covering with no attached permanent structural elements (e.g. footings, foundations, plumbing, electrical wiring, etc.) used to modify the environment of plants grown in the soil or in containers upon the soil. A hoop house may also be commonly known as berry hoops, tunnels, caterpillar tunnels, poly tunnels, shade tunnels, net tunnel, low tunnels, or high tunnels. A hoop frame is agricultural equipment and cannot be accessible to the general public or used to house livestock.
- P. "Immature cannabis plant" or "immature plant" means a cannabis plant, including but not limited to clones, which has a first true leaf measuring greater than one half inch long from base to tip (if started from seed) or a mass of roots measuring greater than one half inch wide at its widest point (if vegetatively propagated), but which is not flowering.
- Q. "Indoor cannabis cultivation" means the cultivation of cannabis within a permanent enclosed structure using exclusively artificial light or within any type of structure using artificial light at a rate above 25 watts per square foot or such other threshold for indoor

cultivation as may be established by the California Department of Food and Agriculture.

- R. "Lot" means a separate parcel of land shown and identified as such on the records of the county recorder or on the final map of an approved and recorded subdivision, excluding therefrom for the purposes of this title any portion thereof which lies within a street, within a lane, or within a fenced-off flood control easement.
- S. "Manufacture" means the process by which the raw agricultural cannabis is transformed into a concentrate, an edible product, topical product or similar cannabis product. Manufacturing includes producing, preparing, propagating, or compounding manufactured cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.
- T. "Mixed-light cannabis cultivation" means the cultivation of cannabis in a greenhouse, hoop-house, glasshouse, conservatory, hothouse, or other similar structure using light deprivation and/or artificial lighting below or equal to 25 watts per square foot or such other maximum threshold for mixed-light cultivation as may be established by the California Department of Food and Agriculture.
- U. "Outdoor cultivation" means the cultivation of cannabis, outside of a building or greenhouse, without the use of artificial lighting in the plant canopy area at any point in time. Cultivation within a field hoop house may be considered outdoor cultivation. Use of supplemental lighting to maintain vegetative starts or immature plants shall be considered consistent with this definition.
- V. "Permit" means a cannabis cultivation permit issued by the county to operate a cannabis cultivation site under this chapter.
- W. "Permitted cannabis retail operation" means a facility in possession of a permit issued pursuant to Chapter 6.108 where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, under the authority of the California Medicinal and Adult-Use Cannabis Regulation and Safety Act and as regulated by chapter 6.108.
- X. "Permittee" means a person who holds an effective and current permit under this chapter.
- Y. "Person" means any human being or an incorporated or unincorporated business entity or association established under the laws of the state.
- Z. "Premises" means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or permittee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area.

AA. "Sheriff" means the sheriff of the County of Alameda and his or her authorized representatives.

BB. "State" means the State of California.

6.106.030 General requirements and terms.

- A. It is unlawful for any person to conduct, engage in or allow to be conducted or engaged in, cannabis cultivation in the unincorporated portion of the County of Alameda, unless such cannabis cultivation operation has been granted a legally effective permit issued under this chapter. Notwithstanding the above, the permits issued under this chapter do not provide any protection or immunity for any person from state or federal laws, or from prosecution pursuant to any applicable state or federal laws. The owner, managing partner, corporate officer and/or any other person with primary responsibility for a medical cannabis operation shall maintain such operation in conformity with the terms of this chapter and with the terms of all permits issued pursuant to this chapter.
- B. The county shall have in effect no more than ten cannabis cultivation permits. Two of the ten permits may be issued in accordance with sections 6.106.050 through 6.106.060. The remaining available permits must be selected pursuant to sections 6.106.070 through 6.106.110 herein.
- C. Each cannabis cultivation permit shall expire two years after the date of its issuance or upon the expiration date established by the director, whichever is earlier.
- D. The fact that an applicant possesses other types of state or local permits or licenses shall not exempt the applicant from obtaining a cannabis cultivation permit under this chapter.
- E. A permittee may cultivate cannabis during the term of the permit only. A permittee shall have no right to cultivate cannabis before or after the expiration of the permit.
- F. Each cannabis cultivation site shall comply with all requirements in the Alameda County General Plan, including Measure D (Save Agriculture and Open Space Lands), any applicable specific plans, and Title 17 of the Alameda County General Ordinance Code.
- G. More than one premises may be located on a single lot. A separate permit must be issued for each premises on a single lot. Each premises shall only be occupied by one permittee unless otherwise authorized by applicable state laws regulations and county permit(s).
- H. In addition to its cultivation activities, a permittee may distribute cannabis cultivated on the same lot as permittee's premises. The permittee may not distribute cannabis cultivated on a different lot.

- I. The director may adopt such forms and procedures as are necessary to implement this chapter.

6.106.040 Land use approval.

Prior to commencement of cannabis cultivation or distribution activities, a permittee must obtain a conditional use permit pursuant to Sections 17.06.040 and 17.52.585 of the Alameda County Zoning Ordinance for operation of a cannabis cultivation site that authorizes the cultivation, and if applicable, the distribution activities.

6.106.050 Cannabis cultivation permit application procedures – retailers in good standing.

- A. Each application for a cultivation permit by a permitted cannabis retail operation in the unincorporated area of the county shall set forth or incorporate by reference the following information:
 1. The full name, date of birth, social security number, present address and telephone number of the applicant.
 2. Name and location of applicant's permitted cannabis retail operation.
 3. Address of the proposed cannabis cultivation operation and the name and address of the owner(s) of the lot(s) containing the premises.
 4. The address to which notice of action on the application is to be mailed.
 5. A statement by the applicant that it has the ability to comply with all laws regulating businesses in the state of California and that it shall maintain compliance during the term of the permit.
 6. A statement that the applicant accepts and will comply with the standard conditions set forth in this chapter.
 7. The names of each person with an ownership interest of more than 10 percent in the proposed cultivation operation.
 8. Certification, under penalty of perjury, that all the information contained in the application is true and correct.
 9. Authorization for the county, its agents and employees to seek verification of the information contained in the application.
 10. The applicant's agreement to hold harmless and indemnify the county from all costs and expenses, including attorney's fees, that the county incurs or that is held to be the liability of the county in connection with the county's defense of its actions in any proceeding challenging the county's actions with respect to the permit or cultivation project.
- B. The filing of an application shall be deemed complete upon the submission of an application in conformance with this section and payment of the application fees required by Sections 6.106.140 and 6.106.220 and any fee schedule adopted by the County.

- C. The director may establish a submission deadline for applications pursuant to this section.
- D. It is unlawful to make any false statement or representation or to use or submit any false or fraudulent document(s) in any application made pursuant to this chapter.

6.106.060 Application review and action – retailers in good standing.

- A. The director shall commence review of any application upon its filing. Within thirty business days after the filing of an application, the director shall reject any application and so notify the applicant if the application has been improperly completed or if it is incomplete. The applicant may amend and refile the application within thirty days after such rejection.
- B. Upon receipt of a complete application, the director shall approve the application and issue the applicant a notice of intent to grant the permit, if each of the following conditions are met:
 - 1. The applicant operates a permitted cannabis retail operation;
 - 2. The applicant’s permitted cannabis retail operation has a record of good standing with the county for at least one year. For the purposes of this section, “good standing” means that the cannabis retail operation has commenced commercial operations and the cannabis retail operation permit has not been suspended or revoked and that there are no pending proceedings for the suspension or revocation of the cannabis retail operation permit.
 - 3. No person who is listed on the application pursuant to subsection (1) or (7) of Section 6.106.050(A) has been convicted of a felony within the past three years. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
 - 4. The applicant or the operator listed in the application is at least twenty-one (21) years of age.
- C. Upon receipt of a complete application, the director shall deny the application if one or more of the conditions set forth in subsection (B) above are not met.
- D. The notice of intent to grant permit issued pursuant to subsection (B) shall include notice of the operating conditions that would attach to the permit. Within ten days after notice, the applicant shall either:
 - 1. Certify acceptance of the operating conditions and the standard conditions of the permit and pay all required fees, and the permit shall thereupon issue immediately.
 - 2. If the applicant refuses or fails to certify agreement with any operating condition or standard condition or to pay all required fees, the application shall be denied. The applicant may appeal any condition within ten days after notice of the conditions.

Upon either the failure to file a timely appeal or the rejection of the appeal, the application shall be deemed denied.

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

6.106.070 Cannabis cultivation permit application procedures – new operators.

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

6.106.080 Contents of cannabis cultivation permit application – new operators.

- A. In response to a solicitation for applications initiated by the director, each application for a cultivation permit pursuant to section 6.106.070 shall set forth or incorporate by reference the following information in a standard form adopted by the director:
 - 1. Address of the proposed cannabis cultivation site and the name and address of the owner(s) of the lot(s) containing the premises.
 - 2. The full name, date of birth, social security number, present address and telephone number of the applicant.
 - 3. The address to which notice of action on the application is to be mailed.
 - 4. All residential addresses of the applicant for the five years immediately prior to the date of the application.
 - 5. Written proof that the applicant is twenty-one (21) years of age or older (i.e., California driver's license, California identification card or birth certificate).
 - 6. The height and weight and the color of eyes and hair of the applicant.
 - 7. Photographs of the applicant for identification purposes to be taken by the Sheriff.

8. The names and addresses of all businesses operated by and the employment history of the applicant for the five years immediately prior to the date of the application.
9. The address of all cannabis operations, including but not limited to cultivation sites or retail operations, that currently are or previously had been operated by the applicant and a statement of whether the authorization for any such operation had been revoked or suspended and, if so, the reason therefor.
10. The names and telephone numbers of the person or persons to be regularly engaged in the operation of the proposed cannabis cultivation site, whether an employee, volunteer or contractor. The application shall also identify those persons, including telephone numbers (i.e., emergency contact), having management and supervisory responsibilities for the proposed cannabis cultivation site. Every person listed as owner, manager, supervisor or employee must submit fingerprints and other necessary information for a background check to the Alameda County Sheriff's Office, and be photographed for identification purposes. In addition, any new employees, independent contractors, other persons and/or volunteers who will be regularly engaged at the proposed cannabis cultivation site must submit their information to the Sheriff's office within five days prior to their employment.
11. A security plan containing a detailed description of the proposed security arrangements for ensuring the safety of persons from theft and robbery and protection of the premises from theft and burglary. The security plan shall be submitted for review and approval by the Sheriff, and shall include a lighting plan showing existing and proposed exterior and interior lighting levels, alarms and security surveillance cameras. Security video shall be maintained for 30 business days and shall be made available to the Sheriff upon request. The video system for security cameras must be located in a locked, tamper-proof compartment. A professionally monitored robbery alarm system shall be installed and maintained in good working condition. The security plan shall include the provision of a suitable locked safe on the premises for after-hours storage of cannabis.
12. A site plan, consisting of a sketch or diagram showing the entire lot(s) containing the premises. The site plan shall show the entire premises, including all buildings, accessory structures, storage, and parking areas. The site plan shall show the interior configuration of the greenhouse or other structure housing all cultivation or distribution activities. The site plan shall include a statement of the floor area occupied by each structure at the premises. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the greenhouse or other structure housing cultivation activities to an accuracy of plus or minus twelve (12) inches.
13. A description of the external appearance of the cannabis cultivation site, including a precise depiction of any signage and access roads. All signage shall comply with the County General Plan, Zoning Ordinance and any applicable specific plan.
14. A description of products to be cultivated on the premises.
15. A description of any distribution activities proposed on the premises, which may only include distribution of cannabis cultivated on the same lot as the premises.
16. If the application proposes cultivation or distribution of cannabis for medicinal purposes, the mission statement of the cannabis cultivation site with respect to meeting the medicinal needs of patients.

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

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

19. Written certification that the applicant has reviewed and understands and accepts the standard conditions provided in this chapter and any performance standards for cannabis cultivation or distribution that may be adopted by the director. Written certification that the applicant will comply with all county ordinances, including building, zoning and health codes, allow inspections to ensure conformance with such regulations, cooperate with County agencies' efforts to monitor the cultivation operator's compliance with this applicable ordinances and with all conditions of permits issued pursuant to this Code, and pay any County fees assessed for monitoring permittee's compliance.

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

21. 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.

22. An operating plan specifically describing how the cannabis cultivation site will operate consistent with state and local law, including but not limited to: the minimum staffing levels for operation of the cannabis cultivation site, policies and procedures for record keeping, specific details of the cultivation operation's compliance with state track and trace requirements, specific details regarding product testing, and other relevant information regarding the operation of the proposed cannabis cultivation site and including a copy of the cultivation operation's labor peace agreement when required by California Business & Professions Code Section 26051.5 to enter into or abide by a labor peace agreement.

23. Category of state cannabis license(s) the applicant holds or intends to apply for.

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 Sections 6.106.140 and 6.106.220.

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

6.106.090 Initial review of application – new operators.

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

1. The Sheriff shall be responsible for verifying factual information in the application, including names, addresses and other information on the applicant, operator and employees of the proposed cultivation operation.
 2. The Sheriff shall comment upon the adequacy of security measures that are described in the application, the security plan, the site plan, and other relevant aspects of the application.
 3. The community development agency shall comment upon the proposed location's compliance with zoning regulations and conditions that are needed to mitigate adverse impacts on surrounding uses.
 4. If the operation will produce cannabis for consumption by medicinal consumers, the health care services agency shall comment upon the services to be provided and the mission statement set forth in the application.
- B. Within twenty (20) business days after the filing of an application, the director shall reject any application and so notify the applicant, if the application has been improperly completed or if it is incomplete. The applicant may amend and refile the application within ten days after such rejection.
- C. At the conclusion of the initial review, the director shall notify the applicant of the results of the initial review of the application.

6.106.100 Action upon completion of initial review – new operators.

- A. Upon completion of the initial review, the director shall reject any permit application that meets any of the following criteria:
1. The proposed cultivation operation does not comply with requirements of this chapter.
 2. The applicant has knowingly made a false statement of material fact or has knowingly omitted a material fact from the application.
 3. The proposed cultivation operation at the proposed location is prohibited by any state or local law or regulation.
 4. Any person who is listed on the application pursuant to subsection (A)(10) of Section 6.106.080 has been convicted of a felony within the past three (3) years. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
 5. The applicant or the operator listed in the application is less than twenty-one (21) years of age.
 6. The health care services agency has determined, for an operation that will produce cannabis for consumption by medicinal consumers, that the application for a cannabis cultivation site has failed to state a health care purpose that fulfills the purposes of Sections 11362.5, *et seq.* of the California Health and Safety Code
 7. The applicant is delinquent in the payment of any applicable state or County taxes and fees.
- B. Any application that is not rejected upon completion of the initial review shall be deemed an eligible application and submitted to the final selection phase of the solicitation process.

6.106.110 Final selection of cannabis cultivation sites – new operators.

- A. The final selection phase of the solicitation process shall include selection from the eligible applications and the establishment of operating conditions for any permits issued under this chapter to the selected eligible applicants. The final selection process shall not exceed sixty (60) days in the absence of an appeal.
- B. If the number of eligible applications is the same as or less than the allowable number of cannabis cultivation sites allowed pursuant to section 6.106.030, then all responsible applications shall be submitted for establishment of operating conditions as set forth in subsection C of this section. If the number of eligible applications exceeds the maximum number of cannabis cultivation sites pursuant to 6.106.030, then a competitive evaluation process shall be conducted in which applicants are scored and ranked with the director recommending issuance of a permit to the highest ranked, eligible and responsible applicants. The director may establish a minimum required score or other mechanism to disqualify or reject applications determined to be irresponsible.
- C. The director may establish operating conditions for cannabis cultivation sites for each eligible, responsible application that has been submitted for final selection. The operating conditions shall be limited to those that are necessary to carry out the purposes of this chapter and to mitigate specific and foreseeable adverse impacts on properties in the vicinity.
- D. At the conclusion of the final selection process outlined above, the director shall give notice to the cultivation permit applicant of the operating conditions that would attach to the permit. Within ten days after notice, the applicant shall either:
 - 1. Certify acceptance of the operating conditions and the standard conditions of the permit and pay all required fees, and the permit shall thereupon issue immediately.
 - 2. If the applicant refuses or fails to certify agreement with any operating condition or to pay all required fees, the application shall be denied. The applicant may appeal any condition within ten days after notice of the conditions. Upon either the failure to file a timely appeal or the rejection of the appeal, the application shall be deemed denied.
- E. The operating conditions established by the director shall include the requirement for each selected applicant to obtain (1) any required state permits or licenses for the operation of a cultivation operation, including distribution, if applicable, and (2) all land use entitlements required to operate a cultivation operation, including distribution, if applicable. No cultivation permit shall be effective unless and until these conditions of approval are satisfied.
- F. In the event that an additional permit becomes available subsequent to the scoring and ranking of applications pursuant to subsections (A) and (B) above, the director may issue a permit to the next highest ranked applicant by following the procedures in subsections (C) through (E), above.

6.106.120 Appeal.

- A. An applicant aggrieved by the decisions described in Section 6.106.060, 6.106.110 or 6.106.180 may appeal that decision to the board of supervisors within ten (10) days

following the date of issuance of that decision by filing with the clerk of the board of supervisors or the director a notice of appeal specifying the grounds for such appeal. Filing such notice shall stay all proceedings in furtherance of the decision appealed from, including the proceedings related to the applications or permits of other applicants potentially affected by the board of supervisors' decision on the appeal. The director is designated as an agent of the clerk of the board for purposes of receiving a notice of appeal.

- B. The board of supervisors shall give written notice of the time and place for hearing any appeal filed pursuant this section. Such notice shall be given to the applicant and to the community development agency, and to any other person requesting such notice and depositing with the clerk of the board a self-addressed, stamped envelope to be used for that purpose.
- C. The board of supervisors may hear additional evidence and may sustain, modify, or overrule any order brought before it on appeal and may make such findings and decisions as are not inconsistent with state law and county ordinances. The board of supervisors may also remand the decision to the director for reconsideration of his or her decision in light of new information not previously presented to the director. If no motion relative to the order appealed attains a majority vote of the board of supervisors within thirty (30) days from the date of the hearing by said board thereon, said order of the director shall stand sustained and be final.
- D. For any appeals concerning a decision described in Section 6.106.110, the board of supervisors' review shall be limited to determining whether CDA materially erred in conducting the selection process with respect to following the RFP, County ordinances or state law. The board of supervisors shall not re-judge the proposals, alter the scoring or ranking of the proposals, or consider new evidence concerning the merits of the proposed cultivation operation.
- E. Any appeal that is not timely filed or otherwise fails to comply with Paragraph A of this section will be deemed ineffective by the director and the administrative determination that is being appealed will become final.

