

Chapter 6.108 MEDICAL MARIJUANA DISPENSARIES

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6.108.010 Purpose and intent.

The purpose and intent of this chapter is to implement state law by providing a means for regulating qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate within the unincorporated portions of the County of Alameda in order collectively or cooperatively to cultivate marijuana for medical purposes in a manner that is consistent with state law and which promotes the health, safety and general welfare of the residents and businesses within the unincorporated portions of the county.

6.108.020 Definitions.

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

- A. "Applicant" means a person who shall seek a permit under this chapter by filing an application as provided for in this chapter. "Applicant for membership" refers to a person who has submitted an application to become a member of a medical marijuana collective.
- B. "Application" means that form provided by the sheriff in accordance with this chapter for the purpose of seeking a permit.
- C. "County" means the County of Alameda.
- D. "Eligible application" means an application that complies with the requirements of the initial review and is submitted for final selection, as provided for in Section 6.108.110.
- E. "Facility" means a building or structure of any type where medical marijuana is distributed and all of the following apply:
 - (a) the building or structure is open for business at least one day a week for at least four hours a day for the purpose of distributing medical marijuana to member qualified patients, primary caregivers, and/or persons with valid identification cards; and
 - (b) medical marijuana is maintained on the premises; and
 - (c) member qualified patients, primary caregivers, and/or persons with valid identification cards provide or exchange some form of payment on the premises of the building or structure as a condition of receiving a distribution of medical marijuana.
- F. "Identification card" has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended.
- G. "Medical marijuana cooperative" or "medical marijuana collective" means any facility located within the unincorporated portion of the County of Alameda that is operated by or maintained by qualified patients, primary caregivers, and/or persons with valid identification cards who have associated in order collectively or cooperatively to cultivate marijuana for medical purposes. Both terms have the same meaning and may be used interchangeably and may also be referred to as "cooperative".
- H. "Permit" means a permit issued by the County to a medical marijuana cooperative under this chapter. "Permittee" means a person who holds an effective and current permit under this chapter.
- I. "Person" means any human being or an incorporated or unincorporated business entity or association established under the laws of the state.
- J. "Person with an identification card" has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended. Until such time as the state implements a program for issuance of identification cards under Section 11362.7 of the California Health and Safety Code throughout California, any identification card issued under the authority of the state or a local agency in California shall be deemed to comply with this section.
- K. "Premises" means the building, location or land in or on which a medical marijuana cooperative is operated and, in addition, any accessory structures and appurtenant areas.
- L. "Sheriff" means the Sheriff of the County of Alameda and his or her authorized representatives.
- M. "Primary caregiver" has the same definition as in Section 11362.5 of the California Health

and Safety Code, as it may be amended.

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

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

P. "State" means the State of California.

6.108.030 Permit required.

A. It shall be unlawful for any person to conduct, engage in, or allow to be conducted or engaged in, the operation of a medical marijuana cooperative in the unincorporated portion of Alameda County, unless such medical marijuana cooperative 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 president, chief executive officer, director, or such other person who shall be primarily responsible for the operation of a proposed medical marijuana cooperative shall apply for a permit under this chapter and, if granted, shall maintain the operation of the medical marijuana cooperative in conformity with the terms of this chapter and of the permit, including the requirement that the medical marijuana cooperative comply with Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use as issued by the Attorney General for the State of California.

C. The fact that an applicant possesses other types of state or county permits or licenses other than those identified in Section 6.108.020(G) 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 three permits, consisting of a maximum of one permit in each of the areas shown in Exhibit A at the end of this chapter. No permit shall be issued in any portion of the unincorporated area that is not within one of the areas delineated in Exhibit A.

E. Notwithstanding subsection D of this section, each medical marijuana cooperative shall also meet all of the following locational standards:

1. No cooperative may be closer than 3000 feet from any other cooperative.

2. No cooperative may be closer than one thousand (1,000) feet from any school, public park or playground, drug recovery facility or recreation center.

