



MEMORANDUM

January 10, 2017

TO: Board of Supervisors' Transportation/Planning Committee

FROM: Medical Cannabis Interdepartmental Work Group

MEETING DATE: January 12, 2017

SUBJECT: Draft Medical Cannabis Dispensary and Cultivation Ordinances

BACKGROUND

At your December 8th, 2016 meeting, the Office of the County Counsel presented a summary of Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), approved by voters in November of 2016. In addition, your Committee received an update on the process of revising the draft medical cannabis dispensary and cultivation ordinances in response to direction from your committee and public comment received thus far. The revised ordinances attached to this memo incorporate the public comments which correct errors or do not change the substance of the ordinances. Staff requests your direction as to how to address public comments that raised issues that would change the substance of the ordinances. A brief discussion of these issues is provided below.

DISCUSSION/SUMMARY

Revisions to the Dispensary Ordinance

The revised dispensary ordinance attached to this memo includes the following changes:

Dispensary Ordinance – Title 6 (See Attachment A)

- Section 6.108.020.C: added a definition for the term “brick and mortar” (used as a requirement for a delivery operation)
- Section 6.108.020.O: enhanced the definition of “edibles” to align with changes in Prop 64
- Section 6.108.030: clarified the permitted areas for dispensaries in Option No. 1
- Section 6.108.030.E: corrected the reference to the General Plan

- Section 6.108.060.A.: expanded the solicitation provision to allow the CDA director to require other relevant information
- Section 6.108.060.A.13: deleted the requirement for the CDA director to approve signage (still required to comply with the Zoning Ordinance)
- Section 6.108.060.A.21: included a requirement for odor control information to be included in the operating plan
- Section 6.108.090.A.3: added a provision in the initial review of application for CDA to comment on general compliance with the solicitation process
- Section 6.108.100.A.7: deleted the requirement for applicants to not be delinquent in the payment of “any” taxes and fees
- Section 6.108.120.A.4: added a reference to a state license (type 10A) to the conditions for cultivation on the dispensary premises
- Sections 6.108.100A.4, 6.100.120.A.12, and 6.108.125A.10: deleted the exclusion of individuals with Prop 47 reclassified drug violations from employment/licensure
- Section 6.108.120A.20: added a provision for testing of samples after the BMCR begins licensing testing labs
- Section 6.108.125A.11: clarified that signage is required for delivery vehicles to be identified as such
- Section 6.108.230.B. and C.: added clarifying language re: edibles to conform the state law

Zoning Ordinance Amendments for Dispensaries – Title 17 (See Attachment B)

- Section 17.17.040.A.: Removes proposal from previous version re Sunol Downtown and Industrial district such that dispensaries will be conditionally permitted in Agricultural and specified Commercial districts only and will not be permitted in Sunol Downtown, Industrial, or Residential districts.
- Section 17.04.010: Expands definition of “cultivation” to include storage associated with cultivation activities.
- Recital #27.: Clarifies that the ordinance applies to medical cannabis only.

Revisions to the Cultivation Ordinance

The revised cultivation ordinance attached to this memo includes the following changes:

Pilot Cultivation Ordinance – Title 6 (See Attachment C)

- Section 6.106.030: Adds a two-phase pilot program. In the first phase, up to two permitted dispensaries in good standing will be eligible for pilot cultivation permit. In the second phase, this limitation is removed and up to cultivators may be selected through a solicitation process similar to that being used for dispensaries.
- Sections 17.04.010, 17.52.585, and 17.54.130 - Moves zoning ordinance amendments to separate document. Requirement for setbacks from sensitive receptors moved to zoning ordinance amendment.
- Section 6.106.010: Expands definition of “cultivation” to include storage associated with cultivation activities.

- Sections 6.106.060.B.3: deletes the exclusion of individuals with Prop 47 reclassified drug violations from employment/licensure
- Recital #23: Adds clarification language that the ordinance applies to medical cannabis only.

Zoning Ordinance Amendments for Cultivation – Title 17 (See Attachment D)

- Entire draft document: Zoning ordinance amendments moved to this separate document. Requirement for setbacks from sensitive receptors moved to zoning ordinance amendment.
- Section 17.04.010: Expands definition of “cultivation” to include storage associated with cultivation activities.
- Recital #23: Adds clarification language that the ordinance applies to medical cannabis only.

Responses to Public Comments Received to Date

Staff has revised the draft dispensary and cultivation ordinances to include changes suggested by the public that are technical in nature and do not affect the substance of the ordinance language, or that respond to direction received from your committee. Some public comments were not incorporated into the revised ordinances because the proposed changes would be inconsistent with state law.

Several of the comments received suggest changes to the ordinances that would constitute substantial shifts in policy. Staff requests direction as to whether or not the draft ordinances should be revised to address these comments. Staff will make any revisions to the draft ordinances necessary to incorporate additional direction your committee provides.

Public Comments Requiring Direction from the Committee

Number of Dispensaries

The existing County dispensary ordinance allows a maximum of three dispensaries (Section 6.108.030.D). Dispensaries may be located in commercial or industrial zoning districts. The draft dispensary ordinance would allow a maximum of six dispensaries, with no more than four located in the West County and no more than two located in the East County (Section 6.108.030(D)).

There has been some discussion at public meetings regarding whether it is appropriate to increase the number of dispensaries allowed in the unincorporated area since the need for additional facilities has not been demonstrated. As reported at your October 3rd meeting, staff’s research did not find any widely accepted standard, such as a specific ratio of dispensaries to population size, to determine the appropriate number of dispensaries to be located in a community.