6.106.125 - Standard conditions for cannabis cultivation operators.

- A. Throughout the term of the cannabis cultivation operator permit, each permittee shall not violate this chapter, shall comply with the following standard conditions and shall not allow or tolerate violations of these standard conditions to occur at the cultivation site:
 - 1. Limited Authorization. Permittee may conduct activities involving the planting, growing, harvesting, drying, curing, grading, or trimming and associated storage of cannabis, including but not limited to nursery operations, and distribution of cannabis produced on the same lot as the premises. Such cultivation activities may only commence upon issuance of and pursuant to a conditional use permit.

All cultivation activities that do not comply with the provisions of Sections 26000, et seq., of the Business and Professions Code, CalCannabis Regulations at 3 C.C.R. Div. 8, Ch. 1 (Sections 8000, et seq.), and the terms of the permit and this chapter are prohibited.

2. Outdoor Cultivation. Outdoor cultivation may be permitted if approved by the permittee's conditional use permit. Continuation of the outdoor cultivation will be considered at the time of conditional use permit review. The cultivation area must be secured by fencing and the cannabis must not be visible from the exterior of the premises. All drying, curing, grading, or trimming and associated storage and distribution of cannabis must occur either onsite within the interior of an enclosed, secured structure or offsite at licensed Processor or Distributor. The minimum parcel size for outdoor cultivation activity eligibility shall be no less than 25 acres.
3. Indoor or Mixed-Light Cultivation. To qualify as an indoor or mixed-light cultivation site, all planting, growing, harvesting, drying, curing, grading, or trimming and associated storage and distribution of cannabis must occur within the interior of an enclosed, secured structure, such as a greenhouse or hoop house. Cannabis must not be visible from the exterior of the premises.
4. Maximum Cultivation Area. The maximum area permitted for cultivating mature cannabis plants shall be consistent with the maximum allowance pursuant to the MAUCRSA for a Medium Type 3A (indoor) or 3B (mixed light) up to 22,000 square feet of canopy or a Medium Type 3 (outdoor) up to one (1) acre of canopy until 2023. Canopy size shall be determined in accordance with the following:
 - a. Canopy shall be calculated in square feet and measured using clearly identifiable boundaries of all area(s) that will contain mature plants at any point in time, including all of the space(s) within the boundaries;
 - b. Canopy may be noncontiguous but each unique area included in the total canopy calculation shall be separated by an identifiable boundary that includes, but is not limited to, interior walls, shelves, greenhouse walls, hoop house walls, garden benches, hedgerows, fencing, garden beds, or garden plots; and
 - c. If mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.

The maximum area permitted for growing immature cannabis plants is 22,000 square feet for nurseries and 5,000 square feet for all other cultivation operations. The Permittee shall provide the Director upon request a description of the location within the premises and total size of the area used for growing immature plants.

5. Distribution. Permittees may only perform the type of distribution processes listed on their cultivation operator permit (e.g., making testing arrangements, packaging, labeling, re-labeling, or rolling). All transportation shall comply with state statutes and regulations, including but not limited to those regarding the transport vehicle,

age of personnel driving vehicle, and shipping manifests. All cultivation activities that do not comply with the provisions of Sections 26000, et seq., of the Business and Professions Code, Bureau of Cannabis Control Regulations at 16 C.C.R. Div. 42 (Sections 5000, et seq.), and the terms of the permit and this chapter are prohibited.

6. Track and Trace. Permittee shall comply with state track and trace program requirements and maintain records of the disposition of all cannabis, including each plant, cultivated or distributed on the premises, any transfers associated with commercial cannabis activity between licensees, and any cannabis waste.
7. Cultivation and Limited Distribution Only. Unless and until a local permit and state license allowing cannabis manufacturing uses (e.g., Type 12 – Microbusiness and Ord. Code Chapter 6.109 Combined Cannabis Operator) has been issued for the cultivation site, cannabis may not be manufactured on the premises.
8. No On-Site Ingestion. No cannabis shall be smoked, ingested or otherwise consumed on the premises of a cultivation site.
9. Age Restrictions. No person who is less than twenty-one (21) years of age may be employed or otherwise engaged in the cultivation operation. No person under the age of twenty-one (21) 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 twenty-one (21).
10. Display Permit. Each cultivation site shall conspicuously display the cultivation permit.
11. Alcohol Restrictions. No permittee may hold a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, nor may it include a business that sells alcoholic beverages on the same premises. No alcohol may be stored, sold, dispensed or used on the same premises.
12. Employee Registry. Each permittee shall maintain a current registry of persons, including, but not limited to, employees, contractors and volunteers, who are regularly engaged in the operation of the cultivation site. The registry shall be provided to the director at any time upon request. The registry shall include the name, current residential address, telephone number, date of birth and the height, weight and color of eyes and hair of each such person. In addition, any new employees, independent contractors, other persons and/or volunteers to be regularly engaged in the operation of the proposed cannabis cultivation site must submit their information to the Sheriff's office within five days prior to their employment or engagement.
13. Eligibility. No person who has been convicted of a felony within the past three 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. A permittee shall provide adequate security on the premises, including lighting and alarms, to ensure the safety of persons and to protect the premises from theft. All safety and security measures shall be detailed in a Site Security Plan, which must be approved by the Sheriff's Office.

14. Lighting. Permittees using artificial lighting shall shield structures, including greenhouses, so that 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.
15. 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.
16. Inspections. Permittees must consent to periodic on-site compliance unannounced inspections to be conducted by appropriate officials. Inspections will initially occur two times per year, but the frequency and number of inspections may change at the discretion of the Planning Director.
17. Fees. Permittees must timely remit payment for all application, program, and inspection fees.
18. Conditions. Permittees must comply with any special conditions or conditions of approval applicable to the permit, parcel, or project and any Performance Standard that may be adopted by the Director.
19. 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.
20. Noise. Permittees must comply with the County Noise Ordinance.
21. 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).
22. 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 Ordinance Code.
23. Permittees shall conduct operations to ensure the safety of cannabis products and employees. The Director may adopt 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 Ordinance Code.

24. Processing Safety. A Permittee shall comply with all county ordinances, including building, zoning and health codes, and shall allow inspections to ensure conformance with such regulations. A Permittee shall cooperate with county agencies' efforts to monitor the Permittee's compliance with applicable ordinances and with all conditions of permits issued pursuant to this Code. The county may assess fees for monitoring permittee's compliance.
25. Restrooms. A permittee must have appropriate restroom facilities that will accommodate all employees regardless of gender.
26. Testing. A permittee shall submit its cannabis products for analytical testing at an accredited testing laboratory, as defined in Business and Professions Code section 26001(at) and in accordance with state regulations.
27. A permittee 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.
28. 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 are classified as hazardous waste. It is the responsibility of each Permittee to properly evaluate their waste to determine if it is designated as a hazardous waste. If a Permittee'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 byproducts or wastes that do not qualify as hazardous including but not limited to trim, roots, stalks, leaves, and stems, must either be rendered unusable prior to leaving the cultivation site or be fully accounted for in the Permittee's track and trace system.
29. A permittee shall fully comply with the terms of its approved security plan, floor plan, 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 subsection D of Section 6.106 or subsections C and D of Section 6.106.110.
 - D. At any time during the operation of a cultivation operation and without notice, the director, acting in conjunction with other appropriate county officials, may enter the premises for the purpose of observing compliance of the permittee with the conditions of its permit.
 - E. Release of the county from liability. The owner and permittee of each cultivation 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 cultivation operation owners, permittees, 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 cultivation operation 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 issuance of the permit, adoption or enforcement of conditions of the permit, or operations at the cultivation operation, 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 cultivation, distribution, and/or on- or off-site use of cannabis provided by the permittee in a form satisfactory to the director.

6.106.130 Term of cannabis cultivation permits and renewals.

- A. Each cannabis cultivation permit shall expire two years after the date of its issuance or upon the expiration date established by the director, whichever is earlier.
- B. Any permit may be renewed by the director for successive periods of up to two years each upon the submission of a renewal application by the permittee. At the time of consideration of a renewal application, the county shall consider compliance with conditions in the prior term and whether the permittee has made substantial progress toward implementing the permit.

- C. Any application for renewal shall be filed at least forty-five (45) days before expiration of the permit.
- D. Any application for renewal may be rejected if:
 - 1. The application is filed less than forty-five (45) days before its expiration.
 - 2. The permit is suspended or revoked at the time of the application; provided, however, that an application for renewal may be filed within ten days after the granting of a permittee's appeal of the suspension or revocation of a permit.
 - 3. The cultivation operation authorized by the permit has not been in regular operation in the four months prior to the renewal application.
 - 4. The cultivation operation fails to conform to the criteria set forth in Section 6.106.100(A).

6.106.140 Fees.

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

6.106.150 Transfer of the permit.

- A. No permittee may transfer a permit to another cannabis operator or premises without authorization by the county, granted in accordance with this section.
- B. A permittee shall apply for transfer of a permit by submitting, jointly with the proposed transferee, an application that complies with Section 6.106.080. The director shall verify information in the application and shall approve the transfer unless it fails to comply with the requirements of this chapter, the standards set forth in Section 6.106.100 or such other minimum score or standards as may be established by the director pursuant to Section 6.106.110(B).
- C. Before a transfer of a permit may become effective, the transferee shall certify acceptance of the operating conditions and the standard conditions of the permit and pay all fees required by Sections 6.106.140 and 6.106.220.

6.106.160 Prohibited operations.

A permittee shall not conduct any manufacturing of cannabis on the premises. A permittee shall not sell, dispense or deliver cannabis to retail customers from the premises unless separately permitted by a cannabis retail operator or delivery permit pursuant to Chapter 6.108 of this code or by a combined cannabis operation permit pursuant to Chapter 6.109 of this code.

6.106.170 Violations, criminal and civil liability and remedies.

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

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

6.106.180 Suspension and revocation.

- A. The director may revoke or suspend a permit when it shall appear that the permittee has committed any of the following actions:
 - 1. Violates the operating or standard conditions of the permit or the requirements of state or local laws.
 - 2. Fails to take reasonable measures to control disturbances, loitering or such other problems on the premises.
- B. The director shall provide the permittee with written notice of the suspension or revocation that shall describe the grounds for revoking or suspending the permit.
- C. The permittee subject to the revocation or suspension may appeal the determination of the director to the board of supervisors within ten days after the date of the notice of the decision of the director. The board of supervisors shall act upon the appeal in accordance with Section 6.108.120.

6.106.190 Limitations.

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

6.106.200 Severability.

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

6.106.210 Judicial review.

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

6.106.220 Fee schedule.

- A. The applicant shall pay the following non-refundable fees to reimburse the County in accordance with section 6.106.140 of this chapter. The Director may adopt such forms and procedures as necessary to collect the fees.

Cannabis Cultivation Permit Application Fee (Retailers in Good Standing)	\$2,900
Cannabis Cultivation Permit Application Fee (Request for Proposals process)	\$8,000
Cannabis Cultivation Permit Final Selection Fee (Request for Proposals process)	\$4,000
Cannabis Cultivation Permit Issuance Fee (Request for Proposals process)	\$2,000
Cannabis Cultivation Permit Renewal Fee	\$3,200
Cannabis Cultivation Permit Annual Regulatory Program Fee	\$30,000
Cannabis Cultivation Permit Transfer Application Fee	\$3,100
Cannabis Cultivation Permit Transfer Issuance Fee	\$1,100

- B. For the following fee types, the applicant shall pay fees sufficient to reimburse the County for its actual costs in accordance with section 6.106.140 of this chapter and section 17.54.620 of Title 17 of this code. The applicable fee rates shall be those duly adopted by the County and in effect at the time the County work is performed or the cost is incurred. The Director may collect such fees in advance as a refundable deposit in such amounts as may be established by the Director. The Director may adopt such forms and procedures as necessary to collect the fees.

Cannabis Cultivation Permit Appeal by Applicant (Title 6)	AT-COST/ deposit
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Cannabis Cultivation Permit Reconsideration of Application post-Appeal (if remanded for reconsideration) (Title 6)	AT-COST/ deposit
Cannabis Cultivation Conditional Use Permit Application (Title 17)	\$5,000 deposit
Mandatory Review of Conditional Use Permit for Cannabis Cultivation (Title 17)	AT-COST/ deposit
Cannabis Cultivation Conditional Use Permit Appeal by Applicant (Title 17)	AT-COST/ deposit

- C. If the Director determines that, in addition to the routine inspections pursuant to the Cannabis Cultivation Permit Annual Regulatory Program Fee in paragraph A, additional inspections or abatement actions are required to enforce compliance with this chapter or with Title 17 of this code, the applicant shall pay fees sufficient to reimburse the County for its actual costs incurred to conduct such inspections and abatement actions, which may include staff time plus actual abatement costs. The applicable fee rates shall be those duly adopted by the County and in effect at the time the County work is performed or the cost is incurred. The Director may collect such fees in advance as a refundable deposit in such amounts as may be established by the Director. The Director may adopt such forms and procedures as necessary to collect the fees.
- D. The fees in paragraph A shall be reviewed annually by the County and may be amended if necessary to appropriately reimburse the County for its actual costs.
- E. The fee rates and deposit amounts in paragraph B shall be reviewed annually by the Director and may be amended if necessary.

6.106.230 Child Support Obligations.

- A. Prior to the issuance of a permit or permit renewal under this Chapter, and at all times while holding a permit, permit applicants and permittees shall be current with their monthly child support obligations. If the applicant or permittee has an account with past due child support arrears, he/she must have that balance at zero or have verification from the County Department of Child Support Services that they have been in and remain in compliance with an agreed or court ordered payment plan in order to remain eligible for the permit. In determining compliance the Department will consider all relevant financial circumstances of the applicant or permittee with the overall goal of removing barriers to employment.
- B. Permittees shall provide the County Department of Child Support Services a quarterly list of all employees employed by the permittee at any time during the quarter. Reports are due by the 15th of the month following the end of the quarter

(March, June, September and December). The list shall include names, addresses, phone numbers and social security numbers for all employees.

- C. If the Permittee uses a payroll withholding process, the permittee must comply with any income withholding order for child support for any employee in the permittee's employ. In addition, if the income withholding order is for an owner or part-owner of the business, the business shall also comply with the income withholding order and provide necessary tax information if self-employed for purposes of determining accurate child support orders.

Chapter 6.107 of the Alameda County General Ordinance Code is hereby repealed in its entirety. The Board of Supervisors hereby finds that said chapter previously ceased to be effective by operation of law.

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 _____, 2019, by the following called vote:

AYES:

NOES:

EXCUSED:

RICHARD VALLE
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

DocuSigned by:
By: Heather Littlejohn
Heather Littlejohn
Deputy County Counsel

ORDINANCE NO. 2019-_____

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

SECTION 1

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

1. In 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code section 11362.5 and titled the "Compassionate Use Act of 1996"); and
2. The intent of Proposition 215 was to enable persons who are in need of cannabis for medical purposes to be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances; and
3. In 2004, Senate Bill 420 was enacted (codified as California Health and Safety Code section 11362.7 *et seq.* and titled the "Medical Marijuana Program Act") to clarify the scope of the Compassionate Use Act of 1996; and
4. In 2011, Assembly Bill 2650 was enacted (codified as California Health and Safety Code section 11362.768), which affirmed that counties can adopt ordinances that restrict the location and establishment of medical cannabis collectives and cooperatives; and
5. In 2015, Assembly Bill 243, Assembly Bill 266 and Senate Bill 643 were enacted (codified in part as California Business and Professions Code sections 19300, *et seq.* and titled the "Medical Marijuana Regulation and Safety Act"). These bills also amended provisions of the Medical Marijuana Program Act related to the cultivation of medical cannabis; and
6. In 2016, Senate Bill 837 was enacted to change all references to medical marijuana or marijuana to medical cannabis or cannabis, including changing the name of the Medical Marijuana Regulation and Safety Act to the Medical Cannabis Regulation and Safety Act (MCRSA); and
7. MCRSA established a comprehensive framework to license and regulate commercial medical cannabis cultivation, manufacturing, distribution, transportation, sales, and testing; and
8. On November 8, 2016, the voters of the State of California approved Proposition 64 (codified, in part, as California Business and Professions Code sections 26000, *et seq.* and titled the "Control, Regulate and Tax Adult Use of Marijuana Act"), which decriminalized the adult use of cannabis for non-medical purposes and established a regulatory scheme at the state level; and
9. On June 27, 2017, Senate Bill 94 (codified, in part, as California Business and Professions Code sections 26000 *et seq.* and titled the "Medicinal and Adult-Use Cannabis Regulation and Safety Act", or, "MAUCRSA") repealed and replaced MCRSA. MAUCRSA consolidates the medical and non-medical cannabis statutes (MCRSA and Proposition 64).