3. No cooperative shall be located in a location zoned as residential.

F. The county has the ability to reduce the location requirement as it applies to schools by fifteen (15) percent upon a finding that the cooperative would not endanger the health and safety of students. (Ord. 2005-52 § 2 (part); Ord. 2005-25 § 2 (part))

6.108.040 Term of permits and renewals.

A. Each permit shall expire two years after the date of its issuance, except that an amended permit shall maintain the expiration date of the permit it amends. Any permit may be renewed for successive two-year periods upon the submission of an application by the permittee. At the time of consideration of a renewal application, the County shall consider compliance with conditions in the prior term and, in addition, the HCSA may review and revise the mission statement of the cooperative in accordance with the requirements of Sections 6.108.090 and 6.108.100. The renewal application shall be referred to the Board of Zoning Adjustments for hearing and review and a final decision on renewal.

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

C. Any application for renewal shall be filed at least ninety (90) days before expiration of the permit.

D. Any application for renewal shall be rejected if:

1. The application is filed less than ninety (90) days before its expiration.
2. The permit is suspended or revoked at the time of the renewal 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 collective authorized by the permit has not been in regular operation in the four months prior to the renewal application.
4. The collective fails to conform to the criteria set forth in Section 6.108.100.

6.108.050 Application, renewal and revocation procedures.

A. If at any time there are less than three medical marijuana collective permits in effect, the Board of Supervisors may designate by resolution time periods that applications for a medical marijuana cooperative permit will be accepted, and applications shall only be accepted by the Sheriff during a period designated by the Board of Supervisors. Any resolution shall also identify the area or areas within Exhibit A for which applications will be accepted. This subsection 6.108.050(A) is not applicable to applications to amend a permit or renew a permit.

B. If an application is received by the Sheriff during a time period designated by the Board of Supervisors as set forth in Section 6.108.050(A), above, the Sheriff shall initiate an application process upon receipt of an application for the establishment of a collective within an area where a collective could be established based upon the provisions of subsection D of Section 6.108.030.

C. Each application for the establishment of a collective, amendment of an existing permit or renewal of an existing permit shall be filed with the Sheriff and the Sheriff shall be responsible for administering the application process as set forth in this chapter.

D. The Board of Supervisors shall, by resolution, adopt such forms and procedures as are necessary to implement this chapter with respect to the initial selection, future selection or award, amendment, renewal, revocation and suspension of permits.

E. Wherever this chapter requires the County to give notice to an applicant, appellant or permittee, such notice shall be given by the Sheriff, in writing, and shall be delivered either by personal delivery or by certified U.S. mail, postage prepaid, return receipt requested. In addition, any such notice shall be posted at the address of the cooperative on the date of the mailing of notice, unless specifically provided otherwise elsewhere in this chapter.

F. No person, association or facility that purports to have distributed marijuana prior to the enactment of this chapter shall be deemed to have been a legally established cooperative under the provisions of this chapter, and such person or facility shall not be entitled to claim a legal nonconforming status. Other than specifically provided in Section 6.108.080, no preference shall be given to any applicant due to an existing or prior operation of such a facility.

6.108.060 Contents of application.

- A. Each application shall set forth or incorporate by reference the following information in a standard form adopted by the Board of Supervisors:
1. Address of the proposed collective and the name and address of the owner of the premises. The above address information shall be provided for each site where the collective will cultivate marijuana or distribute marijuana to the members of the collective, including any sites that may be located outside of the unincorporated areas of Alameda County.
 2. The full name, date of birth, social security number, present address and telephone number of the applicant.
 3. The address to which notice of action on the application is to be mailed.
 4. All residential addresses of the applicant for the five years immediately prior to the date of the application.