The table below compares the dispensary to population ratios for the unincorporated area, based on the three dispensaries currently allowed by the existing county ordinance and the six proposed in the draft ordinance, to the ratios for the cities within the county that currently allow dispensaries, as well as a few additional California cities. As shown in the table, with the three dispensaries permitted under the current ordinance, the ratio in the unincorporated area is similar to that of San Francisco and Los Angeles. With an increase to six dispensaries, the ratio within the unincorporated area would be similar

to that of Berkeley, San Leandro, and Oakland after the first year of implementation of that city's recently adopted ordinance which allows up to eight new dispensaries per year.

Approximate Ratio of Dispensaries to Population Based on Dispensaries Currently Allowed by Local Ordinance	
<i>Unincorporated Alameda County</i>	<i>Cities</i>
	Sacramento 1: 16,000
Proposed (6 dispensaries) 1: 25,000	Berkeley 1: 20,000
	Oakland 1: 26,000*
	San Leandro 1:29,000
Current (3 dispensaries) 1: 37,500	San Francisco 1: 35,000
	Los Angeles 1: 39,500
	San Jose 1: 63,500
*Oakland's ratio assumes 16 dispensaries: 8 existing and 8 additional that could be permitted during the first year of implementation of the city's recent ordinance allowing 8 new dispensaries per year. The city's ratio will continue to decline as more dispensaries are approved in subsequent years.	

The Sheriff's Office does not support increasing the number of dispensaries allowed in the unincorporated area. Some members of the public have suggested that the number allowed in West County should be reduced to the existing two or maintained at three as allowed in the existing ordinance.

Potential Dispensary Locations

West County:

The existing dispensary ordinance includes a map that overlays the boundaries of three areas onto the unincorporated communities of Ashland, Cherryland, Castro Valley, and San Lorenzo. Area 1 includes San Lorenzo and a strip of Ashland that lies south of Interstate 238 and north of San Lorenzo Creek; Area 2 includes Cherryland and the remainder of Ashland; and Area 3 includes the Castro Valley urban area. The ordinance allows one dispensary in each of the three areas, for a maximum of three dispensaries. Currently, one dispensary is located in Area 1, on East Lewelling Boulevard in Ashland; and the other is located in Area 3, on Foothill Boulevard in Cherryland.

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

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

Option 2: Allow one dispensary in each of the four unincorporated communities of Ashland, Cherryland, Castro Valley, and San Lorenzo as those areas are defined in the Eden Area General Plan

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

East County:

The proposed dispensary ordinance revisions would allow two dispensaries in the East County where no dispensaries are permitted under the existing ordinance. Because almost all of the unincorporated area in the East County is zoned “A” (Agriculture) and subject to Measure D (Save Agriculture and Open Space Lands) which was adopted by County voters in 2000, the land uses allowed in this area are limited primarily to agriculture-related uses. Proposed revisions to Section 17.06.040 of the Zoning Ordinance would allow medical cannabis dispensaries as a conditional use in the “A” (Agriculture) Zoning District only where accessory to a cannabis cultivation operation. The Committee may wish to consider whether the East County dispensaries should be allowed to locate on any property with “A” (Agricultural) zoning that also has a cultivation operation consistent with the provisions of the cultivation ordinance, or whether the ordinance should identify specific geographic areas in the East County where dispensaries would be allowed.

Equity and Community Benefit Measures

At your November 7th, 2016 meeting, the Alameda County Cannabis Equity Coalition (ACCEC) presented a letter advocating for the inclusion of equity measures in the county medical cannabis ordinances. The main feature of the proposal put forward by ACCEC is similar to the ownership requirement in the City of Oakland’s ordinances. The letter proposes that 50% of cannabis permits be issued to applicants with 51% ownership by person(s) from specified “Ethnic groups most impacted by historical, systemic racism and The War on Drugs”. The proposal includes further specific requirements for eligibility (for example, that income does not exceed \$70,000 per year, residency in Alameda County for at least 5 accumulative years, etc.).

Considering the work being undertaken by the City of Oakland’s Race and Equity Department to re-evaluate the equity provisions in the city’s ordinance, the County could consider waiting until the outcome of that process later this month before considering incorporation of any ownership requirement in the County’s ordinances. In the meantime, and for the purpose of the draft amendments currently being considered, it may be appropriate to include a finding in the ordinances acknowledging the communities who have been disproportionately impacted (which is a concept that would need to be carefully considered and defined) and state that inclusion of these communities may be a relevant consideration in the RFP processes provided for in the ordinances.

Buffers between Medical Cannabis Facilities and Sensitive Receptors

Section 6.108.030(E) of the County’s existing dispensary ordinance requires a buffer of at least 1,000 feet between any two dispensaries, and between any dispensary and any school, licensed child or day care facility, public park or playground, drug recovery facility or recreation center. In the draft

dispensary ordinance, the required buffer is reduced to 600 feet to align with the Medical Cannabis Regulation and Safety Act (MCRSA). The draft cultivation ordinance also requires a 600-foot buffer from any sensitive receptor as defined. The Sheriff's Office, as well as some members of the public, has stated that the 1,000-foot buffer required in the existing ordinance should not be reduced.

Limits on the Storage of Product in Dispensaries

Section 6.108.120.A.4 of the County's existing dispensary ordinance limits the amount of cannabis that can be kept on a dispensary's premises to 20 pounds. This limit was deleted from the draft dispensary ordinance that is currently under consideration based on the assumption that, as business operators, dispensary owners would not store a large amount of inventory on site that would not be sold in a short amount of time. The Sheriff's Office supports maintaining the 20-pound limit. The Castro Valley Municipal Advisory Council recommended that the 20-pound limit be increased to 100 pounds rather than removing the limit entirely.

Sale of Edibles

The existing County dispensary ordinance does not allow the sale of edibles in dispensaries in the unincorporated area. Section 6.108. 120A(7) of the draft dispensary ordinance states that medical cannabis may be provided by a dispensary in an edible form, provided that the edibles meet all applicable state and county requirements. The Sheriff's Office does not support allowing the sale of edibles. Some members of the public have suggested that allowing the sale of edibles should be delayed until applicable state health and safety regulations are in place.