10. Pursuant to California Business and Professions Code section 26200, nothing in MAUCRSA shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local permit or licensing requirements; and
11. This Ordinance is enacted, consistent with the Compassionate Use Act of 1996, the Medical Marijuana Program Act, and MAUCRSA to protect the public health, safety, and welfare of residents of the County of Alameda in relation to the retail sale and delivery of cannabis; and
12. The County has a compelling interest in protecting the public health, safety, and welfare of its residents, visitors and businesses, in preserving the peace and quiet of the neighborhoods within the unincorporated areas of the County by regulating the sale and delivery of cannabis and the packaging, labeling and sale of edible cannabis products; and
13. In adopting the East County Area Plan (ECAP) in 1994 and Measure D in 2000, the Board of Supervisors and the voters established an urban growth boundary and associated goals and policies to protect agricultural and open space uses while allowing some limited development, including “agriculture enhancing commercial uses” that can demonstrate an economic connection to agricultural use and production and “visitor-serving commercial uses” that promote agriculture and are subordinate and directly related to the area’s agricultural production; and
14. The Board of Supervisors has determined that, with appropriate conditions, cultivation of cannabis may be an appropriate conditionally permitted use in the agricultural districts and outside of the urban growth boundary established by Measure D; and
15. The Board of Supervisors has determined that, with appropriate conditions, a cannabis retail operation may be an appropriate conditionally permitted use in the agricultural district and outside of the urban growth boundary established by Measure D as an “agriculture enhancing commercial use” and a “visitor-serving commercial use” that is economically related to and supports the area’s cannabis cultivation; and
16. On September 12, 2017, the County adopted an amendment to Chapter 6.108 of the Ordinance Code that allowed up to two medical cannabis retail operations (or, “dispensaries”) in the East County and up to three medical cannabis retail operations in the West County; and
17. A limited number of medicinal cannabis retail operations were selected and approved pursuant to the September 2017 version of the cannabis retail ordinance; and
18. All commercial retail operations will be required to comply with state law and state regulations, including but not limited to the requirement to record the movement of cannabis into and out of the retail operation via the state’s track and trace system; and
19. The Board of Supervisors acknowledges that regulation of cannabis activities is an evolving field at the state level, as evidenced by the recent passage of Proposition 64, adoption of MAUCRSA, and release of emergency regulations by various state licensing agencies. As a result, the field of local regulation is also expected to continue to evolve over the next several years including possible further revisions to the County ordinances, policies and performance standards; and

20. Nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. sections 801, *et seq.* or to license any activity that is prohibited under said Act except as mandated by State law; and
21. Nothing in this Ordinance shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) exempt retail operations or delivery operations from compliance with zoning and land use regulations, or, (3) allow any activity relating to the cultivation, distribution, or consumption of cannabis that is illegal under state or federal law.

SECTION 2

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

Chapter 6.108 of the Alameda County General Ordinance Code is hereby repealed in its entirety.

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

Chapter 6.108 – Cannabis Retail Operations, Delivery Operations and Edibles

6.108.010 - Purpose and intent.

The purpose and intent of this chapter is to implement state law by providing a means for regulating the operation of cannabis retail operations, the delivery of cannabis, and the packaging, labeling and sale of cannabis edibles in a manner that is consistent with state law and which promotes the health, safety and general welfare of the residents and businesses within the unincorporated areas of the County of Alameda.

6.108.020 - Definitions.

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

- A. "Applicant" means a person who seeks a permit under this chapter by filing an application as provided for in this chapter.
- B. "Application" means that form provided by the director and submitted by an applicant in accordance with this chapter for the purpose of seeking a permit.
- C. "Bureau" means the Bureau of Cannabis Control within the California Department of Consumer Affairs.
- D. "Brick and mortar" retail operation means a cannabis retail operation with a permanent, physical, store-front retail location allowing direct physical access to customers.
- E. "Cannabis" shall have the same definition as in Business and Professions Code section 26001(f), which defines "cannabis" as all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or

purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For purposes of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the California Health and Safety Code.

- F. "Cannabis concentrate" or "Concentrate" shall have the same definition as in Business and Professions Code section 26001(h), which defines "cannabis concentrate" to mean cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this chapter.
- G. "Cannabis cultivation," "Cultivate" or "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming including any associated storage, of cannabis, including cannabis for medicinal use and/or adult-use in accordance with the Medicinal and Adult-Use Cannabis Regulation and Safety Act. Cannabis cultivation includes the operations of a cannabis nursery. Cannabis cultivation does not mean the temporary maintenance and selling of clones from a permitted retail operation, where such activities are incidental and subordinate to the primary retail operation.
- H. "Cannabis delivery" or "Delivery" means the commercial transfer of cannabis or cannabis products from a retail operation to a retail customer. "Delivery" also includes the use by a retail operation of a technology platform that enables retail customers to arrange for or facilitate retail sale and delivery of cannabis or cannabis products.
- I. "Cannabis delivery operator" or "delivery operator" means a person holding a permit under this chapter to engage in the delivery of cannabis or cannabis products.
- J. "Cannabis distribution" means the procurement, sale, and transport of cannabis and cannabis products between entities licensed pursuant to the provisions of Division 10 of the California Business and Professions Code.
- K. "Cannabis manufacture" or, as used in this chapter, "manufacturing" or "manufacture" means the process by which the raw agricultural cannabis is transformed into a concentrate, an edible product, topical product or similar cannabis product. Manufacturing includes producing, preparing, propagating, or compounding manufactured cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.
- L. "Cannabis nursery" means a cannabis operation that produces only immature plants (including clones), seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.
- M. "Cannabis operator" means the natural person or designated officer responsible for the operation of any permitted cannabis operation.
- N. "Cannabis product" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

- O. "Retail operation" means a premises where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including cannabis for medicinal use and/or adult-use under the authority of the Medicinal and Adult-Use Cannabis Regulation and Safety Act, including an establishment that delivers, cannabis and cannabis products.
- P. "Cannabis retail operator" or "retail operator" means a person holding a permit under this chapter to operate a retail operation.
- Q. "Clone" means the cutting of a cannabis plant that has been re-planted and is non-flowering.
- R. "Combined cannabis operation" or "CCO" means a cannabis operation that engages in at least three of the following commercial cannabis operations on the one premises: cultivation, distribution, manufacturing and retail.
- S. "Community Development Agency" means the community development agency of the County of Alameda.
- T. "County" means the County of Alameda.
- U. "Director" means the director of the Community Development Agency or his or her designee.
- V. "Edible cannabis product", "Edible" or "Edibles" shall have the same definition as in Business and Professions Code section 26001(t), which defines "edible cannabis product" as a cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the California Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code.
- W. "Identification card" has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended.
- X. "Immature cannabis plant" or "immature plant" means a cannabis plant, including but not limited to clones, which has a first true leaf measuring greater than one half inch long from base to tip (if started from seed) or a mass of roots measuring greater than one half inch wide at its widest point (if vegetatively propagated), but which is not flowering.
- Y. "Labeling" means any label or other written, printed, or graphic matter upon a cannabis product, or upon its container or wrapper, or that accompanies any cannabis product.
- Z. "Lot" means a separate parcel of land shown and identified as such on the records of the county recorder or on the final map of an approved and recorded subdivision, excluding therefrom for the purposes of this title any portion thereof which lies within a street, within a lane, or within a fenced-off flood control easement.
- AA. "Permit" means a permit issued by the county to a cannabis retail operator or delivery operator under this chapter.
- BB. "Permittee" means a person who holds an effective and current permit under this chapter.

- CC. "Person" means any human being or an incorporated or unincorporated business entity or association established under the laws of the state.
- DD. "Person with an identification card" means an individual who is a qualified patient who has applied for and received a valid identification card pursuant to Article 2.5 of the California Health and Safety Code
- EE. "Premises" means the designated structure or structures and land specified in the application or in the permit that is owned, leased, or otherwise held under the control of the applicant or permittee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area.
- FF. "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.
- GG. "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.
- HH. "School" means an institution of learning for minors, whether public or private, that offers a regular course of instruction.
- II. "Sheriff" means the sheriff of the County of Alameda and his or her authorized representatives.
- JJ. "State" means the state of California.

6.108.030 – General cannabis retail operator requirements and terms.

- A. It shall be unlawful for any person to conduct, engage in or allow the operation of a cannabis retail operation in the unincorporated portion of Alameda County, unless such cannabis retail operator has been granted a legally effective permit issued under this chapter. Notwithstanding the above, the permits issued under this chapter do not provide any protection or immunity for any person from state or federal laws, or from prosecution pursuant to any applicable state or federal laws.
- B. The owner, managing partner, officer of a corporation or such other person who shall be primarily responsible for the operation of a proposed cannabis retail operation shall apply for a permit under this chapter. If such a permit is granted, the owner, managing partner, corporate officer, and any person with primary responsibility for the retail operation shall ensure the retail operation is maintained in conformity with the terms of this chapter and of the permit.
- C. The fact that an applicant possesses other types of state or county permits or licenses shall not exempt the applicant from obtaining a permit under this chapter, nor shall the terms and conditions of any other such permit or license modify the requirements of a permit granted under this chapter.
- D. At no time shall the county have in effect more than five permits.

1. In the West County, in no event shall the total number of permits for all areas shown in Exhibit A (West County) exceed three. No more than two permits shall be issued in any one of the two areas shown in Exhibit A (West County). No more than one permit shall be issued in the other area shown in Exhibit A (West County).
 2. In the East County, in no event shall the total number of permits for all areas shown in Exhibit B (East County) exceed two. No permit shall be issued for a retail operation within five miles of another retail operation in the unincorporated area shown in Exhibit B (East County) or within one mile of a permitted retail operation location in an incorporated city.
 3. No permit shall be issued in any portion of the unincorporated area that is not within one of the areas delineated in Exhibit A or Exhibit B.
- E. Notwithstanding subsection D of this section, each cannabis retail operation shall comply with all zoning requirements in Title 17 of the Alameda County General Ordinance Code, the Alameda County General Plan, and any Specific Plan applicable to the location of the retail operation, including the requirement to obtain any conditional use permits, and shall also meet all of the following locational standards:
1. No retail operation, including any retail operation as part of a combined cannabis operation, may be closer than one thousand (1000) feet from any other retail operation.
 2. No retail operation, including any retail operation as part of a combined cannabis operation, may be closer than one thousand (1000) feet from any school, any licensed child or day care facility, public park or playground, drug recovery facility or recreation center.
 3. No retail operation, including any retail operation as part of a combined cannabis operation, shall be located in a residential zone or its equivalent.
- F. The following facilities are exempt from the requirement of a permit:
1. A clinic that is licensed under Chapter 1 of Division 2 of the California Health and Safety Code.
 2. A health care facility that is licensed under Chapter 2 of Division 2 of the California Health and Safety Code.
 3. A residential care facility for persons with chronic life-threatening illness that is licensed under Chapter 3.01 of Division 2 of the California Health and Safety Code.
 4. A residential care facility for the elderly that is licensed under Chapter 3.2 of Division 2 of the California Health and Safety Code.
 5. A residential hospice or a home health agency that is licensed under Chapter 8 of Division 2 of the California Health and Safety Code.
- G. Each premises shall only be occupied by one permittee unless otherwise authorized by applicable state laws regulations and county permit(s).
- H. The director may adopt such forms, procedures and performance standards as are necessary to implement this chapter.

6.108.035 – General cannabis delivery operator permit requirements and terms.

- A. It shall be unlawful for any person, including a legally permitted cannabis retail operator, to conduct, engage in or allow to be conducted or engaged in the delivery of cannabis or

cannabis products in the unincorporated portion of Alameda County, unless such person has been granted a legally effective delivery operator permit issued under this chapter. Notwithstanding the above, the permits issued under this chapter do not provide any protection or immunity for any person from state or federal laws, or from prosecution pursuant to any applicable state or federal laws.

- B. The owner, managing partner, officer of a corporation or such other person who shall be primarily responsible for the proposed cannabis delivery operation shall apply for a permit under this chapter. If such a permit is granted, the owner, managing partner, corporate officer, and any person with primary responsibility for the retail operation shall ensure the operation is maintained in conformity with the terms of this chapter and of the permit.
- C. The fact that an applicant possesses other types of state or county permits or licenses shall not exempt the applicant from obtaining a delivery operator permit under this chapter, nor shall the terms and conditions of any other such permit or license modify the requirements of a permit granted under this chapter.
- D. A cannabis delivery operator permit shall be issued only to a “brick and mortar” retail operation holding a valid license or permit for the retail sale of cannabis issued by the State of California and by the local jurisdiction in which the retail operation is located. Mobile retail businesses that do not have a permanent physical “brick and mortar” retail location are not eligible for and shall not be issued a delivery operator permit.
- E. A delivery operator permit shall automatically expire, be suspended or revoked when the permittee’s retail operator license or permit expires, is suspended or revoked. The expiration, suspension or revocation of a delivery operator permit will not automatically affect the status of the delivery operator permittee’s retail operator permit.

6.108.040 - Term of cannabis permits and renewals.

- A. Each cannabis retail operator permit shall expire two years after the date of its issuance or upon the expiration date established by the director, whichever is earlier.
- B. The term of each delivery operator permit shall run concurrent with the term of the delivery operator permittee’s retail operator permit, but in no event longer than two years after the date of its issuance.
- C. Any permit may be renewed by the director for successive two-year periods upon the submission of a renewal application by the permittee. At the time of consideration of a renewal application, the county shall consider compliance with conditions in the prior term and whether the permittee has made substantial progress toward implementing the permit.
- D. No person or facility that purports to have sold or delivered cannabis prior to the enactment of this chapter or without a permit shall be deemed to have been a legally established retail operation or delivery operation under the provisions of this chapter, and such person or facility shall not be entitled to claim a legal nonconforming status.

6.108.050 – Cannabis retail operator permit application and renewal procedures.

- A. When one or more cannabis retail operator permits authorized by Section 6.108.030 is available for award, the director will initiate a process to solicit applications for the establishment of a retail operation within an area where a retail operation could be established based upon the provisions of Section 6.108.030.

- B. Each application for the establishment of a retail operation or renewal of an existing cannabis retail operator permit shall be filed with the director and the director shall be responsible for administering the application solicitation and renewal application processes as set forth in this chapter.
- C. The director shall adopt such forms, procedures and performance standards as are necessary to implement this chapter with respect to the initial selection, future selection, renewal, revocation and suspension of permits.
- D. Wherever this chapter requires the county to give notice to an applicant, appellant or permittee, such notice shall be given by the director, in writing, and shall be delivered either by personal delivery or by certified U.S. mail, postage prepaid, return receipt requested. In addition, any such notice shall be posted at the address of the retail operation on the date of the mailing of notice.
- D. Any application for renewal shall be filed at least forty-five (45) days before expiration of the permit.
- E. Any application for renewal may be rejected if:
 1. The application is filed less than forty-five (45) days before its expiration.
 2. The permit is suspended or revoked at the time of the application; provided, however, that an application for renewal may be filed within ten days after the granting of a permittee's appeal of the suspension or revocation of a permit.
 3. The retail operation authorized by the retail operator permit has not been in regular operation in the four months prior to the renewal application.
 4. The retail operator fails to conform to the criteria set forth in Section 6.108.100.

6.108.060 - Contents of cannabis retail operator permit application.

- A. In response to a solicitation for applications initiated by the director, each application for a cannabis retail operator permit shall set forth or incorporate by reference the following information and such other relevant information determined by the director to be reasonably required, all in a standard form adopted by the director:
 1. Address of the proposed cannabis retail operation, the name and address of the owner(s) of the lot(s) containing the premises.
 2. The full name, date of birth, social security number, present address and telephone number of the applicant.
 3. The address to which notice of action on the application is to be mailed.
 4. All residential addresses of the applicant for the five years immediately prior to the date of the application.
 5. Written proof that the applicant is twenty-one (21) years of age or older (i.e., California driver's license, California identification card or birth certificate).
 6. The height and weight and the color of eyes and hair of the applicant.
 7. Photographs of the applicant for identification purposes to be taken by the Sheriff.
 8. The names and addresses of all businesses operated by and the employment history of the applicant for the five years immediately prior to the date of the application.

9. The address of all retail operations that currently are or previously had been operated by the applicant and a statement of whether the authorization for any such operation had been revoked or suspended and, if so, the reason therefor.
10. The names and telephone numbers of the person or persons to be regularly engaged in the operation of the proposed cannabis retail operation, whether an employee, volunteer or contractor. The application shall also identify those persons, including telephone numbers (i.e., emergency contact), having management and supervisory responsibilities for the proposed retail operation. Every person listed as owner, manager, supervisor or employee must submit fingerprints and other necessary information for a background check to the Alameda County Sheriff's Office, and be photographed for identification purposes. In addition, any new employees, independent contractors, other persons and/or volunteers regularly engaged in the proposed cannabis retail operation must submit their information to the Sheriff's office within five days prior to their employment pursuant to Section 6.108.120(A)(11).
11. A security plan containing a detailed description of the proposed security arrangements for ensuring the safety of persons from theft and robbery and protection of the premises from theft and burglary. The security plan shall be submitted for review and approval by the Sheriff, and shall include a lighting plan showing existing and proposed exterior and interior lighting levels, alarms and security surveillance cameras. Security video shall be maintained for 30 business days and shall be made available to the Sheriff upon request. The video system for security cameras must be located in a locked, tamper-proof compartment. A professionally monitored robbery alarm system shall be installed and maintained in good working condition. The security plan shall include the provision of a suitable locked safe on the premises for after-hours storage of cannabis.
12. A site plan and floor plan, consisting of a sketch or diagram showing the interior and exterior configuration of the premises of the cannabis retail operation. The site plan shall show the entire premises, including all buildings, accessory structures, storage, and parking areas, and a statement of the total floor area occupied by the retail operation. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus twelve (12) inches. The retail operation must have a lobby waiting area at the entrance to receive clients, and a separate and secure designated area for dispensing cannabis to qualified patients, persons with an identification card or designated caregivers. The primary entrance shall be located and maintained clear of barriers, landscaping or similar obstructions so that it is clearly visible from public streets, sidewalks, or site driveways.
13. A description of external appearance of the retail operation, including a precise depiction of any signage, which shall not obstruct the entrance or windows of the retail operation. All signage shall comply with all County General Plan, Zoning Ordinance and any applicable specific plans.
14. A description of products to be sold by the retail operator.
15. If the application proposes sale of cannabis for medicinal purposes, the mission statement of the retail operator with respect to meeting the medicinal needs of patients in its area, as delineated by subsection D of Section 6.108.030.
16. A description of the methods by which the applicant will mitigate any potentially adverse impacts, such as traffic, loitering, odors or noise, on surrounding property owners. The retail operation shall be designed to provide sufficient odor absorbing ventilation and

exhaust systems to that any odor generated inside the retail operation is not detected outside the buildings and structures in which it operates, on adjacent public rights-of-way, or within other units located within the same building as the retail operation if it occupies only a portion of the building.