5. Written proof that the applicant is eighteen (18) years of age or older (i.e., California driver's license, California identification card or birth certificate).
6. The height and weight and the color of eyes and hair of the applicant.
7. Photographs of the applicant for identification purposes to be taken by the Sheriff.
8. The names and addresses of all businesses operated by and the employment of the applicant for the five years immediately prior to the date of the application.
9. The address of any medical marijuana dispensaries or cooperatives that had previously been operated by the applicant and a statement of whether the authorization for any such operation had been revoked or suspended and, if so, the reason therefor.
10. The names and telephone numbers of the person or persons to be regularly engaged in the operation of the proposed cooperative, whether an employee, owner, member, 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 cooperative. Every person listed as owner, director, trustee, manager, supervisor or employee must submit fingerprints and other necessary information for a background check to the Alameda County Sheriff's office, and be photographed for identification purposes. In addition, any new employees, independent contractors, other persons and/or volunteers who will work at the proposed medical marijuana collective must submit their information to the Sheriff's office within five days prior to their employment.
11. A description of the proposed security arrangements for insuring the safety of persons and protection of the premises from theft.
12. A sketch or diagram showing the interior configuration of the premises, if an indoor facility, including a statement of the total floor area occupied by the collective. Otherwise, a sketch or diagram of the lot shape and size. Shall be included. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus twelve (12) inches.
13. A description of the external appearance of the cooperative, including a precise depiction of any signage.
14. A description of products to be cultivated and distributed or dispensed by the collective.
15. The mission statement of the collective with respect to meeting the medical needs of its members.
16. A description of the methods by which the applicant will mitigate any potentially adverse impacts, such as loitering, crime or noise, on surrounding property owners.
17. Authorization for the County, its agents and employees to seek verification of the information contained in the application.
18. Written certification that the applicant has reviewed and understands and accepts the standard conditions that are set forth in Section 6.108.120.
19. Written confirmation that the applicant has reviewed, understands and will adhere to the Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use as promulgated by the Attorney General for the State of California in August 2008 regarding collectives and cooperatives.
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. A statement detailing the organizational and operational structure of the cooperative that establishes it as cooperative or collective within the meaning of the Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use as promulgated by the Attorney General for the State of California in August 2008 regarding collectives and cooperatives.

23. A statement describing how the collective will verify the status of each member as a qualified patient, person with an identification card or primary caregiver.
- B. The filing of an application shall be deemed complete upon the submission of an application in conformance with this section and payment of the application fees required by Section 6.108.070.
- C. An application may be reviewed and copied by any member of the public in accordance with the California Public Records Act.

6.108.070 Fees.

- A. Every application to establish a collective, to amend a permit, or to renew a permit shall be accompanied by a nonrefundable fee, as established by the Board of Supervisors by resolution, in order to reimburse the County for the cost of reviewing and acting upon the application.
- B. In addition, each collective 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 medical marijuana collectives.
- D. The Board of Supervisors may enact fees to be paid to schools located in the three areas where collectives are permitted for reimbursement for drug and alcohol treatment and education for students.

6.108.080 Selection of permittees.

6.108.090 Initial review of application.

- A. Upon receipt by the Sheriff of an application to establish a medical marijuana cooperative during an application period determined as set forth in Section 6.108.050(A), above, the Sheriff shall commence review of any application immediately upon its filing and shall complete such review within thirty (30) days. In conducting this review, the following County agencies shall comment on specific portions of the application:
 1. The Sheriff shall be responsible for verifying factual information in the application, including names, addresses and other information on the applicant operator and its employees of the proposed cooperative.
 2. The Sheriff shall comment upon the adequacy of security measures that are described in the application.
 3. The Community Development Agency shall comment upon the proposed location's compliance with the requirements of subsections D and E of Section 6.108.030 and conditions that are needed to mitigate adverse impacts on surrounding uses.
 4. The Health Care Services Agency shall comment upon the services to be provided and the mission statement set forth in the application.
- B. Within ten business days after the filing of an application, the Sheriff shall reject any application and so notify the applicant, if the application has been improperly completed or if it is incomplete. The applicant may amend and refile the application within ten days after such rejection.
- C. At the conclusion of the initial review, the Sheriff shall notify the applicant of the results of the initial review of the application. (Ord. 2005-25 § 2 (part))

6.108.100 Action upon completion of initial review.

A. Upon completion of the initial review, the Sheriff shall reject any applicant that meets any of the following criteria:

1. The proposed cooperative 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 cooperative 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 has been convicted of a felony within the past ten years. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
5. The applicant or the operator listed in the application is less than eighteen (18) years of age.
6. The Health Care Services Agency has determined that the application has failed to state a health care purpose that fulfills the purposes of Section 11362.5 et seq. of the California Health and Safety Code.
7. The issuance of a permit at the proposed location is prohibited due to the existence of a valid medical marijuana cooperative permit in the area.