Proposition 47

The existing County dispensary ordinance prohibits a person convicted of a felony within the past 10 years from being actively engaged in the operation of a dispensary. The ordinance was amended to include in this prohibition "a drug related misdemeanor reclassified by Section 1170.18 of the California Penal Code (Proposition 47)" in order to continue to recognize prior drug felonies. A similar provision was included in Section 6.108.125A(10) for those engaged in delivery operations, and also in Section 6.106.060B(3) of the cultivation ordinance for those engaged in cultivation operations. A member of the public commented that the Proposition 47 language should be removed.

On-site Ingestion

The draft dispensary ordinance states that: "No cannabis shall be smoked, ingested or otherwise consumed on the premises of a dispensary, provided that ingestion by a vaporization device may be authorized in writing by the health care services agency." The draft cultivation performance standards also include restrictions on on-site ingestion. A member of the public has commented that on-site ingestion is necessary for operation of the business, especially the business of cultivation, and should be allowed at dispensaries and cultivation sites.

Delivery of Medical Cannabis Products to Patients and Caregivers

Under the County's existing dispensary ordinance, the delivery of cannabis products to patients or caregivers is not allowed in the unincorporated area. Section 6.108.035 of the draft ordinance establishes a process for issuing delivery permits to "brick and mortar" dispensaries holding a valid license or permit to dispense medical cannabis issued by the State of California or by a California city, county, or city and county. Because permitted dispensaries outside of the unincorporated area would be eligible to apply for a permit for delivery within the unincorporated area, the draft ordinance does not limit the number of permits that could be issued. Several members of the public have commented that the ordinance should include a cap on the number of delivery permits that would be allowed.

Section 6.108.125A(4) of the draft ordinance states that "No delivery vehicle shall contain a quantity of cannabis in excess of an amount equal to the total of all orders shown on the delivery requests for qualified patients and primary caregivers to whom that the vehicle is then making a delivery. No delivery vehicle shall contain a quantity of edibles in excess of the total amount of all orders for edibles shown on the delivery requests for qualified patients and primary caregivers to whom that the vehicle is then making a delivery." A member of the public suggested that the transition time in and out of the shop is the most risky for a delivery person, so it would actually be safer to make fewer trips and stock a number of common items in the delivery vehicle.

Cultivation

Section 6.106.030 of the original draft cultivation ordinance would have allowed a permitted dispensary with a record of good standing with the County for at least one year to apply for a permit to cultivate medical cannabis on a temporary basis. Several members of the public have stated that eligibility to obtain a cultivation permit should not be limited to operators of existing dispensaries. At the December 8th Transportation and Planning Committee meeting, there was discussion of a potential two-tiered cultivation pilot in which dispensaries in good standing would be eligible to participate in the first stage of the pilot; in the second stage of the pilot, the program would expand the eligibility requirements to include other operators. The two-tiered pilot would increase the total number of cultivation sites allowed to four. The revised cultivation ordinance attached to this memo includes the two-tiered pilot concept for the Committee's consideration.

California Environmental Quality Act

The California Environmental Quality Act (CEQA) requires that an environmental review be conducted for the proposed ordinance amendments and establishes a process for completing the review. The level of review necessary will be determined by the outcome of an Initial Study, which may conclude that a negative declaration, mitigated negative declaration, or environmental impact report is needed. A consultant is in the process of preparing the CEQA document; and the analysis completed so far appears to be moving toward a mitigated negative declaration. The document is expected to be completed within the next week, at which time it will be released for a 20-day public review period.

NEXT STEPS

Project Timeline

A tentative meeting schedule for the completion of the public process for the approval of the draft dispensary and cultivation ordinances is provided below. Since the public review period for the CEQA document will not be completed in time for the January 17th Planning Commission meeting as originally planned, the Commission's consideration of the final ordinances will need to be postponed to the subsequent Commission meeting which will be held on February 6th. The public meeting schedule, including times and locations, is available on the County website at:

<http://www.acgov.org/cda/planning/landuseprojects/medical-cannabis.htm>. This webpage also provides a list of past meetings and links to presentations and written materials from those meetings. (See Attachment E for a list of all public meetings held to date.).

February 6, 2017	Second Planning Commission Meeting
February 22, 2017	Unincorporated Services Committee
March 6, 2017	Transportation/Planning Committee
March 14, 2017	Board of Supervisors - First Reading
March 28, 2017	Board of Supervisors - Second Reading

The ordinances will go into effect 30 days after the Board takes action at the second reading of the ordinances. After that time, staff will begin preparing for the solicitation of proposals for the additional dispensaries and the cultivation sites allowed under the ordinances.

Subsequent Cannabis-related Activities

At your committee's December 8th, 2016 meeting, Supervisor Miley directed staff to provide an outline of cannabis-related activities the County will consider after the adoption of the medical cannabis dispensary and cultivation ordinances.

Additional Medical Cannabis Facility Permitting

Soon after adoption of the dispensary and cultivation ordinances, staff will also begin preparing an ordinance to implement permitting procedures for medical cannabis manufacturing facilities and testing labs to align with the provisions of the Medical Cannabis Regulation and Safety Act (MCRSA) that apply to those facilities; and, in addition, staff will begin the process of determining the need for an ordinance that would apply to medical cannabis facilities countywide in those regulatory areas, such as Environmental Health, in which the County has jurisdiction over facilities within the cities. Staff estimates that the public process for approval of these ordinances would be completed approximately six months after adoption of the dispensary and cultivation ordinances.