17. Authorization for the county, its agents and employees to seek verification of the information contained in the application.
 18. Written certification that the applicant has reviewed and understands and accepts the standard conditions that are set forth in Section 6.108.120. Written certification that the applicant will comply with all county ordinances, including building, zoning and health codes, allow inspections to ensure conformance with such regulations, cooperate with county agencies' efforts to monitor the retail operator's compliance with applicable ordinances and with all conditions of permits issued pursuant to this Code, and pay any county fees assessed for monitoring permittee's compliance.
 19. Certification, under penalty of perjury, that all the information contained in the application is true and correct.
 20. A statement by the applicant that it has the ability to comply with all laws regulating businesses in the state of California and that it shall maintain compliance during the term of the permit.
 21. An operating plan specifically describing how the retail operator will operate consistent with State and local law, including but not limited to: the minimum staffing levels for the retail operation, policies and procedures for record keeping, specific details of the retail operator's track and trace program, specific details of the retail operator's product testing, specific details of the retail operator's proposed odor absorbing ventilation and exhaust systems, and other relevant information regarding the proposed retail operation, including a copy of the retail operator's labor peace agreement when the retail operator is required by California Business & Professions Code Section 26051.5 to enter into or abide by a labor peace agreement.
- B. The filing of an application shall be deemed complete upon the submission of an application in conformance with this section and payment of the application fees required by Sections 6.108.080 and 6.108.220.
- C. It is unlawful to make any false statement or representation or to use or submit and false or fraudulent document in any application made pursuant to this chapter.

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

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

1. Address of the brick and mortar cannabis retail operation from which deliveries are proposed to be made and the name and address of the owner(s) of the lot(s) containing the retail operation.
2. The full name, date of birth, social security number, present address and telephone number of the applicant.
3. The address to which notice of action on the application is to be mailed.
4. All residential addresses of the applicant for the five years immediately prior to the date of the application.
5. Written proof that the applicant is twenty-one (21) years of age or older (i.e., California driver's license, California identification card or birth certificate).
6. The height and weight and the color of eyes and hair of the applicant.
7. Photographs of the applicant for identification purposes to be taken by the Sheriff.
8. The names and addresses of all businesses operated by and the employment history of the applicant for the five years immediately prior to the date of the application.
9. The name and address of all retail or delivery operations that currently are or previously had been operated by the applicant and a statement of whether the authorization for any such operation had been revoked or suspended and, if so, the reason therefor.
10. The names and telephone numbers of the person or persons to be regularly engaged in the operation of the proposed cannabis delivery operation, whether an employee, volunteer or contractor. The application shall also identify those persons, including telephone numbers (i.e., emergency contact), having management and supervisory responsibilities for the proposed delivery operation. Every person listed as owner, manager, supervisor or employee must submit fingerprints and other necessary information for a background check to the Alameda County Sheriff's Office, and be photographed for identification purposes. In addition, any new employees, independent contractors, other persons and/or volunteers regularly engaged in the proposed cannabis delivery operation must submit their information to the Sheriff's office within five days prior to their employment pursuant to Section 6.108.120(A)(11).
11. A security plan containing a detailed description of the proposed security arrangements for ensuring the safety of persons from theft and robbery and protection of the vehicle from theft and burglary. The security plan shall be submitted for review and approval by the Sheriff.
12. A description of products to be sold by delivery.
13. If the application proposes delivery of cannabis for medicinal purposes, the mission statement of the retail operator with respect to meeting the medicinal needs of patients.
14. A description of the methods by which the applicant will mitigate any potentially adverse impacts, such as safety, odors or noise, on surrounding property owners.
15. Authorization for the county, its agents and employees to seek verification of the information contained in the application.
16. Written certification that the applicant has reviewed and understands and accepts the standard conditions that are set forth in Section 6.108.125. Written certification that the applicant will comply with all county ordinances, including building, zoning and health codes, allow inspections to ensure conformance with such regulations, cooperate with county agencies' efforts to monitor the retail operator's compliance with applicable

ordinances and with all conditions of permits issued pursuant to this Code, and pay any county fees assessed for monitoring permittee's compliance.

17. Certification, under penalty of perjury, that all the information contained in the application is true and correct.
 18. A statement by the applicant that it has the ability to comply with all laws regulating businesses in the state of California and that it shall maintain compliance during the term of the permit.
 19. An operating plan specifically describing how the applicant will operate consistent with State and local law, including but not limited to: the minimum staffing levels for operation of the delivery operation, policies and procedures for record keeping, specific details of the retail operator's track and trace program.
- C. Any application for renewal shall be filed at least forty-five (45) days before expiration of the permit.
- D. Any application for renewal may be rejected if:
1. The application is filed less than forty-five (45) days before its expiration.
 2. The delivery operator permit or associated retail operator permit is suspended or revoked at the time of the application; provided, however, that an application for renewal may be filed within ten days after the granting of a permittee's appeal of the suspension or revocation of a permit.
 3. The retail operation authorized by the associated retail operator permit has not been in regular operation in the four months prior to the renewal application.
 4. The applicant fails to conform to the criteria set forth in Section 6.108.125.
- E. The filing of an application shall be deemed complete upon the submission of an application in conformance with this section and payment of the application fees required by Section 6.108.080.
- F. It is unlawful to make any false statement or representation or to use or submit and false or fraudulent document in any application made pursuant to this chapter.

6.108.080 - Fees.

- A. Every application, transfer or renewal of a retail operator or delivery operator permit shall be accompanied by a nonrefundable fee, as established by the board of supervisors, in order to reimburse the county for the cost of reviewing and acting upon the application.
- B. In addition, each retail operator and delivery operator shall pay an annual fee, as established by the board of supervisors, for the administration of the permit, including monitoring and enforcing compliance with terms of the permit.
- C. The board of supervisors may enact such other fees as may be necessary to recover the county's costs of inspection and corrective actions in relation to retail operations and delivery operations.

6.108.090 - Initial review of application.

- A. The director shall commence review of any application immediately upon its filing. For retail operator permit applications, the director shall complete such initial review within the time period established in the solicitation process for retail operator permits, but in no event shall

the initial review exceed one hundred and twenty (120) days. For delivery operator permit applications, delivery operator permit renewal applications, and retail operator renewal applications, the director shall complete such initial review within forty-five (45) days. In conducting this review, the following county agencies shall comment on specific portions of the application:

1. The Sheriff shall be responsible for verifying factual information in the application, including names, addresses and other information on the applicant, operator and employees of the proposed retail operation or delivery operation.
 2. The Sheriff shall comment upon the adequacy of security measures that are described in the application, including the security plan, the floor plan for retailer operations, and other relevant aspects of the application.
 3. For retail operator applications, the community development agency shall comment upon the proposed location's compliance with the requirements of subsections D and E of Section 6.108.030, the general responsiveness to the solicitation process in Section 6.108.060, and conditions that are needed to mitigate adverse impacts on surrounding uses.
 4. If the proposed retail operation will sell cannabis for consumption by medicinal consumers, the health care services agency shall comment upon the services to be provided and the mission statement set forth in the application.
 5. If the proposed retail operation will include the sale of edibles, the department of environmental health shall comment upon the application's compliance with the requirements of Section 6.108.170.
- B. Within twenty (20) business days after the filing of an application, the director shall reject any application and so notify the applicant, if the application has been improperly completed or if it is incomplete. The applicant may amend and refile the application within ten days after such rejection.
- C. At the conclusion of the initial review, the director shall notify the applicant of the results of the initial review of the application.

6.108.100 - Action upon completion of initial review.

- A. Upon completion of the initial review, the director shall reject any permit application that meets any of the following criteria:
1. The proposed retail operation or delivery operation does not comply with requirements of this chapter.
 2. The applicant has knowingly made a false statement of material fact or has knowingly omitted a material fact from the application.
 3. The operation of the proposed retail operation at the proposed location is prohibited by any state or local law or regulation.
 4. Any person who is listed on the application pursuant to subsection (A)(10) of Section 6.108.060 or pursuant to Section 6.108.070 has been convicted of a felony within the past three (3) years. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
 5. The applicant or the operator listed in the application is less than twenty-one (21) years of age.

6. The health care services agency has determined, for an operation that will sell cannabis for consumption by medicinal consumers, that the application has failed to state a health care purpose that fulfills the purposes of Sections 11362.5, *et seq.* of the California Health and Safety Code.
 7. The applicant is delinquent in the payment of any applicable state or county taxes and fees.
- B. Any retail operator application that is not rejected upon completion of the initial review shall be deemed an eligible application and submitted to the final selection phase of the solicitation process described in Section 6.108.110.
 - C. Any delivery application that is not rejected upon completion of the initial review shall be deemed an eligible application and submitted to the final phase of the permit process described in Section 6.108.115.

6.108.110 - Final selection of cannabis retail operators.

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

- E. The operating conditions established by the director shall include the requirement for each selected applicant to obtain (1) any required state permits or licenses for the retail operation, and (2) all land use entitlements required to operate a retail operation. No retail operator permit shall be effective until these conditions of approval are satisfied.
- F. In the event that an additional permit becomes available subsequent to the scoring and ranking of applications pursuant to subsections (A) and (B) above, the director may issue a permit to the next highest ranked applicant by following the procedures in subsections (C) through (E), above, provided the applicant meets the spacing requirements set forth in Section 6.108.030(D) and (E).

6.108.115 - Final permit phase for cannabis delivery operators.

- A. The director may establish operating conditions, in addition to the standard conditions contained in Section 6.108.125 for each eligible application that has been submitted for final permit approval. The director shall give notice to eligible delivery operator permit applicants of the operating conditions that would attach to the permit. Within ten days after notice, the applicant shall either:
 - 1. Certify acceptance of the operating conditions and the standard conditions of the permit and pay all required fees, and the permit shall thereupon issue immediately.
 - 2. If the applicant refuses or fails to certify agreement with any operating condition or standard condition or to pay required fees, the application shall be denied. The applicant may appeal any condition within ten days after notice of the conditions. Upon either the failure to file a timely appeal or the rejection of the appeal, the application shall be deemed denied.
- E. The operating conditions established by the director shall include the requirement for each eligible applicant to obtain any required state permits or licenses for the operation of a delivery operation, if applicable. No delivery operator permit shall be effective until these conditions of approval are satisfied.

6.108.120 - Standard conditions for cannabis retail operators.

- A. Throughout the term of the cannabis retail operator permit, each permittee shall not violate this chapter, shall comply with the following standard conditions and shall not allow or tolerate violations of these standard conditions to occur at the retail operation:
 - 1. It shall be a violation of this chapter for a retail operator to deliver, distribute, provide or allow to be provided cannabis to any person except those persons who are 21 years of age or older or who are 18 years of age or older and primary caregivers, qualified patients or persons with an identification card, as defined by California Health and Safety Code section 11362.7. All retail sales that do not comply with the provisions of Sections 26000, *et seq.*, of the Business and Professions Code applicable to retail operations, associated state regulations and the terms of the permit and this chapter is prohibited. It shall be the responsibility of the permittee to ensure that a good faith effort be made to verify the validity of any proof of age, identification card and written recommendation provided to the retail operation.
 - 2. Each retail operator shall maintain records of persons who have received cannabis from the retail operation. These records shall include a retail operator-assigned customer number and shall not identify such persons by full name.
 - 3. No retail operation shall be open for business between the hours of 12:00 a.m. and 9:00 a.m. or between the hours of 9:00 p.m. and 11:59 p.m. on any day. No activities that are

undertaken in the retail operation shall be conducted outside the interior premises of the retail operation.

4. Unless and until a local permit and state license allowing cannabis nursery, cultivation or manufacturing uses (e.g., Type 12 – Microbusiness and Ord. Code Chapter 6.109 Combined Cannabis Operator) has been issued for the retail operation premises, cannabis may not be grown, cultivated or manufactured on the premises. However, the retail operator may sell clones and may provide such water, heat, and light as may be necessary to maintain the clones prior to sale, provided that such activities are incidental and subordinate to the primary retail operation.

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

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

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

9. The entrance to a retail operation shall be posted with a notice that states the restrictions on the presence of persons under the age of 21 and/or 18, as applicable, and that smoking, ingesting or consuming cannabis on the premises is prohibited. In addition, each retail operator shall conspicuously display the permit.
10. No retail operator may hold a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, nor may it include a business that sells alcoholic beverages on the same premises. No alcohol may be stored, sold, dispensed or used on the same premises.

11. Each permittee shall maintain a current registry of persons, including, but not limited to, employees, contractors and volunteers, who are regularly engaged in the operation of the retail operation. The registry shall be provided to the director at any time upon request. The registry shall include the name, current residential address, telephone number, date of birth and the height, weight and color of eyes and hair of each such person. In addition, any new employees, independent contractors, other persons and/or volunteers to be regularly engaged in the operation of the proposed cannabis retail operator must submit their information to the Sheriff's office within five days prior to their employment or engagement.
12. No person who has been convicted of a felony within the past three years may be actively engaged in the operation of any retail operation. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
13. A retail operator shall provide adequate security on the premises, including lighting and alarms, to ensure the safety of persons and to protect the premises from theft.
14. The permittee shall provide the director with the name, telephone number and facsimile number of a community relations contact to whom one can provide notice of problems associated with the retail operation. The permittee shall make a good faith effort to resolve problems without the need for intervention by the county.
15. A retail operator shall provide litter removal services twice each day of operation on and in front of the premises and, if necessary, on public sidewalks within one hundred (100) feet of the premises.
16. A retail operator shall comply with all county ordinances, including building, zoning and health codes, and shall allow inspections to ensure conformance with such regulations. A retail operator shall cooperate with county agencies' efforts to monitor the retail operator's compliance with applicable ordinances and with all conditions of permits issued pursuant to this Code. The county may assess fees for monitoring permittee's compliance.
17. A retail operator shall not be delinquent in the payment of fees required by this chapter.
18. All activities of the retail operator must take place within the interior of the building.
19. A retail operator shall ensure that a representative sample of its cannabis and cannabis products have been submitted for analytical testing at a licensed testing laboratory, as defined in Business and Professions Code section 26001(at), before the cannabis and cannabis products are delivered to the retail operator.
20. A retail operator shall package all cannabis flowers sold on its premises in child resistant packaging.
21. A retail operator shall implement a track and trace program with a unique identifier for every product, both for inventory stored in a safe and inventory packaged for sale. A retail operator shall implement a track and trace program that shall be in compliance with Section 26067, 26068 and 26069 of the California Business and Professions Code and all applicable regulations.
22. A retail operator shall use devices that meet the standards of the California Department of Food and Agriculture's Division of Measurement Standards for all weighing and measuring devices, including but not limited to scales and scanners; register with Alameda County Sealer of Weights 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.

23. No retail operator shall (a) enter into any agreement with or employ a physician for the purpose of evaluating patients for the issuance of a medicinal cannabis recommendation or identification card; (b) allow a physician to locate on the retail operation premises at any time for the purpose of issuing a medicinal cannabis recommendation or identification card; (c) give or offer to give any form of remuneration to a physician if the physician or his or her immediate family have a financial interest (as that term is defined in California Business and Professions Code section 650.01) in the retail operation; and (d) not distribute any form of advertising for physician recommendations for medicinal cannabis in California unless the advertisement bears the notice to consumers contained in California Business and Professions Code section 2525.5.
 24. A retail operator shall fully comply with the terms of its approved security plan, floor plan and operating plan.
- B. In order to minimize any adverse impacts on surrounding properties or residents, the standard operating conditions that are set forth in this section may be modified upon the issuance of the permit or upon ten days' notice during the term of the permit.
 - C. During the term of each permit, the county shall require the permittee to comply with the standard operating conditions that are set forth in this section or as they may be modified in accordance with subsection B of this section and, in addition, any such operating conditions that may be established pursuant to subsections C and D of Section 6.108.110.
 - D. At any time during the operation of a retail operation and without notice, the director, acting in conjunction with other appropriate county officials, may enter the premises for the purpose of observing compliance of the retail operator with the conditions of its permit.
 - E. Release of the county from liability. The owner and permittee of each retail operation and delivery operation shall release the county, and its agents, officers, elected officials, and employees from any injuries, damages, or liabilities of any kind that result from any arrest or prosecution of retail operator or delivery operator owners, permittees, operators, employees, or clients for violation of state or federal laws in a form satisfactory to the director.
 - F. County indemnification. The owners and permittee of each retail operation and delivery operation 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 issuance of the permit, adoption or enforcement of conditions of the permit, or the operations at the retail operation or by the delivery operator, and for any claims brought by any of their clients for problems, injuries, damages or liabilities of any kind that may arise out of the sale, delivery and/or on- or off-site use of cannabis provided at the retail operation or delivered by the delivery operator in a form satisfactory to the director.

6.108.125 - Standard conditions for cannabis delivery operations.

- A. Throughout the term of the cannabis delivery operator permit, each permittee shall not violate this chapter and shall comply with the following standard conditions:
 1. It is unlawful to deliver, distribute, provide or allow to be provided cannabis to any person except those persons who are 21 years of age or older or who are primary caregivers, qualified patients or persons with an identification card, as defined by California Health

and Safety Code section 11362.7. All deliveries that do not comply with provisions of Sections 26000, et seq., of the Business and Professions Code applicable to operations, associated state regulations, and the terms of the permit and this chapter are prohibited. It shall be the responsibility of the permittee to ensure that a good faith effort is made to verify the validity of any proof of age, identification card or the written recommendation from a licensed physician provided to the delivery operator.

2. All employees of a delivery operator delivering cannabis or cannabis products shall carry a copy of the retail operator's current retail operator license or permit and the retail operator's current delivery operator permit authorizing those services with them during deliveries and the employee's government-issued identification, and shall present that license, permit and identification upon request to state and local law enforcement, employees of regulatory authorities, and other state and local agencies enforcing this chapter.
3. During any delivery, the permittee shall maintain a copy of the delivery request and shall make it available upon request of the director or law enforcement officers. The delivery request documentation shall comply with state and federal law regarding the protection of confidential medical information, if any.
4. The qualified patient, person with an identification card or primary caregiver requesting the delivery shall maintain a copy of the delivery request and shall make it available, upon request, to the director or law enforcement officers.
5. No deliveries shall be made between the hours of 12:00 a.m. and 9:00 a.m. or between the hours of 9:00 p.m. and 11:59 p.m. on any day.
6. It is unlawful to employ a person who is less than 21 years of age to engage in the delivery of cannabis.
7. It shall be unlawful for any delivery operation to provide medical cannabis to any person under the age of eighteen (18) unless that person is a qualified patient or a primary caregiver with a valid identification card in accordance with California Health and Safety Code section 11362.7 or has a verifiable written recommendation from a licensed physician for medical cannabis.
8. Each permittee shall maintain a current registry of persons, including, but not limited to, employees, contractors and volunteers, who are regularly engaged in delivery operations. The registry shall be provided to the director at any time upon request. The registry shall include the name, current residential address, telephone number, date of birth and the height, weight and color of eyes and hair of each such person. Every person listed as owner, manager, supervisor or employee must submit fingerprints and other necessary information for a background check to the Alameda County Sheriff's Office, and be photographed for identification purposes. In addition, any new employees, independent contractors, other persons and/or volunteers to be regularly engaged in the delivery operation must submit their information to the Sheriff's office within five days prior to their employment.
9. It is unlawful to employ a person who has been convicted of a felony within the past three years to engage in the delivery of cannabis. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
10. Delivery vehicles shall not include signage or markings that identify the vehicle as a cannabis delivery vehicle.