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 process.

6.108.110 Final selection of medical marijuana dispensaries.

A. The final selection process shall be for the determination by the Sheriff, Health Care Services Agency and Community Development Agency of which eligible applications shall be submitted to the Board of Zoning Adjustments for hearing and the establishment of operating conditions. The final selection process shall not exceed thirty (30) days in the absence of an appeal.

B. The final selection process shall commence with the separation of all eligible applications into the areas that are delineated in subsection D of Section 6.108.030. If an area has a number of eligible applications that is the same as or less than the allowable number of medical marijuana cooperatives for such area, then all applications for that area shall be submitted to the Board of Zoning Adjustments for hearing and establishment of operating conditions. If any area has a number of eligible applications that exceeds the maximum number of cooperatives for such area, the eligible applications to be submitted to the Board of Zoning Adjustments shall be selected by a committee of the Sheriff, Health Care Services Agency and Community Development Agency comprised of one representative from each as determined by the appointing authority for each. In selecting the eligible applications, the committee shall select the applicant who, in its sole determination, best meets all of the following:

1. Sufficiently details the organizational and operational structure of the collective that establishes it as a cooperative or collective within the meaning of the Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use as promulgated by the Attorney General for the State of California in August 2008 regarding collectives and cooperatives.
2. Demonstrates that the collective has a business plan, including its safety and security plan, that is likely to prevent the collective from posing a safety concern or disruption to the surrounding neighborhood.

C. Upon receipt by the Board of Zoning Adjustments of applications referred pursuant to paragraph B, above, the Board of Zoning Adjustments shall schedule a hearing on each application pursuant to the timetables and scheduling procedures that govern its operations. The purpose of any hearing convened by the Board of Zoning Adjustments shall be the following:

1. To determine whether the size, scope and business plan of the cooperative demonstrate that the operations of the collective are appropriate for the location and the zoning of the neighborhood; and
 2. To establish, if warranted, additional operating conditions for the cooperative beyond those set forth in section 6.108.120, below, in order to insure that the cooperatives operations are compatible with the development plan for the community wherein it is located; and
 3. To deny the award of a permit when it appears after consideration of all matters properly before it that the potential benefit to medical marijuana patients in the community outweighs any detriment to the community that would exist if the permit is awarded.
- D. If the Board of Zoning Adjustments determines that a permit shall be awarded, the standard operating conditions set forth in section 6.108.120, below, shall be conditions of any such permit in addition to any other conditions determined to be appropriate by the Board of Zoning Adjustments. The Board of Zoning Adjustments shall notify the Sheriff and the applicant of the outcome of its proceedings on each application referred to it.
- E. At the conclusion of the final selection by the Board of Zoning Adjustments, and if a permit is awarded, the sheriff shall give notice to the applicant of the operating conditions that would attach to the permit. Within ten days after notice, the applicant shall either:
1. Certify acceptance of the operating conditions and the standard conditions of the permit, and the permit shall thereupon issue immediately.
 2. If the applicant refuses or fails to certify agreement with any operating condition or standard condition, the application shall be denied. The applicant may appeal any condition within ten days after notice of the conditions. Upon either the failure to file a timely appeal or the rejection of the appeal, the application shall be deemed denied.

6.108.120 Standard conditions.

A. Throughout the term of the permit each permittee shall not violate this Chapter and shall comply with the following standard conditions:

1. It shall be a violation of this Chapter for a cooperative to distribute, provide, or allow to be provided, marijuana to any person except those persons who are qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who have associated with the collective to cultivate marijuana for medical purposes. To "have associated with the collective" means to have been accepted as a member of the collective after receipt and verification by the collective of a membership application that, at a minimum, included all of the following:
 - a. Documentation establishing that the applicant for membership is a qualified patient, patient with an identification card, or primary caregiver.
 - b. Agreement by the applicant for membership not to distribute marijuana to non-members;
 - c. Agreement by the applicant for membership not to use marijuana for other than medical purposes; and
 - d. Name, address and telephone number of the applicant for membership.