Proposition 64

Analysis of the impact of Proposition 64 (legalizing adult recreational or non-medical use) is still underway, and barring any intervention from the new federal administration, the land use regulations and performance standards contained in the County's local ordinances, could be updated to also apply to commercial recreational use. Staff does not envision the County necessarily having separate dispensary/cultivation ordinances for both medical and recreational use, and it may be possible that the framework described above could work in both instances. The need to expand the number of dispensaries or cultivation sites due to Proposition 64 is not anticipated at this time.

Attachments:

- Attachment A: An Ordinance Amending Chapter 6.108 of the Alameda County General Code to Conform the Medical Marijuana Dispensaries Ordinance to the California Medical Cannabis Regulatory and Safety Act, to Permit and Regulate the Delivery of Medical Cannabis in the Unincorporated Area of Alameda County, and to Regulate the Sale, Dispensing and Delivery of Edibles.
- Attachment B: An Ordinance Amending Title 17 of the Alameda County General Code to Conditionally Permit Medical Cannabis Dispensaries in Specified Districts within the Unincorporated Area of Alameda County.
- Attachment C: An Ordinance Amending Chapter 6.106 of the Alameda County General Code to Implement a Pilot Program Authorizing and Regulating the Cultivation of Medical Cannabis in the Unincorporated Area of Alameda County.
- Attachment D: An Ordinance Amending Title 17 of the Alameda County General Code to Implement a Pilot Program Authorizing and Regulating the Cultivation of Medical Cannabis in the Unincorporated Area of Alameda County.
- Attachment E: Chronology of Public Meetings Held December 2015-January 2017

ORDINANCE NO. 2017-_____

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

WHEREAS, in 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code section 11362.5 and titled the "Compassionate Use Act of 1996"); and

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

WHEREAS, in 2004, Senate Bill 420 was enacted (codified as California Health and Safety Code section 11362.7 *et seq.* and titled the "Medical Marijuana Program Act") to clarify the scope of the Compassionate Use Act of 1996. The Medical Marijuana Program Act allows counties to adopt and enforce rules and regulations consistent with its provisions; and

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

WHEREAS, in 2015, Assembly Bill 243, Assembly Bill 266 and Senate Bill 643 were enacted (codified in part as California Business and Professions Code section 19300 *et seq.* and titled the "Medical Marijuana Regulation and Safety Act"). These bills also amended provisions of the Medical Marijuana Program Act related to the cultivation of medical marijuana; and

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

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

WHEREAS, pursuant to California Business and Professions Code section 19315(a), nothing in the Medical Cannabis Regulation and Safety Act shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local permit or licensing requirements; and

WHEREAS, this Ordinance is enacted, consistent with the Compassionate Use Act of 1996, the Medical Marijuana Program Act, and the Medical Cannabis Regulation and Safety Act to protect the public health, safety, and welfare of Alameda County residents in relation to the distribution and delivery of medical cannabis; and

WHEREAS, in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013)

56 Cal.4th 729, the California Supreme Court concluded that nothing in the Compassionate Use Act nor the Medical Marijuana Program Act preclude a local jurisdiction from regulating or prohibiting facilities that distribute medical marijuana; and

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

WHEREAS, permitting the delivery of medical cannabis provides an important service to those who are seriously ill, elderly, and persons with disabilities who are otherwise unable to easily access “brick and mortar” dispensaries; and

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

WHEREAS, medical cannabis dispensaries have been dispensing food products containing cannabis, commonly referred to as “edibles”, that may constitute a unique health hazard to the public because, unlike other ingestible items, edibles are not presently regulated, inspected, or analyzed for concentration by state or federal government; and

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

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

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

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

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

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

Chapter 6.108 – Medical Marijuana Dispensaries, Delivery Operations and Edibles

6.108.010 - Purpose and intent.

The purpose and intent of this chapter is to implement state law by providing a means for regulating the operation of medical cannabismarijuana dispensaries, the delivery of medical cannabis, and the preparation, packaging and labeling of medical cannabis edibles in a manner

that is consistent with state law and which promotes the health, safety and general welfare of the residents and businesses within the unincorporated portions of the county.

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

6.108.020 - Definitions.

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

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

- I. "Delivery" means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined by the Bureau of Medical Cannabis Regulation or, until the BMCR establishes an allowed amount, the amount allowed by California Health and Safety Code Section 11362.77, to a primary caregiver or qualified patient as defined in Section 11362.7 of the California Health and Safety Code, or a testing laboratory. "Delivery" also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed by the BMCR, that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.
- J. "Delivery Operator" means a person holding a permit under this Chapter to engage in the delivery of medical cannabis or medical cannabis products.
- K. "Director" means the director of the Community Development Agency or his designee.
- L. "Dispensing" means any activity involving the retail sale of medical cannabis or medical cannabis products from a dispensary.
- M. "Medical marijuana dispensary" or "dispensary" means any premises facility where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to Business and Professions Code Section 19340, medical cannabis and medical cannabis products as part of a retail sale is made available and/or distributed under the authority of the California Compassionate Use Act, the Medical Marijuana Program Act, or the California Medical Cannabis Regulation and Safety Act and as regulated by this chapter; provided, however, that the following facilities are exempt from the requirement of a permit:
1. A clinic that is licensed under Chapter 1 of Division 2 of the California Health and Safety Code.
 2. A health care facility that is licensed under Chapter 2 of Division 2 of the California Health and Safety Code.
 3. A residential care facility for persons with chronic life-threatening illness that is licensed under Chapter 3.01 of Division 2 of the California Health and Safety Code.
 4. A residential care facility for the elderly that is licensed under Chapter 3.2 of Division 2 of the California Health and Safety Code.
 5. A residential hospice or a home health agency that is licensed under Chapter 8 of Division 2 of the California Health and Safety Code.
- N. "Distribution" means the procurement, sale, and transport of medical cannabis and medical cannabis products between entities licensed pursuant to Chapter 3.5 of the California Business and Professions Code.
- O. "Edible cannabis product", "Edible" or "Edibles" shall have the same definition as in Business and Professions Code section 19300.5(s), which defines "edible cannabis product" as manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the California Food and Agricultural Code. An edible medical cannabis product is not considered food, as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code.