11. Delivery operators shall provide adequate security for their delivery personnel and vehicles, to ensure the safety of persons and to protect the vehicle operators from theft.
12. The delivery operator permittee will satisfy the release of liability and county indemnification requirements in subdivision E and F of Section 6.108.120.
13. A retail operator shall cooperate with county agencies' efforts to monitor the retail operator's compliance with applicable ordinances and with all conditions of permits issued pursuant to this Code. The county may assess fees for monitoring permittee's compliance.

6.108.130 - Appeal from administrative determinations.

- A. An applicant aggrieved by the decisions described in Sections 6.108.110, 6.108.115, or 6.108.140 may appeal that decision to the board of supervisors within ten (10) days following the date of issuance of that decision by filing with the clerk of the board of supervisors or the director a notice of appeal specifying the grounds for such appeal. Filing such notice shall stay all proceedings in furtherance of the decision appealed from, including the proceedings related to the applications or permits of other applicants potentially affected by the board of supervisors' decision on the appeal. The director is designated as an agent of the clerk of the board for purposes of receiving a notice of appeal.
- B. The board of supervisors shall give written notice of the time and place for hearing any appeal filed pursuant this section. Such notice shall be given to the applicant and to the community development agency, and to any other person requesting such notice and depositing with the clerk of the board a self-addressed, stamped envelope to be used for that purpose.
- C. The board of supervisors may hear additional evidence and may sustain, modify, or overrule any order brought before it on appeal and may make such findings and decisions as are not inconsistent with state law and county ordinances. The board of supervisors may also remand the decision to the director for reconsideration of his or her decision in light of new information not previously presented to the director. If no motion relative to the order appealed attains a majority vote of the board of supervisors within thirty (30) days from the date of the hearing by said board thereon, said order of the director shall stand sustained and be final.
- D. For any appeals concerning a decision described in Section 6.108.110 the board of supervisors' review shall be limited to determining whether CDA materially erred in conducting the selection process with respect to following the RFP, county ordinances or state law. The board of supervisors shall not re-judge the proposals, alter the scoring or ranking of the proposals, or consider new evidence concerning the merits of the proposed retail operation.
- E. Any appeal that is not timely filed or otherwise fails to comply with Paragraph A of this section will be deemed ineffective by the director and the administrative determination that is being appealed will become final.

6.108.140 - Suspension and revocation.

- A. The director may revoke or suspend a permit when it shall appear that the permittee has committed any of the following actions:

1. Violates the operating or standard conditions of the permit or the requirements of state or local laws.
 2. Fails to take reasonable measures to control disturbances, loitering or such other problems on the retail premises or in the vicinity of its delivery activities.
- B. The director shall provide the permittee with written notice of the suspension or revocation that shall describe the grounds for revoking or suspending the permit.
- C. The permittee subject to the revocation or suspension may appeal the determination of the director to the board of supervisors within ten days after the date of the notice of the decision of the director. The board of supervisors shall act upon the appeal in accordance with Section 6.108.130.

6.108.150 - Transfer of the permit.

- A. No permittee may transfer a permit to another cannabis operator or premises without authorization by the county, granted in accordance with this section.
- B. A permittee shall apply for transfer of a retail operator permit by submitting, jointly with the proposed transferee, an application that complies with Section 6.108.060. The director shall verify information in the application and shall approve the transfer unless it fails to comply with the requirements of this chapter, the standards set forth in Section 6.108.100 or such other minimum score or standards as may be established by the director pursuant to Section 6.108.110(B).
- C. A permittee shall apply for transfer of a delivery operator permit by submitting, jointly with the proposed transferee, an application that complies with Section 6.108.070. The director shall verify information in the application and shall approve the transfer unless it fails to comply with the requirements of this chapter, the standards set forth in Section 6.108.100 or such other minimum standards as may be established by the director.
- D. Before a transfer of a permit may become effective, the transferee shall certify acceptance of the operating conditions and the standard conditions of the permit and pay all fees required by Sections 6.108.080 and 6.108.220.

6.108.160 - Prohibited operations.

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

6.108.170 – Sale, Distribution and Delivery of Edibles.

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

A. Preparation of Edibles.

1. A facility, such as a commercial kitchen, that proposes to prepare, store, sell, dispense, or distribute edibles must comply with the relevant provisions of all state and local laws regarding the preparation, distribution, labeling and sale of food. No food production will be allowed in the same facility to avoid the unintentional contamination of food with cannabis. Facilities shall be constructed, permitted, operated and inspected in

accordance with the applicable building code and applicable food safety requirements by the Alameda County Department of Environmental Health.

2. Individuals involved in the production or distribution of edibles shall thoroughly wash their hands before commencing production and before handling the finished product. Gloves must be worn when packaging edibles.
 3. To reduce the likelihood of foodborne disease transmission, individuals who are suffering from symptoms associated with acute gastrointestinal illness or are known to be infected with a communicable disease that is transmissible through foodstuffs are prohibited from preparing edibles until they are free of that illness or disease, or are incapable of transmitting the illness or disease through foodstuffs. Individuals who have sores or cuts on their hands must use gloves when preparing and handling edibles.
 4. Producers of edibles must be state certified food handlers. The valid certificate must be onsite at the facility where the edible is produced and made available during inspections.
 5. Hand-washing facilities shall be adequate and convenient and be furnished with 100F hot running water. Hand washing facilities shall be located in the facility in edible preparation areas and where good sanitary practices require employees to wash their hands and provide effective hand-cleaning (liquid soap) and disposable paper towel or suitable drying devices.
- B. Packaging and Labeling of Edibles. Edibles shall be labeled and packaged in accordance with Section 26120 of the California Business and Professions Code and all applicable regulations and as provided in this subdivision.
1. All edibles shall be individually wrapped at the original point of preparation. Labeling shall be distinctly and clearly legible on the front of the package and must include: (a) a warning if nuts or other known allergens are used in the manufacturing of the edibles; (b) a warning that the item contains cannabis and the total weight (in ounces or grams) and amount of active ingredients in the package; (c) the cultivation and manufacture date and source; (d) a statement that the contents are not a food product; and (e) information indicating any caloric impact on the consumer. The package label must have a warning clearly legible emphasizing that the product is to be kept away from children.
 2. Labels of edibles that are not tested for contaminants (baked goods) shall include a statement that the cannabis used in the product was tested for contaminants.
 3. Packaging of edibles shall be opaque (non see-through), and may not make it appear as if the edible is a food product. Packaging that makes the product attractive to children or imitates candy is prohibited.
 4. Packaging of edibles shall be tamper proof and child resistant.
- C. Edible Product Log. Producers of edibles that are tested for contaminants shall maintain a written or computerized log documenting:
1. The source of the cannabis used in each batch of product;
 2. The contaminant testing date; and
 3. The testing laboratory that analyzed the sample of the cannabis product.

6.108.180 - Misdemeanor violations.

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

6.108.190 - Civil Remedies

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

6.108.200- Severability.

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

6.108.210 - Judicial review.

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

6.108.220 – Fee Schedule.

- A. The applicant is responsible for paying the following fees to reimburse the County in accordance with section 6.108.080 of this chapter. The Director may adopt such forms and procedures as necessary to collect the fees.

Cannabis Retail Permit Application Fee (Request for Proposals process)	\$8,000
Cannabis Retail Permit Final Selection Fee (Request for Proposals process)	\$4,000
Cannabis Retail Permit Issuance Fee (Request for Proposals process)	\$2,000
Cannabis Delivery Permit Application Fee	\$2,400
Cannabis Retail Permit Renewal Fee	\$2,700
Cannabis Delivery Permit Renewal Fee	\$1,100
Cannabis Retail Permit Annual Regulatory Program Fee	\$23,000

Cannabis Retail Permit Transfer Application Fee	\$2,900
Cannabis Delivery Permit Transfer Application Fee	\$2,900
Cannabis Retail Permit Transfer Issuance Fee	\$1,100
Cannabis Delivery Permit Transfer Issuance Fee	\$1,100

- B. For the following fee types, the applicant shall pay fees sufficient to reimburse the County for its actual costs in accordance with section 6.108.080 of this chapter and section 17.54.620 of Title 17 of this code. The applicable fee rates shall be those duly adopted by the County and in effect at the time the County work is performed or the cost is incurred. The Director may collect such fees in advance as a refundable deposit in such amounts as may be established by the Director. The Director may adopt such forms and procedures as necessary to collect the fees.

Cannabis Retail Permit Appeal by Applicant (Title 6)	AT-COST/ deposit
Cannabis Delivery Permit Appeal by Applicant (Title 6)	AT-COST/ deposit
Cannabis Retail Permit Reconsideration of Application post-Appeal (if remanded for reconsideration) (Title 6)	AT-COST/ deposit
Cannabis Delivery Permit Reconsideration of Application post-Appeal (if remanded for reconsideration) (Title 6)	AT-COST/ deposit
Cannabis Retail Conditional Use Permit Application (Title 17)	\$5,000 deposit
Mandatory Review of Conditional Use Permit for Cannabis Retail (Title 17)	AT-COST/ deposit
Cannabis Retail Conditional Use Permit Appeal by Applicant (Title 17)	AT-COST/ deposit

- C. If the Director determines that, in addition to the routine inspections pursuant to the Cannabis Retail Permit Annual Regulatory Program Fee in paragraph A, additional inspections or abatement actions are required to enforce compliance with this chapter or with Title 17 of this code, the applicant shall pay fees sufficient to reimburse the County for its actual costs incurred to conduct such inspections and abatement actions, which may include staff time plus actual abatement costs. The applicable fee rates shall be those duly adopted by the County and in effect at the time the County work is performed or the cost is incurred. The Director may collect such fees in advance as a refundable deposit in such amounts as may be established by the Director. The Director may adopt such forms and procedures as necessary to collect the fees.

- D. The fees in paragraph A shall be reviewed annually by the County and may be amended if necessary to appropriately reimburse the County for its actual costs.
- E. The fee rates and deposit amounts in paragraph B shall be reviewed annually by the Director and may be amended if necessary.

6.108.230 - Support Obligations.

- A. Prior to the issuance of a permit or permit renewal under this Chapter, and at all times while holding a permit, permit applicants and permittees shall be current with their monthly child support obligations. If the applicant or permittee has an account with past due child support arrears, he/she must have that balance at zero or have verification from the County Department of Child Support Services that they have been in and remain in compliance with an agreed or court ordered payment plan in order to remain eligible for the permit. In determining compliance the Department will consider all relevant financial circumstances of the applicant or permittee with the overall goal of removing barriers to employment.
- B. Permittees shall provide the County Department of Child Support Services a quarterly list of all employees employed by the permittee at any time during the quarter. Reports are due by the 15th of the month following the end of the quarter (March, June, September and December). The list shall include names, addresses, phone numbers and social security numbers for all employees.
- C. If the Permittee uses a payroll withholding process, the permittee must comply with any income withholding order for child support for any employee in the permittee's employ. In addition, if the income withholding order is for an owner or part-owner of the business, the business shall also comply with the income withholding order and provide necessary tax information if self-employed for purposes of determining accurate child support orders.

Exhibits

Exhibit A attached hereto, is incorporated into this Ordinance.

Exhibit B attached hereto, is incorporated into this Ordinance.

SECTION 3

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

Adopted by the Board of Supervisors of the County of Alameda, State of California, on the ___ day of _____, 2019, by the following called vote:

AYES:

NOES:

EXCUSED:

RICHARD VALLE
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

DocuSigned by:
By: Heather Littlejohn
Heather Littlejohn
Deputy County Counsel

ORDINANCE NO. 2019-_____

AN ORDINANCE ADDING CHAPTER 6.109 TO THE ALAMEDA COUNTY GENERAL
ORDINANCE CODE TO REGULATE COMBINED CANNABIS OPERATIONS

SECTION 1

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

1. In 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code section 11362.5 and titled the "Compassionate Use Act of 1996"); and
2. The intent of Proposition 215 was to enable persons who are in need of cannabis for medical purposes to be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances; and
3. In 2004, Senate Bill 420 was enacted (codified as California Health and Safety Code section 11362.7 *et seq.* and titled the "Medical Marijuana Program Act") to clarify the scope of the Compassionate Use Act of 1996; and
4. In 2011, Assembly Bill 2650 was enacted (codified as California Health and Safety Code section 11362.768), which affirmed that counties can adopt ordinances that restrict the location and establishment of medical cannabis collectives and cooperatives; and
5. In 2015, Assembly Bill 243, Assembly Bill 266 and Senate Bill 643 were enacted (codified in part as California Business and Professions Code sections 19300, *et seq.* and titled the "Medical Marijuana Regulation and Safety Act"). These bills also amended provisions of the Medical Marijuana Program Act related to the cultivation of medical cannabis; and
6. In 2016, Senate Bill 837 was enacted to change all references to medical marijuana or marijuana to medical cannabis or cannabis, including changing the name of the Medical Marijuana Regulation and Safety Act to the Medical Cannabis Regulation and Safety Act (MCRSA); and
7. MCRSA established a comprehensive framework to license and regulate commercial medical cannabis cultivation, manufacturing, distribution, transportation, sales, and testing; and
8. On November 8, 2016, the voters of the State of California approved Proposition 64 (codified, in part, as California Business and Professions Code sections 26000, *et seq.* and titled the "Control, Regulate and Tax Adult Use of Marijuana Act"), which decriminalized the adult use of cannabis for non-medical purposes and established a regulatory scheme at the state level; and
9. On June 27, 2017, Senate Bill 94 (codified, in part, as California Business and Professions Code sections 26000 *et seq.* and titled the "Medicinal and Adult-Use Cannabis Regulation and Safety Act", or, "MAUCRSA") repealed and replaced MCRSA. MAUCRSA consolidates the medical and non-medical cannabis statutes (MCRSA and Proposition 64).

10. MAUCRSA authorizes specified agencies to issue licenses for various types of commercial cannabis uses, including cultivation, distribution, testing, manufacturing and retail sale, and to adopt regulations governing license issuance, the permissible activities of licensees, and enforcement; and
11. MAUCRSA and the regulations of the State Bureau of Cannabis Control (BCC), adopted on January 16, 2019, establish a license type known as “microbusiness,” which permits a licensee to conduct three or four of the following commercial cannabis activities: cultivation (up to 10,000 square feet), distribution, manufacturing and retail sale; and
12. This Ordinance establishes regulations governing such combined cannabis uses in the unincorporated areas of the County of Alameda; and
13. Pursuant to California Business and Professions Code section 26200, nothing in MAUCRSA shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local permit or licensing requirements; and
14. This Ordinance is enacted, consistent with the Compassionate Use Act of 1996, the Medical Marijuana Program Act, and MAUCRSA to protect the public health, safety, and welfare of residents of the County of Alameda in relation to the cultivation, manufacture, distribution, retail sale, and delivery of cannabis, including combined cannabis operations; and
15. The County has a compelling interest in protecting the public health, safety, and welfare of its residents, visitors and businesses, in preserving the peace and quiet of the neighborhoods within the unincorporated areas of the County by regulating the cultivation, manufacture, distribution, retail sale, and delivery of cannabis, including combined cannabis operations; and
16. 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
17. The Board of Supervisors has determined that, with appropriate conditions, cultivation of cannabis may be an appropriate conditionally permitted use in the agricultural districts and outside of the urban growth boundary established by Measure D; and
18. The Board of Supervisors has determined that, with appropriate conditions, a cannabis retail operation or combined cannabis operation may be an appropriate conditionally permitted use in the agricultural district and outside of the urban growth boundary established by Measure D as an “agriculture enhancing commercial use” and a “visitor-serving commercial use” that is economically related to and supports the area’s cannabis cultivation; and

19. On September 12, 2017, the County adopted an amendment to Chapter 6.108 of the Ordinance Code that allowed up to two medical cannabis retail operators (or, “dispensaries”) in the East County and up to three medical cannabis retail operators in the West County; and
20. On September 12, 2017, the County adopted Chapter 6.106 of the Ordinance Code that allowed a limited number of cannabis cultivation operators in the East County; and
21. A limited number of medicinal cannabis retail and cultivation operators were selected and approved pursuant then existing cultivation and retail ordinances; and
22. On May 8, 2018, the County adopted amendments to Chapter 6.106 and 6.108 of the Ordinance Code allowing approved medical cannabis retail operators and cultivators to expand their operations to include both medicinal and adult-use cannabis and cannabis products to allow the County to more fully implement recent state law and regulation concerning commercial cannabis businesses and to streamline the County’s regulation of cannabis businesses; and
23. This Ordinance will allow cultivation and retail permit holders to expand to a permitted combined cannabis operation, thus allowing the County to more fully implement the state law and regulation concerning commercial cannabis businesses. The combined cannabis operation permit allows the holder of the permit to undertake multiple cannabis activities on one premises, subject to obtaining the requisite state microbusiness license; and
24. All commercial cannabis operations are required to obtain requisite state licenses in order to conduct business, including obtaining an adult-use (A-type) license and/or a medicinal (M-type) license as needed for the type of operation; and
25. All combined cannabis operations pursuant to this Chapter 6.109 of the Ordinance Code will be required to comply with state law and state regulations, including but not limited to the requirement to record the movement of cannabis into and out of the operation via the state’s track and trace system; and
26. The Board of Supervisors acknowledges that regulation of cannabis activities is an evolving field at the state level. As a result, the field of local regulation is also expected to continue to evolve over the next several years including possible further revisions to the County ordinances, policies and performance standards; and
27. Nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. sections 801, *et seq.* or to license any activity that is prohibited under said Act except as mandated by State law; and
28. Nothing in this Ordinance shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) exempt cannabis operators or operations from compliance with zoning and land use regulations, or, (3) allow any activity relating to the retail, delivery, cultivation, manufacturing, distribution, testing, or consumption of cannabis that is illegal under state or federal law.