All distribution that is prohibited by the California Health and Safety Code and the terms of the permit and this Chapter is prohibited. It shall be the responsibility of the permittee to ensure that a good faith effort be made to verify the validity of any identification card or doctor's recommendation provided to the cooperative.

2. Each cooperative shall maintain records of persons who have received marijuana from the cooperative. These records shall set forth only the identification card number issued pursuant to California Health and Safety Code Section 11362.71 *et seq.*, or a copy of such other documentation that authorizes such distribution under this Chapter in a manner that protects the confidentiality of the persons.

3. No cooperative shall be open for business or for distribution of marijuana between the hours of 12:00 a.m. and 9:00 a.m. or between the hours of 9:00 p.m. and 11:59 p.m. on any day. Additionally, to avoid conflict with the travel of students to and from the school, no cooperative located within 1000 feet of any school shall be open during the one and one-half hour (1 ½) period immediately following the cessation of classes. No activities that are undertaken in the operation of the cooperative shall be conducted outside the interior premises of the cooperative, except that a medical marijuana grow site may be outdoors provided the site is completely fenced in and secured to prevent non-members from accessing the site without permission of the collective.
4. Except at a site where marijuana is grown, it shall be a violation of this Chapter if at any time the amount of marijuana on the premises exceeds the lesser of:
 - (a) An amount of marijuana equal to eight (8) ounces per member who has associated with the collective, or
 - (b) A total of twenty (20) pounds of marijuana.
 - (c) In calculating the quantity of medical marijuana, concentrated cannabis (such as hashish) shall be counted at a ratio of 3 to 1 as compared to equal quantities of the un-concentrated varieties. At no time shall a medical marijuana cooperative maintain in excess of one and one-half (1½) pounds of concentrated cannabis on the premises.
5. No marijuana shall be smoked, ingested or otherwise consumed on the premises of a cooperative.
6. A cooperative shall label its products by stating the name of the cooperative and the weight of cannabis and the statement "Contents may cause cancer when smoked". All products shall be packaged in County approved child-proof containers.
7. No person who is less than eighteen (18) years of age may be employed or otherwise engaged in the operation of the cooperative. No person under the age of eighteen (18) shall be allowed on the premises.
8. The entrance to a cooperative shall be posted with a notice that states the restrictions on the presence of persons under the age of eighteen (18) and that smoking, ingesting or consuming marijuana on the premises is prohibited. In addition, each cooperative shall conspicuously display the permit.
9. No cooperative may hold a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, nor may it include a business that sells alcoholic beverages. No alcohol may be stored, sold, dispensed or used on the premises.
10. Each permittee shall maintain a current registry of persons, including, but not limited to, employees, contractors and volunteers, who are engaged in the operation of the cooperative. The registry shall be provided to the Sheriff at any time upon request. The registry shall include the name, current residential address, telephone number, date of birth and the height, weight and color of eyes and hair of each such person.
11. No person who has been convicted of a felony within the past ten (10) years may be actively engaged in the operation of any cooperative. A conviction within the meaning of this Section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