- ~~P~~G. "Eligible application" means an application that complies with the requirements of the initial review and is submitted for final selection, as provided for in Section 6.108.110.
- ~~Q~~D. "Identification card" has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended.
- R. "Labeling" means any label or other written, printed, or graphic matter upon a medical cannabis product, or upon its container or wrapper, or that accompanies any medical cannabis product.
- S. "Manufactured cannabis" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.
- T. ~~E.~~ "Medical cannabis," "medical cannabis product," or "cannabis product" means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code. For the purposes of this chapter, "medical cannabis" does not include "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.
- U. "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of medical cannabis.
- ~~V~~F. "Permit" means a permit issued by the county to a medical ~~cannabis~~marijuana dispensary or delivery operator under this chapter. "Permittee" means a person who holds an effective and current permit under this chapter.
- ~~W~~G. "Person" means any human being or an incorporated or unincorporated business entity or association established under the laws of the state.
- ~~X~~H. "Person with an identification card" means an individual who is a qualified patient who has applied for and received a valid identification card pursuant to Article 2.5 has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended. Until such time as the state implements a program for issuance of identification cards under Section 11362.7 of the California Health and Safety Code throughout California, any identification card issued under the authority of the state or a local agency in California shall be deemed to comply with this section.
- ~~Y~~I. "Premises" means the building in which a medical ~~cannabis~~marijuana dispensary is operated and, in addition, any accessory structures and appurtenant areas.
- Z. "Primary caregiver" means the individual, designated by a qualified patient or a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, and may include those persons identified in subdivision (e) of Section 11362.5 of the California Health and Safety Code, as it may be amended.
- AA. "Qualified patient" means a person who is entitled to the protections of Section 11362.5 of the California Health and Safety Code, but who does not have an identification card issued pursuant to Article 2.5 of the California Health and Safety Code.
- BB. "School" means an institution of learning for minors, whether public or private, that offers a regular course of instruction and any child or day care facility.

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

~~DD.~~ "State" means the state of California.

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

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

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

6.108.030 ~~—~~ Dispensary ~~p~~Permit required.

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

OPTION NO. 1:

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

OPTION NO. 2:

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

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

- E. Notwithstanding subsection D of this section, each medical ~~cannabismarijuana~~ dispensary shall comply with all zoning requirements in Title 17 of the Alameda County General Code and Alameda County General Plan Measure D (Save Agriculture and Open Space Lands), including the requirement to obtain any conditional use permits, and shall also meet all of the following locational standards:
1. No dispensary may be closer than six hundred~~one thousand~~ (1,0600) feet from any other dispensary.
 2. No dispensary may be closer than six hundred~~one thousand~~ (1,0600) feet from any school, child or day care facility, public park or playground, drug recovery facility or recreation center.
 3. ~~No Each~~ dispensary shall be located in a residential ~~commercial or industrial~~ zone or its~~their~~ equivalent.
- F. ~~The county has the ability to reduce the location requirement as it applies to schools by fifteen (15) percent upon a finding that the dispensary would not endanger the health and safety of students.~~

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

6.108.035 – Delivery permit required.

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

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

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

D. A medical cannabis delivery permit shall be issued only to a “brick and mortar” dispensary holding a valid license or permit to dispense medical cannabis issued by the State of California or by a California city, county, or city and county. Mobile dispensaries that do not have a

permanent physical dispensary location (a “brick and mortar” dispensary) are not eligible for and shall not be issued a delivery permit.

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

6.108.040 - Term of permits and renewals.

A. Each dispensary permit shall expire two years after the date of its issuance.

B. The term of each delivery permit shall run concurrent with the term of the delivery permit holder’s dispensary permit, but in no event longer than two years after the date of its issuance.

C. Any permit may be renewed by the directorsheriff for successive two-year periods upon the submission of an renewal application by the permittee. At the time of consideration of a renewal application, the county shall consider compliance with conditions in the prior term and, in addition, the HGSA may review and revise the mission statement of the dispensary in accordance with the requirements of Sections 6.108.090 and 6.108.100.

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

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

~~DE.~~ Any application for renewal shall be rejected if:

1. The application is filed less than forty-five (45) days before its expiration.
2. The permit is suspended or revoked at the time of the application; provided, however, that an application for renewal may be filed within ten days after the granting of a permittee’s appeal of the suspension or revocation of a permit.
3. The dispensary authorized by the dispensary permit has not been in regular operation in the four months prior to the renewal application.
4. The dispensary fails to conform to the criteria set forth in Section 6.108.100 or, for a delivery permit, the dispensary fails to conform to the criteria set forth in Section 6.108.125.

(Ord. 2005-25 § 2 (part))

6.108.050 ~~—~~ Dispensary permit aApplication and, renewal ~~and revocation~~ procedures.

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

B. Each application for the establishment of a dispensary or renewal of an existing dispensary permit shall be filed with the directorsheriff and the directorsheriff shall be responsible for

administering the application solicitation and renewal application processes as set forth in this chapter.