SECTION 2

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

Chapter 6.109 is hereby added to the Alameda County General Ordinance Code and reads as follows:

Chapter 6.109 – Combined Cannabis Operations

6.109.010 - Purpose and intent.

The purpose and intent of this chapter is to implement state law by providing a means for regulating the operation of combined cannabis operations) in a manner that is consistent with state law and which promotes the health, safety and general welfare of the residents and businesses within the unincorporated areas of the County of Alameda.

6.109.020 - Definitions.

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

- A. "Applicant" means a person who seeks a permit under this chapter by filing an application as provided for in this chapter.
- B. "Application" means that form provided by the director and submitted by an applicant in accordance with this chapter for the purpose of seeking a permit.
- C. "Bureau" means the Bureau of Cannabis Control within the California Department of Consumer Affairs.
- D. "Cannabis" shall have the same definition as in Business and Professions Code section 26001(f), which defines "cannabis" as all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For purposes of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the California Health and Safety Code.
- E. "Cannabis concentrate" or "Concentrate" shall have the same definition as in Business and Professions Code section 26001(h), which defines "cannabis concentrate" to mean cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this chapter.
- F. "Cannabis cultivation," "Cultivate" or "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming including any associated storage, of cannabis, including cannabis for medicinal use and/or adult-use in accordance with the Medicinal and Adult-Use Cannabis Regulation and Safety Act. Cannabis cultivation includes the operations of a cannabis nursery. Cannabis cultivation does not mean the temporary maintenance and selling of clones from a

permitted retail operator, where such activities are incidental and subordinate to the primary retail operation.

- G. "Cannabis cultivation site" means a premises where one or more commercial cannabis cultivation activities takes place.
- H. "Cannabis delivery" or "Delivery" means the commercial transfer of cannabis or cannabis products from a retail operation to a retail customer. "Delivery" also includes the use by a retail operation of a technology platform that enables retail customers to arrange for or facilitate retail sale and delivery of cannabis or cannabis products.
- I. "Cannabis distribution" or, as used in this chapter, "Distribute" or "Distribution" means the procurement, sale, and transport of cannabis and cannabis products between entities licensed pursuant to the provisions of Division 10 of the California Business and Professions Code.
- J. "Combined cannabis operation" means a cannabis operation that engages in at least three of the following commercial cannabis operations on one premises: cultivation, distribution, manufacturing and retail.
- K. "Cannabis manufacture" or, as used in this chapter, "manufacturing" or "manufacture" means the process by which the raw agricultural cannabis is transformed into a concentrate, an edible product, topical product or similar cannabis product. Manufacturing includes producing, preparing, propagating, or compounding manufactured cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.
- L. "Cannabis nursery" means a cannabis operation that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.
- M. "Cannabis operation" means any operation permitted under this chapter to engage in one or more cannabis activities.
- N. "Cannabis operator" means the natural person or designated officer responsible for the operation of any permitted cannabis operation.
- O. "Cannabis product" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.
- P. "Cannabis retail operation" or "Retail operation" means a premises where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including cannabis for medicinal use and/or adult-use under the authority of the Medicinal and Adult-Use Cannabis Regulation and Safety Act, including an establishment that delivers, cannabis and cannabis products.
- Q. "Clone" means the cutting of a cannabis plant that has been re-planted and is non-flowering.
- R. "Community Development Agency" means the community development agency of the County of Alameda.
- S. "County" means the County of Alameda.

- T. "Director" means the director of the Community Development Agency or his or her designee.
- U. "Edible cannabis product", "Edible" or "Edibles" shall have the same definition as in Business and Professions Code section 26001(t), which defines "edible cannabis product" as a cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the California Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code.
- V. "Identification card" has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended.
- W. "Labeling" means any label or other written, printed, or graphic matter upon a cannabis product, or upon its container or wrapper, or that accompanies any cannabis product.
- X. "Lot" means a separate parcel of land shown and identified as such on the records of the county recorder or on the final map of an approved and recorded subdivision, excluding therefrom for the purposes of this title any portion thereof which lies within a street, within a lane, or within a fenced-off flood control easement.
- Y. "Permit" means a permit issued by the county to a combined cannabis operation under this chapter.
- Z. "Permittee" means a person who holds an effective and current permit under this chapter.
- AA. "Person" means any human being or an incorporated or unincorporated business entity or association established under the laws of the state.
- BB. "Person with an identification card" means an individual who is a qualified patient who has applied for and received a valid identification card pursuant to Article 2.5 of the California Health and Safety Code
- CC. "Premises" means the designated structure or structures and land specified in the application or in the permit that is owned, leased, or otherwise held under the control of the applicant or permittee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area.
- DD. "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.
- EE. "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.
- FF. "School" means an institution of learning for minors, whether public or private, that offers a regular course of instruction.
- GG. "Sheriff" means the sheriff of the County of Alameda and his or her authorized representatives.

HH. "State" means the state of California.

6.109.030 – General combined cannabis operation requirements and terms.

- A. It shall be unlawful for any person to conduct, engage in or allow the operation of a combined cannabis operation in the unincorporated portion of Alameda County, unless such combined cannabis operation has been granted a legally effective permit issued under this chapter and all required state licenses to conduct combined cannabis operation. 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 combined cannabis operation shall apply for a permit under this chapter. If such a permit is granted, the owner, managing partner, corporate officer, and any person with primary responsibility for the operation of the combined cannabis operation shall ensure the operation is maintained in conformity with the terms of this chapter and of the permit.
- C. The fact that an applicant possesses other types of state or county permits or licenses shall not exempt the applicant from obtaining a permit under this chapter, nor shall the terms and conditions of any other such permit or license modify the requirements of a permit granted under this chapter.
- D. Existing permitted cannabis operations may expand to combined cannabis operations in accordance with this chapter.
 - 1. An applicant for a combined cannabis operation under this chapter must hold a valid cannabis retail operator permit pursuant to Chapter 6.108 or cannabis cultivation operator permit pursuant to Chapter 6.106 of this Code.
 - 2. The permit for the combined cannabis operation shall be for the same premises as the permitted retail operation or cultivation operation, subject to applicable transfer provisions.
 - 3. The retail or cultivation permit shall cease to be effective upon the effective date of the combined cannabis operation permit, unless otherwise specified in the permit conditions.
 - 4. A cultivation operation permitted under Chapter 6.106 may apply for a combined cannabis operation permit to include the following operations only: cultivation, distribution and manufacturing. Retail operations shall not be included in the combined cannabis operation. A retail operation permitted under Chapter 6.108 may apply for a combined cannabis operation permit to include at least three following operations: cultivation, distribution, and retail. Retail operations must be one of the operations included in the combined cannabis operation.
- E. At no time shall the county have in effect more than fourteen combined cannabis operation permits.
 - 1. In the West County, the maximum number of permits is subject to the following:
 - a. In no event shall the total number of combined cannabis operation permits for Area 1 shown in Exhibit A (West County) exceed two.
 - b. Collectively, the number of retail operation permits and combined cannabis operation permits in Area 1 shown in Exhibit A (West County) shall not exceed two.

- c. No permit for a combined cannabis operation shall be issued for Area 2 shown in Exhibit A (West County).
 2. In the East County, the maximum number of permits is subject to the following:
 - a. In no event shall the total number of combined cannabis operation permits for all areas shown in Exhibit B (East County) exceed twelve.
 - b. Collectively, the number of retail operation permits and permits for combined cannabis operations that include a retail operation in the areas shown in Exhibit B (East County) shall not exceed two.
 - c. No permit shall be issued for a combined cannabis operation that includes a retail operation, if the subject premises is within five miles of a retail operation or combined cannabis operation that includes retail in the unincorporated area shown in Exhibit B (East County) or within one mile of a permitted retail operation or combined cannabis operation (or equivalent permitted activity subject to a state microbusiness F) location in an incorporated city.
 3. No permit shall be issued in any portion of the unincorporated area that is not within one of the areas delineated in Area 1 of Exhibit A or Exhibit B.
 4. A combined cannabis operation shall engage in at least three of the following commercial cannabis operations: cultivation, distribution, manufacturing and retail. All of these activities must occur on the same premises.
 5. No cultivation area for cultivation allowed under a combined cannabis operation permit shall exceed 10,000 square feet.
 6. No manufacturing activity allowed under a combined cannabis operation permit shall include extraction using volatile solvents.
- F. Notwithstanding subsection E of this section, each combined cannabis operation shall comply with all zoning requirements in Title 17 of the Alameda County General Ordinance Code, the Alameda County General Plan, and any Specific Plan applicable to the location of the retail operator, including the requirement to obtain any conditional use permits, and shall also meet all of the following standards:
 1. No combined cannabis operation that includes a retail operation may be closer than one thousand (1000) feet from any other retail operation or combined cannabis operation that includes a retail operation.
 2. No combined cannabis operation that includes a retail operation may be closer than one thousand (1000) feet from any school, any licensed child or day care facility, public park or playground, drug recovery facility or recreation center.
 3. No combined cannabis operation shall be located in a residential zone or its equivalent.
- G. 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.
- H. Each premises shall only be occupied by one permittee unless otherwise authorized by applicable state laws regulations and county permit(s).
- I. The director may adopt such forms, procedures and performance standards as are necessary to implement this chapter.

6.109.040 - Land use approval.

Prior to commencement of use as a combined cannabis operation, a permittee must obtain a conditional use permit pursuant to Title 17 of the Alameda County Zoning Ordinance for operation of a combined cannabis operation.

6.109.050 - Term of cannabis permits and renewals.

- A. Each combined cannabis operation permit shall expire two years after the date of its issuance or upon the expiration date established by the director, whichever is earlier.
- B. Any permit may be renewed by the director for successive two-year periods upon the submission of a renewal application by the permittee. At the time of consideration of a renewal application, the county shall consider compliance with conditions in the prior term and whether the permittee has made substantial progress toward implementing the permit.
- C. No person or facility that purports to have cultivated, manufactured, distributed, sold or delivered cannabis prior to the enactment of this chapter or without a permit shall be deemed to have been a legally established combined cannabis operation under the provisions of this chapter, and such person or facility shall not be entitled to claim a legal nonconforming status.

6.109.060 – Combined cannabis operation permit application procedures.

- A. Each application for a combined cannabis operation permit in the unincorporated area of the county shall set forth or incorporate by reference the following information:
 1. The full name, date of birth, social security number, present address and telephone number of the applicant.
 2. Name and location of applicant’s permitted cannabis retail or cultivation operation.
 3. Address of the proposed combined cannabis operation and the name and address of the owner(s) of the lot(s) containing the premises.
 4. The address to which notice of action on the application is to be mailed.
 5. A statement by the applicant that it has the ability to comply with all laws regulating businesses in the state of California and that it shall maintain compliance during the term of the permit.
 6. A statement that the applicant accepts and will comply with the standard conditions set forth in this chapter.
 7. A statement that the applicant shall upon commencing use under the combined cannabis operation permit, if granted, cease operation of the applicant’s permitted cannabis retail or cultivation operation on the premises.

8. The names of each person with an ownership interest of more than 10 percent in the proposed combined cannabis operation.
9. The address of all cannabis operations that currently are or previously had been operated by the applicant and a statement of whether the authorization for any such operation had been revoked or suspended and, if so, the reason therefor.
10. The names and telephone numbers of the person or persons to be regularly engaged in the operation of the proposed combined cannabis operation, whether an employee, volunteer or contractor. The application shall also identify those persons, including telephone numbers (i.e., emergency contact), having management and supervisory responsibilities for the proposed retail operator. Every person listed as owner, manager, supervisor or employee must submit fingerprints and other necessary information for a background check to the Alameda County Sheriff's Office, and be photographed for identification purposes. In addition, any new employees, independent contractors, other persons and/or volunteers regularly engaged in the proposed combined cannabis operation must submit their information to the Sheriff's office within five days prior to their employment.
11. A security plan containing a detailed description of the proposed security arrangements for ensuring the safety of persons from theft and robbery and protection of the premises from theft and burglary. The security plan shall be submitted for review and approval by the Sheriff, and shall include a lighting plan showing existing and proposed exterior and interior lighting levels, alarms and security surveillance cameras. Security video shall be maintained for 30 business days and shall be made available to the Sheriff upon request. The video system for security cameras must be located in a locked, tamper-proof compartment. A professionally monitored robbery alarm system shall be installed and maintained in good working condition. The security plan shall include the provision of a suitable locked safe on the premises for after-hours storage of cannabis.
12. A site plan and floor plan, consisting of a sketch or diagram showing the interior and exterior configuration of the premises of the combined cannabis operation. The site plan shall show the entire premises, including all buildings, accessory structures, storage, and parking areas, and a statement of the total floor area occupied by the combined cannabis operation. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus twelve (12) inches. If the combined cannabis operation includes a retail operation, it must have a lobby waiting area at the entrance to receive clients, and a separate and secure designated area for dispensing cannabis to qualified patients, persons with an identification card or designated caregivers. The primary entrance shall be located and maintained clear of barriers, landscaping or similar obstructions so that it is clearly visible from public streets, sidewalks, or site driveways.
13. A description of external appearance of the combined cannabis operation, including a precise depiction of any signage, which shall not obstruct the entrance or windows of the retail operation. All signage shall comply with all County General Plan, Zoning Ordinance and any applicable specific plans.
14. A description of products to be cultivated, manufactured, distributed and/or sold by the combined cannabis operator.
15. An operating plan specifically describing how the combined cannabis operator will operate consistent with State and local law, including but not limited to: the minimum

staffing levels for operation of the combined cannabis operator, policies and procedures for record keeping, methods for compliance with track and trace requirements, specific details of the operator's process for arranging for product testing, manufacturing safety, and proper packaging and labelling, specific details of the combined cannabis operator's proposed odor absorbing ventilation and exhaust systems, and other relevant information regarding the operation of the proposed combined cannabis operation and including a copy of the labor peace agreement when required by California Business & Professions Code Section 26051.5 to enter into or abide by a labor peace agreement.

16. If the application proposes the cultivation, manufacturing, distribution or sale of cannabis for medicinal purposes, the mission statement of the combined cannabis operator with respect to meeting the medicinal needs of patients in its area.
 17. A description of the methods by which the applicant will mitigate any potentially adverse impacts, such as traffic, loitering, odors or noise, on surrounding property owners. The combined cannabis operation shall be designed to provide sufficient odor absorbing ventilation and exhaust systems to that any odor generated inside the combined cannabis operation is not detected outside the buildings and structures in which it operates, on adjacent public rights-of-way, or within other units located within the same building as the combined cannabis operation if it occupies only a portion of the building.
 18. Written certification that the applicant has reviewed and understands and accepts the standard conditions that are set forth in and/or incorporated by reference into this chapter. Written certification that the applicant will comply with all county ordinances, including building, zoning and health codes, allow inspections to ensure conformance with such regulations, cooperate with county agencies' efforts to monitor the combined cannabis operator's compliance with applicable ordinances and with all conditions of permits issued pursuant to this Code, and pay any county fees assessed for monitoring permittee's compliance.
 19. 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.
 20. Certification, under penalty of perjury, that all the information contained in the application is true and correct.
 21. Authorization for the county, its agents and employees to seek verification of the information contained in the application.
 22. 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 the operation, including but not limited to issuance of the permit, adoption or enforcement of conditions of the permit, or the operations of the combined cannabis operator, and for any claims brought by any of their clients for problems, injuries, damages or liabilities of any kind that may arise out of the sale, delivery and/or on- or off-site use of cannabis produced or provided by the combined cannabis operator.
- 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 6.109.090, 6.109.200 and any fee schedule adopted by the County.

- C. The director may establish a submission deadline for applications pursuant to this section.
- D. It is unlawful to make any false statement or representation or to use or submit any false or fraudulent document(s) in any application made pursuant to this chapter.

6.109.070 – 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 issue the applicant a notice of intent to grant the permit, if each of the following conditions are met:
 - 1. The applicant has an approved permit for a cannabis retail operation in accordance with Chapter 6.108 or cannabis cultivation operation in accordance with Chapter 6.106;
 - 2. The proposed premises for the combined cannabis operation is either (a) on the same lot as the retail or cultivation premises previously approved operation in accordance with Chapter 6.108 or 6.106 or (b) at a location not inconsistent with this chapter, Chapter 6.108 or Chapter 6.106.
 - 3. The applicant has a record of good standing with the county. For the purposes of this section, “good standing” means that the applicant has obtained an approved permit for cannabis retail operation in accordance with Chapter 6.108 or cultivation operation in accordance with Chapter 6.106 and that permit has not been suspended or revoked and there are no pending proceedings for the suspension or revocation of the applicant’s cannabis retail or cultivation operation permit.
 - 4. No person who is listed on the application pursuant to subsection (1), (8) or (10) of Section 6.109.050(A) has been convicted of a felony within the past three years. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
 - 5. The applicant or the operator listed in the application is at least twenty-one (21) years of age.
- C. Upon receipt of a complete application, the director shall deny the application if one or more of the conditions set forth in subsection (B) above are not met.
- D. The notice of intent to grant permit issued pursuant to subsection (B) shall include notice of the operating conditions that would attach to the permit. Within ten days after notice, the applicant shall either:
 - 1. Certify acceptance of the operating conditions and the standard conditions of the permit and pay all required fees, and the permit shall thereupon issue immediately.
 - 2. If the applicant refuses or fails to certify agreement with any operating condition or standard condition or to pay all required fees, the application shall be denied. The

applicant may appeal any condition within ten days after notice of the conditions. Upon either the failure to file a timely appeal or the rejection of the appeal, the application shall be deemed denied.

- E. The operating conditions established by the director shall include the requirement for the permittee to obtain (1) any required state permits or licenses for the operation of a microbusiness operation, and (2) all land use entitlements required to operate a combined cannabis operation. No combined cannabis operation permit shall be effective unless and until these conditions of approval are satisfied.

6.108.080 – Combined cannabis operator permit renewal procedures.