12. A cooperative shall provide adequate security on the premises, including lighting and alarms, to insure the safety of persons and to protect the premises from theft. A copy of the current safety plan shall be made available to the Sheriff's office during inspections.
13. The permittee shall provide the Sheriff with the name, telephone number and facsimile number of a community relations contact to whom one can provide notice of problems associated with the cooperative. The permittee shall make a good faith effort to resolve problems without the need for intervention by the County.
14. A cooperative shall provide litter removal services twice each day of operation on and in front of the premises and, if necessary, on public sidewalks within a hundred (100) feet of the premises.
15. A cooperative shall comply with County building, zoning and health codes, and shall allow inspections to ensure conformance with such regulations.
16. A cooperative shall not be delinquent in the payment of fees required by this Chapter.
17. All activities of the cooperative must take place within the interior of the building and not be visible from the street. A cooperative may not cover or alter the windows or building doors to comply with this requirement. In the case of an outdoor marijuana grow, all activities of the cooperative must occur within the fenced in confines of the site.
18. A cooperative must have appropriate restroom facilities that will accommodate both male and female members.
19. A cooperative must conduct its operations in conformance with the statements submitted pursuant to Sections 6.108.060(A)(21), (22) and (23). Any existing permittee who does not have the statements as required by Sections 6.108.060(A)(21), (22) and (23), above, currently on file shall submit such statements within thirty (30) days of the date upon which this provision becomes effective. If any person who was issued a medical marijuana dispensary permit by the County of Alameda that was issued prior to still valid on the date this chapter was adopted as revised in 2009 is in compliance with all provisions of this chapter within 30 days of the 2009 effective date of this provision, then said permit shall remain in effect subject to renewal on its scheduled renewal date. The cooperative must provide the Sheriff's office with satisfactory evidence of compliance with the provisions of this Chapter prior to the expiration of 30 days following the effective date of this paragraph.
20. It shall be a violation of this ordinance for any cooperative or permittee to manufacture medical marijuana extracts using the butane method of extraction.
21. It shall be a violation of this ordinance for a collective to dispense and distribute edibles containing medical marijuana in the unincorporated area of the County of Alameda.
22. A cooperative shall gather and provide the County with any and all data necessary to monitor the effective and successful implementation of this ordinance/program.
23. A cooperative shall do all of the following:
 - (a) Be organized as a non-profit or not-for-profit operation;

- (b) Obtain all business licenses and seller's permits required for lawful operation of its business model;
- (c) Pay sales taxes as required by State law;
- (d) Verify each member's status as a qualified patient, primary caregiver or person with an identification card;
- (e) Maintain membership records on-site or have them reasonably available;
- (f) Track when members' physician recommendations and identification cards expire;
- (g) Adopt and enforce conditions of membership by excluding members whose physician recommendations or identification cards are invalid or have expired, or who are caught diverting marijuana for non-medical use;
- (h) Acquire marijuana only from members of the collective;
- (i) Document each member's contribution of labor, resources or money to the collective; and
- (j) Track and record the amount of and source of all marijuana cultivated and distributed by the collective and only cultivate and distribute amounts of marijuana tied to its membership numbers.

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 (10) 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 Paragraph B of this Section and, in addition, any such operating conditions that may be established pursuant to Paragraphs C and D of Section 6.108.110.

D. At any time during the operation of a cooperative and without notice, the Sheriff may enter the premises for the purpose of inspecting and observing compliance of the cooperative with the conditions of its permit. The Sheriff shall be accompanied by representatives of the Health Care Services Agency and the Community Development Agency a minimum of two times per year, to occur at least once every six months, during the inspections allowed by this paragraph.

6.108.130 Appeal from administrative determinations.

A. An appeal may be filed by an applicant, permittee or the owner or occupant of property within one thousand (1,000) feet of any existing or proposed cooperative.

B. Any appellant may appeal an administrative determination that is made in relation to any of the following actions:

1. Finding that an application is incomplete;
2. Determination that an application does not comply with the requirements of Section 6.108.100;
3. Establishment or modification of operating conditions;
4. Denial of permit; or
5. Suspension or revocation of a permit.

C. Any appeal shall be filed with the Sheriff within ten days after the date of the notice of any such administrative determination.

D. Within ten days after the filing of an appeal, notice shall be given in accordance with Section 6.108.050. Such notice shall set forth the grounds for the appeal, the method of submitting comments to the County regarding the appeal and the date and location of the hearing of the appeal.

E. Any appeal that is not timely filed will be deemed ineffective and the administrative determination that is being appealed will become final.

6.108.140 Administrative review of appeal.

A. Within thirty (30) days after the filing of an appeal of an administrative determination, the Sheriff shall convene a panel consisting of a representative of the County Administrator, Community Development Agency, Health Care Services Agency and the Sheriff at which the appeal shall be heard in public session. The appellant and any interested parties will be allowed to address the panel regarding the appeal.

B. Within ten days after conclusion of the hearing of the appeal by the administrative panel, the Sheriff shall give notice of the decision of the panel.