- C. The ~~director~~board of supervisors shall, ~~by resolution,~~ adopt such forms and procedures as are necessary to implement this chapter with respect to the initial selection, future selection, renewal, revocation and suspension of permits.
- D. Wherever this chapter requires the county to give notice to an applicant, appellant or permittee, such notice shall be given by the ~~director~~sheriff, in writing, and shall be delivered either by personal delivery or by certified U.S. mail, postage prepaid, return receipt requested. In addition, any such notice shall be posted at the address of the dispensary on the date of the mailing of notice.
- E. No person or facility that purports to have distributed ~~or delivered cannabis~~marijuana prior to the enactment of this chapter shall be deemed to have been a legally established dispensary or delivery operation under the provisions of this chapter, and such person or facility shall not be entitled to claim a legal nonconforming status. ~~Other than specifically provided in Section 6.108.080, no preference shall be given to any applicant due to an existing or prior operation of such a facility.~~

(Ord. 2005-25 § 2 (part))

6.108.060 - Contents of dispensary permit application.

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

proposed dispensary. Every person listed as owner, manager, supervisor or employee must submit fingerprints and other necessary information for a background check to the Alameda County sheriff's office, and be photographed for identification purposes. In addition, any new employees, independent contractors, other persons and/or volunteers who will work at the proposed medical ~~cannabis~~marijuana dispensary must submit their information to the sheriff's office within five days prior to their employment.

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

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

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

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

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

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

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

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

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

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

6.108.070 - Fees.

- A. Every application or renewal of a dispensary or delivery permit shall be accompanied by a nonrefundable fee, as established by the board of supervisors, in order to reimburse the county for the cost of reviewing and acting upon the application.
- B. In addition, each dispensary and delivery operator shall pay an annual fee, as established by the board of supervisors, for the administration of the permit, including monitoring and enforcing compliance with terms of the permit.

- ~~C. The board of supervisors may enact such other fees as may be necessary to recover the county's costs of inspection and corrective actions in relation to dispensaries and delivery operations.~~
- ~~D. The board of supervisors may enact fees to be paid to schools located in the three areas where dispensaries are permitted for reimbursement for drug and alcohol treatment and education for students.~~

(Ord. 2005-25 § 2 (part))

~~6.108.080 - Selection of permittees.~~

- ~~A. Each of the medical marijuana dispensaries that is identified in Exhibit B at the end of this chapter shall be allowed to file an application not later than one hundred twenty-five (125) days after the effective date of this chapter. At the time of filing such application the applicant is to provide notice of such application to all neighboring business and/or residences within one thousand (1,000) feet of the proposed dispensary. All such applications shall be acted upon in accordance with the procedures set forth in this chapter. No other application may be considered until all of the medical marijuana dispensaries listed in Exhibit B have either been issued or denied a permit or have otherwise failed to qualify for a permit.~~
- ~~B. For each dispensary that is identified in Exhibit B, no finding shall be made that the dispensary is in violation of this chapter until the earliest of any of the following dates:

 - ~~1. Upon one hundred twenty-five (125) days following the effective date of this chapter, no application has been filed for the operation of the dispensary.~~
 - ~~2. Upon failure to submit an application by an existing dispensary or denial of an application that was timely filed for operation of the dispensary and rejection of all appeals of the denial by the applicant.~~
 - ~~3. Issuance of an order of suspension or revocation by the county under Section 6.108.160.~~
 - ~~4. Upon the effective date of an ordinance that provides for the operation of a medical marijuana dispensary by the county, whether as a county facility or under contract with the county.~~~~
- ~~C. After conclusion of all actions on all applications filed under subsection A of this section, the sheriff shall accept applications and conduct a selection process in accordance with Section 6.108.030.~~

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

6.108.090 - Initial review of application.

- ~~A. The directorsheriff shall commence review of any application immediately upon its filing and shall complete such initial review within the time period established in the solicitation process for dispensary permits, but in no event shall the initial review exceed one hundred and twenty (120) days, and within forty-five (45) days for delivery permits, delivery permit renewal applications, and dispensary renewal applications thirty (30) days. In conducting this review, the following county agencies shall comment on specific portions of the application:

 - 1. The sheriff shall be responsible for verifying factual information in the application, including names, addresses and other information on the applicant operator and its employees of the proposed dispensary or delivery operation.~~

2. The sheriff shall comment upon the adequacy of security measures that are described in the application, the security plan, the floor plan, and other relevant aspects of the application.
 3. The community development agency shall comment upon the proposed location's compliance with the requirements of subsections D and E of Section 6.108.030, the general responsiveness to the solicitation process in Section 6.108.050, and conditions that are needed to mitigate adverse impacts on surrounding uses.
 4. The health care services agency shall comment upon the services to be provided and the mission statement set forth in the application.
 5. The environmental health services agency shall comment upon the application's compliance with the requirements of Section 6.108.230.
- B. Within twenty (20)~~ten~~ business days after the filing of an application, the ~~director~~sheriff shall reject any application and so notify the applicant, if the application has been improperly completed or if it is incomplete. The applicant may amend and refile the application within ten days after such rejection.
- C. At the conclusion of the initial review, the ~~director~~sheriff shall notify the applicant of the results of the initial review of the application.

(Ord. 2005-25 § 2 (part))

6.108.100 - Action upon completion of initial review.

- A. Upon completion of the initial review, the ~~director~~sheriff shall reject any permit application that meets any of the following criteria:
1. The proposed dispensary or delivery operation does not comply with requirements of this chapter.
 2. The applicant has knowingly made a false statement of material fact or has knowingly omitted a material fact from the application.
 3. The operation of the proposed dispensary at the proposed location is prohibited by any state or local law or regulation.
 4. Any person who is listed on the application pursuant to subsection (A)(10) of Section 6.108.060 or subsection (A)(10) of Section 6.108.065 has been convicted of a felony ~~or a drug-related misdemeanor reclassified by Section 1170.18 of the California Penal Code (Proposition 47)~~ within the past ten (10) years. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
 5. The applicant or the operator listed in the application is less than eighteen (18) years of age.
 6. The health care services agency has determined that the application for a dispensary has failed to state a health care purpose that fulfills the purposes of Section 11362.5 et seq. of the California Health and Safety Code.
 7. ~~The applicant is delinquent in the payment of any applicable state or County taxes and fees.~~
- B. Any application that is not rejected upon completion of the initial review shall be deemed an eligible application and submitted to the final selection phase of the solicitation process.