- A. Each application for renewal of an existing combined cannabis operator permit shall be filed with the director and the director shall be responsible for administering the renewal application processes as set forth in this chapter.
- B. The director shall adopt such forms, procedures and performance standards as are necessary to implement this chapter with respect to the issuance, renewal, revocation and suspension of permits.
- C. Any application for renewal shall be filed at least forty-five (45) days before expiration of the permit.
- D. Any application for renewal may be rejected if:
 - 1. The application is filed less than forty-five (45) days before its expiration.
 - 2. The permit is suspended or revoked at the time of the application; provided, however, that an application for renewal may be filed within ten days after the granting of a permittee's appeal of the suspension or revocation of a permit.
 - 3. The combined cannabis operator authorized by the permit has not been in regular operation in the four months prior to the renewal application.
 - 4. The combined cannabis operator fails to conform to the criteria set forth in Section 6.108.100.

6.109.090 - Fees.

- A. Every application, transfer or renewal of a combined cannabis operation 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 combined cannabis operation 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 combined cannabis operations.

6.109.100 - Standard conditions for combined cannabis operations

- A. Throughout the term of the combined cannabis operation permit, each permittee shall not violate this chapter, shall comply with the standard conditions and shall not allow or tolerate violations of these standard conditions to occur at the combined cannabis operation:

1. A permittee with a combined cannabis operation that includes a retail operation, including any delivery operation, shall comply with the standard conditions provided in Chapter 6.108.
 2. A permittee with a combined cannabis operation that includes a cultivation operation shall comply with the standard conditions provided in Chapter 6.106.
 3. A permittee with a combined cannabis operation that includes a distribution operation shall comply with the following additional standard conditions:
 - a. Permittee may only distribute cannabis or cannabis products within its own supply chain, either cultivated by the permittee or to be sold by permittee at its retail operation.
 - b. Permittee shall arrange for required testing in accordance with applicable state law and regulations.
 - c. Permittee shall conduct all processing, packaging and labelling in accordance with applicable state law and regulations.
 - d. Permittee shall dispose of all waste cannabis and cannabis products in accordance with applicable state law and regulations.
 - e. Permittee shall transport all cannabis and cannabis products in accordance with applicable state law and regulations. Among other things, permittee shall complete a shipping manifest prior to transporting cannabis or cannabis products and shall retain records of all transported cannabis in accordance with state laws and regulations.
 4. A permittee with a combined cannabis operation that includes a manufacturing operation shall comply with the following additional standard conditions:
 - a. Permittee shall conduct all manufacturing in accordance with applicable state law and regulations.
 - b. Permittee shall not conduct chemical extraction using any volatile solvent, as defined by applicable state law and regulations.
 - c. Permittee shall conduct all manufacturing in accordance with such standards and guidelines as may be adopted by the Director of the County Department of Environmental Health.
 5. A combined cannabis operator shall fully comply with the terms of its approved security plan, site 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 D and E of Section 6.109.070.
 - D. At any time during the operation of a combined cannabis operator and without notice, the director, acting in conjunction with other appropriate county officials, may enter the premises for the purpose of observing compliance of the combined cannabis operator with the conditions of its permit.

- E. Release of the county from liability. The owner and permittee of each combined cannabis operator and delivery operation shall release the county, and its agents, officers, elected officials, and employees from any injuries, damages, or liabilities of any kind that result from any arrest or prosecution of combined cannabis operator or delivery operator owners, operators, employees, or clients for violation of state or federal laws in a form satisfactory to the director.
- F. County indemnification. The owners and permittee of each combined cannabis operator and delivery operator shall indemnify and hold harmless the county and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by adjacent or nearby property owners or other third parties due to the operations at the combined cannabis operator or by the delivery operator, and for any claims brought by any of their clients for problems, injuries, damages or liabilities of any kind that may arise out of the sale, delivery and/or on- or off-site use of cannabis provided at the combined cannabis operator or delivered by the delivery operator in a form satisfactory to the director.

6.109.110 - Appeal from administrative determinations.

- A. An applicant aggrieved by the decisions described in Sections 6.109.070, 6.109.080 or 6.109.100 may appeal that decision to the board of supervisors within ten (10) days following the date of issuance of that decision by filing with the clerk of the board of supervisors or the director a notice of appeal specifying the grounds for such appeal. Filing such notice shall stay all proceedings in furtherance of the decision appealed from, including the proceedings related to the applications or permits of other applicants potentially affected by the board of supervisors' decision on the appeal. The director is designated as an agent of the clerk of the board for purposes of receiving a notice of appeal.
- B. The board of supervisors shall give written notice of the time and place for hearing any appeal filed pursuant this section. Such notice shall be given to the applicant and to the community development agency, and to any other person requesting such notice and depositing with the clerk of the board a self-addressed, stamped envelope to be used for that purpose.
- C. The board of supervisors may hear additional evidence and may sustain, modify, or overrule any order brought before it on appeal and may make such findings and decisions as are not inconsistent with state law and county ordinances. The board of supervisors may also remand the decision to the director for reconsideration of his or her decision in light of new information not previously presented to the director. If no motion relative to the order appealed attains a majority vote of the board of supervisors within thirty (30) days from the date of the hearing by said board thereon, said order of the director shall stand sustained and be final.
- D. Any appeal that is not timely filed or otherwise fails to comply with Paragraph A of this section will be deemed ineffective by the director and the administrative determination that is being appealed will become final.

6.109.120 - Suspension and revocation.

- A. The director may revoke or suspend a permit when it shall appear that the permittee has committed any of the following actions:
 - 1. Violates the operating or standard conditions of the permit or the requirements of state or local laws.

2. Fails to take reasonable measures to control disturbances, loitering or such other problems on the combined cannabis operation premises or in the vicinity of its delivery activities.
- B. The director shall provide the permittee with written notice of the suspension or revocation that shall describe the grounds for revoking or suspending the permit.
 - C. The permittee subject to the revocation or suspension may appeal the determination of the director to the board of supervisors within ten days after the date of the notice of the decision of the director. The board of supervisors shall act upon the appeal in accordance with Section 6.109.110.

6.109.130 - Transfer of the permit.

- A. No permittee may transfer a permit to another cannabis operator or premises without authorization by the county, granted in accordance with this section.
- B. A permittee shall apply for transfer of a combined cannabis operation permit by submitting, jointly with the proposed transferee, an application that complies with Section 6.109.070. The director shall verify information in the application and shall approve the transfer unless it fails to comply with the requirements of this chapter, the standards set forth in Section 6.109.100 or such other minimum score or standards as may be established by the director pursuant to Section 6.109.030(I).
- C. Before a transfer of a permit may become effective, the transferee shall certify acceptance of the operating conditions and the standard conditions of the permit and pay all fees required by Sections 6.109.090 and 6.109.200.

6.109.140 - Prohibited operations.

The permittee shall not undertake any cannabis activities other than those specifically authorized by a permit issued by the county. A combined cannabis operation shall not deliver cannabis off the site of the premises unless the operator holds a valid delivery operator permit.

6.109.150 – Manufacturing, Sale, Distribution and Delivery of Edibles.

The manufacturing, sale, distribution and delivery of edibles shall be conducted in a manner that complies with all applicable food safety laws for the protection of consumers. It shall be unlawful for any permittee to manufacture or to sell, distribute or deliver edibles not prepared, packaged or labeled as required by this section.

- A. Preparation of Edibles.
 1. A facility, such as a commercial kitchen, that proposes to prepare, store, sell, dispense, or distribute edibles must comply with the relevant provisions of all state and local laws regarding the preparation, distribution, labeling and sale of food. No food production will be allowed in the same facility to avoid the unintentional contamination of food with cannabis. Facilities shall be constructed, permitted, operated and inspected in accordance with the applicable building code and applicable food safety requirements by the Alameda County Department of Environmental Health.
 2. Individuals involved in the production or distribution of edibles shall thoroughly wash their hands before commencing production and before handling the finished product. Gloves must be worn when packaging edibles.
 3. To reduce the likelihood of foodborne disease transmission, individuals who are suffering from symptoms associated with acute gastrointestinal illness or are known to be infected

with a communicable disease that is transmissible through foodstuffs are prohibited from preparing edibles until they are free of that illness or disease, or are incapable of transmitting the illness or disease through foodstuffs. Individuals who have sores or cuts on their hands must use gloves when preparing and handling edibles.

4. Producers of edibles must be state certified food handlers. The valid certificate must be onsite at the facility where the edible is produced and made available during inspections.
 5. Hand-washing facilities shall be adequate and convenient and be furnished with 100F hot running water. Hand washing facilities shall be located in the facility in edible preparation areas and where good sanitary practices require employees to wash their hands and provide effective hand-cleaning (liquid soap) and disposable paper towel or suitable drying devices.
- B. Packaging and Labeling of Edibles. Edibles shall be labeled and packaged in accordance with Section 26120 of the California Business and Professions Code and all applicable regulations and as provided in this subdivision.
1. All edibles shall be individually wrapped at the original point of preparation. Labeling shall be distinctly and clearly legible on the front of the package and must include: (a) a warning if nuts or other known allergens are used in the manufacturing of the edibles; (b) a warning that the item contains cannabis and the total weight (in ounces or grams) and amount of active ingredients in the package; (c) the cultivation and manufacture date and source; (d) a statement that the contents are not a food product; and (e) information indicating any caloric impact on the consumer. The package label must have a warning clearly legible emphasizing that the product is to be kept away from children.
 2. Labels of edibles that are not tested for contaminants (baked goods) shall include a statement that the cannabis used in the product was tested for contaminants.
 3. Packaging of edibles shall be opaque (non see-through), and may not make it appear as if the edible is a food product. Packaging that makes the product attractive to children or imitates candy is prohibited.
 4. Packaging of edibles shall be tamper proof and child resistant.
- C. Edible Product Log. Producers of edibles that are tested for contaminants shall maintain a written or computerized log documenting:
1. The source of the cannabis used in each batch of product;
 2. The contaminant testing date; and
 3. The testing laboratory that analyzed the sample of the cannabis product.

6.109.160 - Misdemeanor violations.

Any person violating any of the provisions of this chapter or of a permit issued pursuant to this chapter, is guilty of a misdemeanor. Each person is guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter or the permit is committed, continued or allowed in conjunction with the combined cannabis operation and is punishable accordingly. For purposes of this section, each and every day of violation includes each day on which a failure to comply with this chapter or any conditions of a permit issued pursuant to this chapter continues. No proof of knowledge, intent, or other mental state is required to establish a violation.

6.109.170 - Civil Remedies

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

6.109.180 - 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.

6.109.190- 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 1085 or 1094.5 of the California Code of Civil Procedure. Any such petition or any other action seeking judicial review shall be filed within ninety (90) days after the day the decision becomes final.

6.109.200 - Fee schedule.

- A. The applicant is responsible for paying the following fees to reimburse the county in accordance with Section 6.190.090 of this chapter. The director may adopt such forms and procedures as necessary to collect the fees:

Cannabis combined cannabis operation permit application fee	\$2,900.00
Cannabis combined cannabis operation permit renewal fee	\$3,200.00
Cannabis combined cannabis operation permit annual regulatory program fee	\$30,000.00
Cannabis combined cannabis operation permit transfer application fee	\$3,100.00
Cannabis combined cannabis operation permit transfer issuance fee	\$1,100.00

- B. For the following fee types, the applicant shall pay fees sufficient to reimburse the county for its actual costs in accordance with Section 6.109.090 of this chapter and Section 17.54.620 of Title 17 of this code. The applicable fee rates shall be those duly adopted by the county and in effect at the time the county work is performed or the cost is incurred. The director may collect such fees in advance as a refundable deposit in such amounts as may be established by the director. The director may adopt such forms and procedures as necessary to collect the fees:

Cannabis combined cannabis operation permit appeal by applicant (Title 6)	AT-COST/deposit
Cannabis combined cannabis operation permit reconsideration of application post-appeal (if remanded for reconsideration) (Title 6)	AT-COST/deposit
Cannabis combined cannabis operation conditional use permit application (Title 17)	\$5,000 deposit
Mandatory review of conditional use permit for cannabis combined cannabis operation (Title 17)	AT-COST/deposit
Cannabis combined cannabis operation conditional use permit appeal by applicant (Title 17)	AT-COST/deposit

- C. If the director determines that, in addition to the routine inspections pursuant to the combined cannabis operation permit annual regulatory program fee in subsection A, additional inspections or abatement actions are required to enforce compliance with this chapter or with Title 17 of this code, the permittee shall pay fees sufficient to reimburse the county for its actual costs incurred to conduct such inspections and abatement actions, which may include staff time plus actual abatement costs. The applicable fee rates shall be those duly adopted by the county and in effect at the time the county work is performed or the cost is incurred. The director may collect such fees in advance as a refundable deposit in such amounts as may be established by the director. The director may adopt such forms and procedures as necessary to collect the fees.
- D. The fees in subsection A shall be reviewed annually by the county and may be amended if necessary to appropriately reimburse the county for its actual costs.
- E. The fee rates and deposit amounts in subsection B shall be reviewed annually by the director and may be amended if necessary to appropriately reimburse the county for its actual costs.

6.109.210 – Child Support Obligations

- A. Prior to the issuance of a permit or permit renewal under this Chapter, and at all times while holding a permit, permit applicants and permittees shall be current with their monthly child support obligations. If the applicant or permittee has an account with past due child support arrears, he/she must have that balance at zero or have verification from the County Department of Child Support Services that they have been in and remain in compliance with an agreed or court ordered payment plan in order to remain eligible for the permit. In determining compliance the Department will consider all relevant financial circumstances of the applicant or permittee with the overall goal of removing barriers to employment.
- B. Permittees shall provide the County Department of Child Support Services a quarterly list of all employees employed by the permittee at any time during the quarter. Reports are due by the 15th of the month following the end of the quarter (March, June, September and

December). The list shall include names, addresses, phone numbers and social security numbers for all employees.

- C. If the Permittee uses a payroll withholding process, the permittee must comply with any income withholding order for child support for any employee in the permittee's employ. In addition, if the income withholding order is for an owner or part-owner of the business, the business shall also comply with the income withholding order and provide necessary tax information if self-employed for purposes of determining accurate child support orders.

Exhibits

Exhibit A attached hereto, is incorporated into this Ordinance.

Exhibit B attached hereto, is incorporated into this Ordinance.

SECTION 3

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

Adopted by the Board of Supervisors of the County of Alameda, State of California, on the ___ day of _____, 2019, by the following called vote:

AYES:

NOES:

EXCUSED:

RICHARD VALLE
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

DocuSigned by:
By: Heather Littlejohn
Heather Littlejohn
Deputy County Counsel

ORDINANCE NO. 2019-_____

AN ORDINANCE AMENDING TITLE 17 OF THE ALAMEDA COUNTY GENERAL ORDINANCE CODE AND THE ASHLAND CHERRYLAND BUSINESS DISTRICT SPECIFIC PLAN TO REGULATE COMBINED CANNABIS OPERATIONS AND CANNABIS TESTING LABORATORIES IN THE UNINCORPORATED AREA OF THE COUNTY OF ALAMEDA

SECTION 1

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

1. In 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code section 11362.5 and titled the "Compassionate Use Act of 1996"); and
2. The intent of Proposition 215 was to enable persons who are in need of cannabis for medical purposes to be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances; and
3. In 2004, Senate Bill 420 was enacted (codified as California Health and Safety Code section 11362.7 *et seq.* and titled the "Medical Marijuana Program Act") to clarify the scope of the Compassionate Use Act of 1996; and
4. In 2011, Assembly Bill 2650 was enacted (codified as California Health and Safety Code section 11362.768), which affirmed that counties can adopt ordinances that restrict the location and establishment of medical cannabis collectives and cooperatives; and
5. In 2015, Assembly Bill 243, Assembly Bill 266 and Senate Bill 643 were enacted (codified in part as California Business and Professions Code sections 19300, *et seq.* and titled the "Medical Marijuana Regulation and Safety Act"). These bills also amended provisions of the Medical Marijuana Program Act related to the cultivation of medical cannabis; and
6. In 2016, Senate Bill 837 was enacted to change all references to medical marijuana or marijuana to medical cannabis or cannabis, including changing the name of the Medical Marijuana Regulation and Safety Act to the Medical Cannabis Regulation and Safety Act (MCRSA); and
7. MCRSA established a comprehensive framework to license and regulate commercial medical cannabis cultivation, manufacturing, distribution, transportation, sales, and testing; and
8. On November 8, 2016, the voters of the State of California approved Proposition 64 (codified, in part, as California Business and Professions Code sections 26000, *et seq.* and titled the "Control, Regulate and Tax Adult Use of Marijuana Act"), which decriminalized the adult use of cannabis for non-medical purposes and established a regulatory scheme at the state level; and

9. On June 27, 2017, Senate Bill 94 (codified, in part, as California Business and Professions Code sections 26000 *et seq.* and titled the “Medicinal and Adult-Use Cannabis Regulation and Safety Act”, or, “MAUCRSA”) repealed and replaced MCRSA. MAUCRSA consolidates the medical and non-medical cannabis statutes (MCRSA and Proposition 64).
10. MAUCRSA authorizes specified agencies to issue licenses for various types of commercial cannabis uses, including cultivation, distribution, testing, manufacturing and retail sale, and to adopt regulations governing license issuance, the permissible activities of licensees, and enforcement; and
11. MAUCRSA and the regulations of the State Bureau of Cannabis Control (BCC), adopted on January 16, 2019, establish a license type known as “microbusiness,” which permits a licensee to conduct three or four of the following commercial cannabis activities: cultivation (up to 10,000 square feet), distribution, manufacturing and retail sale, and a separate license type for cannabis testing laboratories; and
12. This Ordinance establishes regulations governing such combined cannabis uses and testing laboratories in the unincorporated areas of the County of Alameda; and
13. Pursuant to California Business and Professions Code section 26200, nothing in MAUCRSA shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local permit or licensing requirements; and
14. This Ordinance is enacted, consistent with the Compassionate Use Act of 1996, the Medical Marijuana Program Act, and MAUCRSA to protect the public health, safety, and welfare of residents of the County of Alameda in relation to the cultivation, manufacture, distribution, retail sale, and delivery of cannabis, including combined cannabis operations; and
15. The County has a compelling interest in protecting the public health, safety, and welfare of its residents, visitors and businesses, in preserving the peace and quiet of the neighborhoods within the unincorporated areas of the County by regulating the cultivation, manufacture, testing, distribution, retail sale, and delivery of cannabis, including combined cannabis operations; and
16. 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
17. The Board of Supervisors has determined that, with appropriate conditions, cultivation of cannabis may be an appropriate conditionally permitted use in the agricultural districts and outside of the urban growth boundary established by Measure D; and
18. The Board of Supervisors has determined that, with appropriate conditions, a cannabis retail operation or combined cannabis operation may be an appropriate conditionally permitted use in the agricultural district and outside of the urban growth boundary established by

Measure D as an “agriculture enhancing commercial use” and a “visitor-serving commercial use” that is economically related to and supports the area’s cannabis cultivation; and

19. The Board of Supervisors has determined that, with appropriate conditions, a cannabis testing laboratory 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,” “agricultural processing facility,” or “agricultural support service” that is economically related to and supports the area’s cannabis cultivation; and
20. On September 12, 2017, the County adopted an amendment to Chapter 6.108 of the Ordinance Code that allowed up to two medical cannabis retail operators (or, “dispensaries”) in the East County and up to three medical cannabis retail operators in the West County; and
21. On September 12, 2017, the County adopted Chapter 6.106 of the Ordinance Code that allowed a limited number of cannabis cultivation operators in the East County; and
22. A limited number of cannabis cultivation sites and retail operations were issued permits to cultivate or conduct retail sales of cannabis, subject to approval of a subsequent conditional use permit; and
23. The County has adopted an ordinance adding Chapter 6.109 to the Ordinance Code to regulate combined cannabis operation, allowing cultivation and retail permit holders to expand to a permitted combined cannabis operation, thus allowing the County to more fully implement the state law and regulation concerning commercial cannabis businesses. The combined cannabis operation permit allows the holder of the permit to undertake multiple cannabis activities on one premises, subject to obtaining the requisite state microbusiness license and a conditional use permit; and
24. Allowing approved cannabis cultivation sites and retail operators to conduct additional commercial cannabis activities on site will streamline the County’s regulation of cannabis sites and will have limited if any impact on other County residents and businesses because the number of commercial cannabis sites will not increase; and
25. The Board of Supervisors acknowledges that regulation of cannabis activities is an evolving field at the state level. 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. sections 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) exempt cannabis operators or operations from compliance with zoning and land use regulations, or, (3) allow any activity relating to

the retail, delivery, cultivation, manufacturing, distribution, testing, or consumption of cannabis that is illegal under state or federal law.