C. Any appellant may file an appeal of the determination of the administrative panel within ten days after the date of the notice of the decision of the administrative panel. (Ord. 2005-25 § 2 (part))

6.108.150 Hearing by the Board of Supervisors.

A. Within forty-five (45) days after the filing of an appeal of the administrative panel's decision, the Board of Supervisors shall conduct a hearing of the appeal.

B. At least ten days prior to the hearing of the appeal by the Board of Supervisors, notice shall be given in accordance with Section 6.108.050. Such notice shall set forth the grounds for the appeal, the method of submitting comments to the county regarding the appeal and the date and location of the hearing of the appeal by the Board of Supervisors. The Board of Supervisors may give such additional notice of hearing as it deems appropriate in a particular case.

C. The Board of Supervisors may take any appropriate action upon the original administrative action that was appealed pursuant to Section 6.108.130, including granting or denying the appeal or imposing, deleting or modifying operating conditions of the permit. The decision of the Board of Supervisors shall be final. (Ord. 2005-25 § 2 (part))

6.108.160 Suspension and revocation.

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

1. Violates the operating or standard conditions of the permit or the requirements of state or local laws.

2. Fails to take reasonable measures to control disturbances, loitering or such other problems on the premises.

B. No permit shall be revoked or suspended by virtue of this section until a hearing has been held in the same manner as described in Sections 6.108.140 and 6.108.150. Notice of the hearing shall contain a brief statement of the grounds for revoking or suspending the permit and the time and date for the hearing.

C. The decision of the administrative panel may include suspension, revocation or the modification of the permit by adding conditions that are designed to reduce or remove the problems that caused the proposed revocation or suspension of the permit.

D. Within ten days after conclusion of the hearing of the appeal by the administrative panel, the sheriff shall give notice of the decision of the panel.

E. Any appellant may appeal the determination of the administrative panel to the Board of Supervisors within ten days after the date of the notice of the decision of the administrative panel. The board of supervisors shall act upon the appeal in accordance with Section 6.108.150. (Ord. 2005-25 § 2 (part))

6.108.170 Transfer of the permit.

A. No permittee may transfer a permit or obtain an amended permit without authorization by the County, granted in accordance with this section.

B. A permittee shall apply for transfer or for an amended permit by submitting an application that complies with Section 6.108.060. The Sheriff shall verify information in the application

and shall approve the transfer unless it fails to comply with the standards set forth in Section 6.108.100, or shall otherwise employ procedures set forth in paragraph D of this section.

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.

D. An application to amend a permit shall only be submitted for the purpose of extending the coverage of an existing permit to an address adjacent to an address covered by an existing permit or to identify additional sites where the collective will grow medical marijuana to meet the needs of the members of the collective. If the Sheriff determines that the amended application warrants substantial review, the Sheriff shall refer the amended permit application to the Board of Zoning and Adjustments for hearing and establishment of conditions as set forth in Section 6.108.110.

6.108.180 Additional prohibited operations.

The permittee and or his or her agents shall at all times comply with this Chapter in the operation of the cooperative. This includes, but is not limited to, the prohibition of both the sales and distribution of marijuana for profit.

6.108.190 Misdemeanor violation.

Any person violating any of the provisions or failing to comply with this Chapter shall be guilty of a misdemeanor. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter or the permit is committed, continued or allowed in conjunction with the operation of a cooperative and shall be punishable accordingly. (Ord. 2005-25 § 2 (part))

6.108.200 Civil injunction.

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

6.108.210 Severability.

The provisions of this Chapter are hereby declared to be severable. If any provision, clause, word, sentence or paragraph of this Chapter or the application thereof to any person, establishment or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Chapter. (Ord. 2005-25 § 2 (part))

6.108.220 Judicial review.

Judicial review of a final decision made under this chapter may be had by filing a petition for a writ of mandate with the Superior Court in accordance with the provisions of Section 1094.5 of the California Code of Civil Procedure. Any such petition or any other action seeking judicial review shall be filed within ninety (90) days after the day the decision becomes final. (Ord. 2005-25 § 2 (part))

Friday, July 10, 2009