(Ord. 2005-25 § 2 (part))

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

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

(Ord. 2005-25 § 2 (part))

6.108.120 - Standard conditions for medical cannabis dispensaries.

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

1. It shall be a violation of this chapter for a dispensary to distribute, provide or allow to be provided ~~cannabismarijuana~~ to any person except those persons who are primary caregivers or qualified patients who are in possession of an identification card which is in compliance with the regulations established by the California Department of Health or health care services agency or have a verifiable written recommendation from a licensed physician for medical cannabis. All distribution that does not strictly comply with Section 11362.5 of the California Health and Safety Code and the terms of the permit and this chapter is prohibited. It shall be the responsibility of the permittee to ensure that a good faith effort be made to verify the validity of any identification card and written recommendation provided to the dispensary.
2. Each dispensary shall maintain records of persons who have received ~~cannabismarijuana~~ from the dispensary. These records shall set forth only the identification card number issued pursuant to California Health and Safety Code Section 11362.71 et seq., as a protection of the confidentiality of the cardholders or a copy of such documentation that authorizes such distribution under this chapter.
3. No dispensary shall be open for business between the hours of 12:00 a.m. and 9:00 a.m. or between the hours of 9:00 p.m. and 11:59 p.m. on any day. Additionally, to avoid conflict with the travel of students to and from the school, no dispensary located within one thousand (1,000) feet of any school shall be open during the one and one-half hour period immediately following the cessation of classes. No activities that are undertaken in the operation of the dispensary shall be conducted outside the interior premises of the dispensary.
4. Unless and until a local and state nursery or cultivation license or permit or a state producing dispensary license (type 10A) has been issued for the dispensary location, ~~cannabisMarijuana~~ may not be grown or cultivated on the premises. ~~It shall be a violation of this chapter if at any time the amount of marijuana on the premises exceeds the lesser of:~~
 - ~~a. An amount of marijuana equal to eight ounces per qualified patient, primary caregiver and person with an identification card who has received marijuana from the dispensary during the previous thirty (30) calendar days, or~~
 - ~~b. A total of twenty (20) pounds of marijuana.~~

A dispensary shall actively regulate and monitor its purchasing limits, such that no qualified patient is permitted to purchase in excess of eight ounces of cannabis in any calendar month.
5. No ~~cannabismarijuana~~ shall be smoked, ingested or otherwise consumed on the premises of a dispensary, provided that ingestion by a vaporization device may be authorized in writing by the health care services agency.
6. A dispensary shall ~~ensure that label~~ its products are in tamper-evident packages and labeled as required by California Business and Professions Code Section 19347, regulations established by the BMCR, and requirements of the California Department of Food and Agriculture and by stating the name of the dispensary and the weight of cannabis. Any edible cannabis product ~~food products~~ must be contained in a package that is labeled to indicate the ingredients, including the amount of cannabis contained in the package, identify the product, state who is responsible for the product, and such other information as may be required by state or local law.

7. Medical cannabis may be provided by a dispensary in an edible form, provided that the edibles meet all applicable state and county requirements, including but not limited to the provisions in Section 6.108.230.
8. No person who is less than eighteen (18) years of age may be employed or otherwise engaged in the operation of the dispensary. No person under the age of eighteen (18) shall be allowed on the premises. It shall be unlawful for any dispensary to provide medical cannabis to any person under the age of eighteen (18) unless that person is a qualified patient or a primary caregiver with a valid identification card in accordance with California Health and Safety Code section 11362.7 or have a verifiable written recommendation from a licensed physician for medical cannabis.
98. The entrance to a dispensary shall be posted with a notice that states the restrictions on the presence of persons under the age of eighteen (18) and that smoking, ingesting or consuming cannabismarijuana on the premises is prohibited. In addition, each dispensary shall conspicuously display the permit.
109. No dispensary may hold a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, nor may it include a business that sells alcoholic beverages. No alcohol may be stored, sold, dispensed or used on the premises.
119. Each permittee shall maintain a current registry of persons, including, but not limited to, employees, contractors and volunteers, who are engaged in the operation of the dispensary. The registry shall be provided to the director and the sheriff at any time upon request. The registry shall include the name, current residential address, telephone number, date of birth and the height, weight and color of eyes and hair of each such person.
124. No person who has been convicted of a felony or a drug related misdemeanor reclassified by Section 1170.18 of the California Penal Code (Proposition 47) within the past ten years may be actively engaged in the operation of any dispensary. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
132. A dispensary shall provide adequate security on the premises, including lighting and alarms, to insure the safety of persons and to protect the premises from theft.
143. The permittee shall provide the directorsheriff with the name, telephone number and facsimile number of a community relations contact to whom one can provide notice of problems associated with the dispensary. The permittee shall make a good faith effort to resolve problems without the need for intervention by the county.
154. A dispensary shall provide litter removal services twice each day of operation on and in front of the premises and, if necessary, on public sidewalks within one hundred (100) feet of the premises.
165. A dispensary shall comply with county building, zoning and health codes, and shall allow inspections to ensure conformance with such regulations.
176. A dispensary shall not be delinquent in the payment of fees required by this chapter.
187. All activities of the dispensary must take place within the interior of the building and not be visible from the street. A dispensary may not cover or alter the windows or building doors to comply with this requirement.
198. A dispensary must have appropriate restroom facilities that will accommodate both male and female customers.