SECTION 2

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

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

“Cannabis distribution” means the procurement, sale, and transport of cannabis and cannabis products between entities licensed pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act.

“Combined cannabis operation” means a cannabis operation that engages in at least three of the following commercial cannabis operations on one premises: cultivation, distribution, manufacturing and retail in accordance with the Medicinal and Adult-Use Cannabis Regulation and Safety Act.

“Cannabis testing laboratory” means a laboratory, facility, or entity that offers or performs tests of cannabis or cannabis products in accordance with the Medicinal and Adult-Use Cannabis Regulation and Safety Act.

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

Paragraph R is amended to read as follows:

“Cannabis Cultivation and associated Cannabis Distribution, subject to and in compliance with Chapter 6.106 of this code and Section 17.52.585 of this title;”

Add the following as Paragraph S to the list of conditional uses:

“Combined Cannabis Operation, subject to and in compliance with Chapter 6.109 of this code and Section 17.52.585 of this title;”

Add the following as Paragraph T to the list of conditional uses:

“Cannabis Testing Laboratory, subject to and in compliance with Section 17.52.586 of this title.”.

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

Add the following as Paragraph X to the list of conditional uses:

“Combined Cannabis Operation, subject to and in compliance with Chapter 6.109 of this code.”

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

Add the following as Paragraph R to the list of conditional uses:

“Combined Cannabis Operation, subject to and in compliance with Chapter 6.109 of this code.”

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

17.52.585 Conditional Use—Cannabis Cultivation or Combined Cannabis Operation.

- A. Cannabis Cultivation and Combined Cannabis Operations shall be permitted as conditional uses in the A district if approved by the board of zoning adjustments as provided in Section 17.54.130 and pursuant to Section 17.06.040(R) and (S), respectively.
- B. A Cannabis Cultivation permit or Combined Cannabis Operation permit must be issued and any appeals finally determined in accordance with Chapter 6.106 or 6.109 of this code, respectively, prior to the hearing on an application for a conditional use permit pursuant to this section. A conditional use permit issued pursuant to this section shall be effective only during such time as the permittee also holds a valid and effective Cannabis Cultivation permit pursuant to Chapter 6.106 or Combined Cannabis Operation permit pursuant to Chapter 6.109 and a valid and effective state license permitting the cannabis activities.
- C. Cannabis Cultivation or Combined Cannabis Operation uses approved pursuant to this section shall meet the criteria established by section 17.06.040(R) or (S), respectively, section 17.54.130, section 17.54.140 and any criteria established for the district. In addition, no conditional use permit for Cannabis Cultivation or Combined Cannabis Operation shall issue unless the following additional findings are made by the board of zoning adjustments based on sufficient evidence:
 - 1. The applicant has demonstrated an ability to provide effective security for the Cannabis Cultivation or Combined Cannabis Operation site and to provide a safe environment for people working at the site;
 - 2. Theft and diversion of Cannabis cultivated on the premises is prevented;
 - 3. Artificial light shall not escape structures used for Cannabis Cultivation (e.g. greenhouses) at a level that is visible from neighboring properties between sunset and sunrise. Lighting that is visible from the exterior of the Cannabis Cultivation area is prohibited, except such lighting as is reasonably utilized for the security of the premises;
 - 4. Any direct or sky-reflected glare or heat shall not be perceptible at any point outside of the Cannabis Cultivation site;

5. Noise or vibration, other than that related to transportation activities and temporary construction work, shall not be discernible without instruments at any lot line of the site;
 6. Odorous gases or odorous matter shall not be emitted in quantities such as to be perceptible outside of the Cannabis Cultivation site;
 7. The discharge into any public sewer, private sewage disposal system or stream or into the ground shall not occur except in accordance with the standards approved by the State Department of Health, of any materials of such nature or temperature as to contaminate any water supply, interfere with bacterial processes and sewage treatment, or in any way cause the emission of dangerous or offensive elements;
 8. Any dust, dirt or particulate matter shall not be discharged into the air from any activity or from any products stored on the site; and
 9. The areas of the site to be actively used for Cannabis Cultivation activities are set back as follows:
 - a. At least fifty (50) feet from any property line shared with an adjacent property with different ownership, unless waived in writing by the adjacent owner;
 - b. At least three hundred (300) feet from any residence on an adjacent property with different ownership, unless waived in writing by the adjacent owner; and
 - c. At least one thousand (1000) feet from any school for pre-K to 12th grade students, licensed child or day care facility, public park or playground, drug or alcohol recovery facility or public recreation center.
- D. The Planning Director may establish additional performance standards and standard conditions providing detailed guidance for applicants and permittees. Permittees shall be required to comply with the performance standards and any conditions of approval applicable to a permit issued pursuant to this chapter.

Section 17.52.586 is added to the Alameda County General Ordinance Code and reads as follows:

17.52.586 Conditional Use—Cannabis Testing Laboratory.

- A. A Cannabis Testing Laboratory shall be permitted as a conditional use in the A district if approved by the board of zoning adjustments as provided in Section 17.54.130 and pursuant to Section 17.06.040(T).
- B. 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 state license for a testing

laboratory pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act.

- C. Cannabis Testing Laboratory uses approved pursuant to this section shall meet the criteria established by section 17.06.040(T), section 17.54.130, section 17.54.140 and any criteria established for the district. In addition, no conditional use permit for a Cannabis Testing Laboratory shall issue unless the following additional findings are made by the board of zoning adjustments based on sufficient evidence:
1. The applicant has demonstrated an ability to provide effective security for the Cannabis Testing Laboratory site and to provide a safe environment for people working at the site;
 2. Theft and diversion of Cannabis on the premises is prevented;
 3. Artificial light shall not escape structures used for Cannabis Testing at a level that is visible from neighboring properties between sunset and sunrise. Lighting that is visible from the exterior of Cannabis Testing structures is prohibited, except such lighting as is reasonably utilized for the security of the premises;
 4. Odorous gases or odorous matter shall not be emitted in quantities such as to be perceptible outside of the Cannabis Testing site;
 5. 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;
 6. Any dust, dirt or particulate matter shall not be discharged into the air from any activity or from any products stored on the site; and
 7. The areas of the site to be actively used for Cannabis Testing Laboratory activities are set back as follows:
 - a. At least twenty (20) feet from any property line shared with an adjacent property with different ownership, unless waived in writing by the adjacent owner;
 - b. At least one hundred (100) feet from any residence on an adjacent property with different ownership, unless waived in writing by the adjacent owner; and
 - c. At least one thousand (1000) feet from any school for pre-K to 12th grade students, licensed child or day care facility, public park or playground, drug or alcohol recovery facility or public recreation center.

- D. The Planning Director may establish additional performance standards and standard conditions providing detailed guidance for applicants and permittees. Permittees shall be required to comply with the performance standards and any conditions of approval applicable to a permit issued pursuant to this chapter.

SECTION 3

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

The Ashland Cherryland Business District Specific Plan of the County of Alameda is hereby amended as follows:

Section 6.6, Definitions, is hereby amended to add the following definitions, inserted in alphabetical order into the existing text of the section:

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

“Combined cannabis operation” means a cannabis operation that engages in at least three of the following commercial cannabis operations on one premises, **one of which must be retail**: cultivation, distribution, manufacturing and retail in accordance with the Medicinal and Adult-Use Cannabis Regulation and Safety Act and as regulated by Chapter 6.109 of the Alameda County Ordinance Code.

Table 6.2.3, Allowed Land Uses and Permit Requirements, is hereby amended to insert, in the “Retail” section, the second row set forth below (*corresponding districts are provided in the first row for clarity only, not to be reproduced with this amendment*):

	Specific Use Standards	DMU	DC	BC	CMU-C	CMU-R(2)	CN-C	CN(3)	R	P	OS
Cannabis Retailer or Combined Cannabis Operation	As set forth in Section 17.52.585 of the Zoning Ordinance	CUP	CUP	CUP	CUP	-	-	CUP	-	-	-

SECTION 4

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 _____, 2019, by the following called vote:

AYES:

NOES:

EXCUSED:

RICHARD VALLE
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

DocuSigned by:
By: Heather Littlejohn
Heather Littlejohn
Deputy County Counsel

West County Medical Cannabis Dispensary Areas

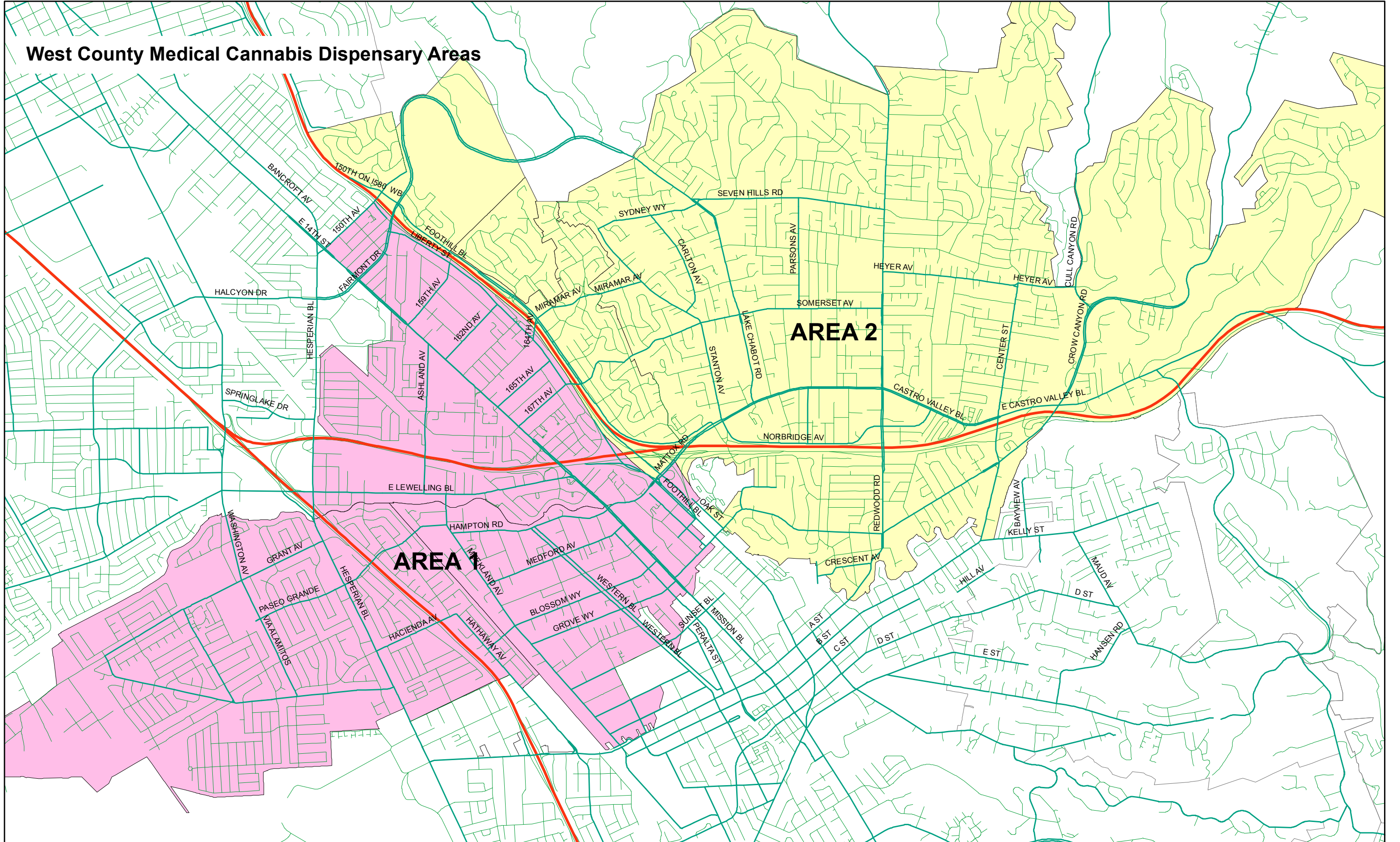
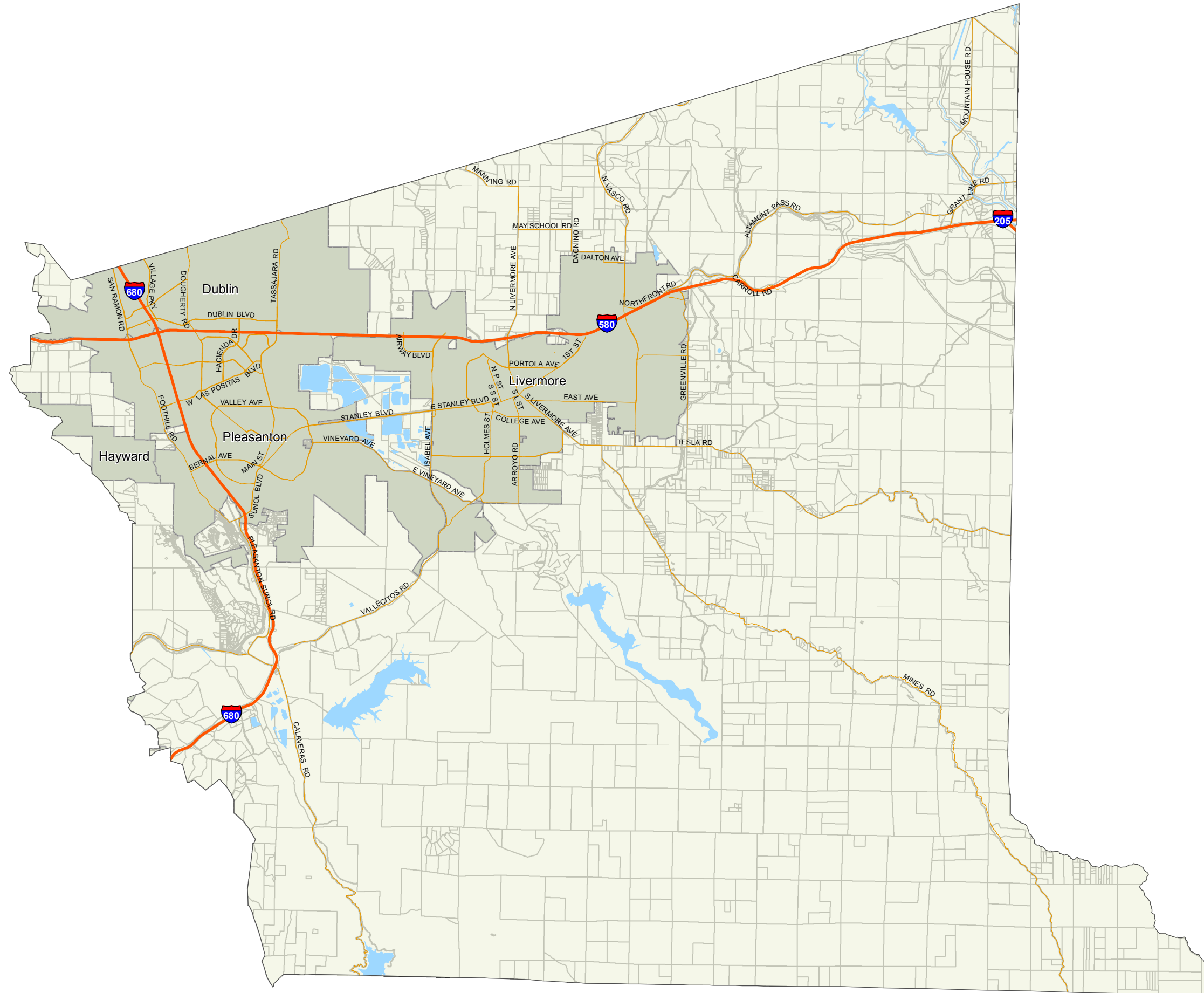


Exhibit B - East County (as defined in the East County Area Plan)



Legend

- Interstates
- Major Roads
- Waterbodies
- Cities
- Unincorporated