20. Once the BMCR begins issuing licenses to testing laboratories, a dispensary shall ensure that a representative sample of its Cannabis and Cannabis Products have been submitted for analytical testing at a licensed testing laboratory, as defined in Business and Professions Code section 19300.5(ak), before the Cannabis and Cannabis Products are delivered to the dispensary.
 21. A dispensary shall package all cannabis flowers sold on its premises in child resistant packaging.
 22. A dispensary shall implement a track and trace program with a unique identifier for every product, both for inventory stored in a safe and inventory packaged for sale, pursuant to Section 11362.777 of the California Health and Safety Code and in compliance with Section 19335 of the California Business and Professions Code and all applicable regulations.
 23. A dispensary shall use devices that meet the standards of the California Department of Food and Agriculture's Division of Measurement Standards for all weighing and measuring devices, including but not limited to scales and scanners; register with Alameda County Sealer of Weights of Measures; allow inspections and sealing of all weighing and measuring devices, including scanners or POS systems; and comply with all other requirements in Division 5 of California Business and Professions Code related to weights and measures, Title 4 Division 9 of the California Code of Regulations, and any relevant Alameda County ordinance.
 24. No dispensary shall (a) enter into any agreement or employ a physician for the purpose of evaluating patients for the issuance of a medical marijuana recommendation or identification card; (b) allow a physician to locate on the dispensary premises at any time for the purpose of issuing a medical marijuana recommendation or identification card; (c) give or offer to give any form of remuneration to a physician if the physician or his or her immediate family have a financial interest (as that term is defined in California Business and Professions Code section 650.01) in the dispensary; and (d) not distribute any form of advertising for physician recommendations for medical cannabis in California unless the advertisement bears the notice to consumers contained in California Business and Professions Code section 2525.5.
 25. Each dispensary shall fully comply with the terms of its approved security plan, floor plan and operating plan.
- B. In order to minimize any adverse impacts on surrounding properties or residents, the standard operating conditions that are set forth in this section may be modified upon the issuance of the permit or upon ten days' notice during the term of the permit.
 - C. During the term of each permit, the county shall require the permittee to comply with the standard operating conditions that are set forth in this section or as they may be modified in accordance with subsection B of this section and, in addition, any such operating conditions that may be established pursuant to subsections C and D of Section 6.108.110.
 - D. At any time during the operation of a dispensary and without notice, the director or sheriff, acting in conjunction with other appropriate county officials, may enter the premises for the purpose of observing compliance of the dispensary with the conditions of its permit.
 - E. Release of the county from liability. The owner and permittee of each dispensary and delivery operation shall release the county, and its agents, officers, elected officials, and employees from any injuries, damages, or liabilities of any kind that result from any arrest or prosecution

of dispensary or delivery operator owners, operators, employees, or clients for violation of state or federal laws in a form satisfactory to the director.

- F. County indemnification. The owners and permittee of each dispensary and delivery operator shall indemnify and hold harmless the county and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by adjacent or nearby property owners or other third parties due to the operations at the dispensary or by the delivery operator, and for any claims brought by any of their clients for problems, injuries, damages or liabilities of any kind that may arise out of the distribution, delivery and/or on- or off-site use of cannabis provided at the dispensary or delivered by the delivery operator in a form satisfactory to the director.

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

6.108.125 - Standard conditions for delivery operations.

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

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

for Edibles shown on the delivery requests for qualified patients and primary caregivers to whom that the vehicle is then making a delivery.

5. The qualified patient or primary caregiver requesting the delivery shall maintain a copy of the delivery request and shall make it available, upon request, to the director or law enforcement officers.
6. No deliveries shall be made between the hours of 12:00 a.m. and 9:00 a.m. or between the hours of 9:00 p.m. and 11:59 p.m. on any day.
7. No person who is less than eighteen (18) years of age may be employed or otherwise engaged in the delivery of medical cannabis.
8. It shall be unlawful for any delivery operation to provide medical cannabis to any person under the age of eighteen (18) unless that person is a qualified patient or a primary caregiver with a valid identification card in accordance with California Health and Safety Code section 11362.7 or have a verifiable written recommendation from a licensed physician for medical cannabis.
9. Each permittee shall maintain a current registry of persons, including, but not limited to, employees, contractors and volunteers, who are engaged in delivery operations. The registry shall be provided to the director and sheriff at any time upon request. The registry shall include the name, current residential address, telephone number, date of birth and the height, weight and color of eyes and hair of each such person. Every person listed as owner, manager, supervisor or employee must submit fingerprints and other necessary information for a background check to the Alameda County sheriff's office, and be photographed for identification purposes. In addition, any new employees, independent contractors, other persons and/or volunteers who will work at or for the delivery operation must submit their information to the sheriff's office within five days prior to their employment.
10. No person who has been convicted of a felony ~~or a drug-related misdemeanor reclassified by Section 1170.18 of the California Penal Code (Proposition 47)~~ within the past ten years may be actively engaged in delivery operations. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
11. Delivery vehicles shall not include signage or markings that identify the vehicle ~~as a cannabis delivery vehicle.~~
12. Delivery operators shall provide adequate security for their delivery personnel and vehicles, to insure the safety of persons and to protect the vehicle operators from theft.
13. The delivery permit holder will satisfy the release of liability and County indemnification requirements in subdivision E and F of Section 6.108.120.

6.108.130 - Appeal from administrative determinations.

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

permittee or owner or occupant of property within the unincorporated area of the County for any existing or proposed delivery operation.

- B. Any appellant may appeal an administrative determination that is made in relation to any of the following actions:
 - 1. Finding that an application is incomplete;
 - 2. Determination that an application does not comply with the requirements of Section 6.108.100;
 - 3. Establishment or modification of operating conditions;
 - 4. Denial of a permit; or
 - 5. Suspension or revocation of a permit.
- C. Any appeal shall be filed with the directorsheriff within ten days after the date of the notice of any such administrative determination.
- D. Within ten days after the filing of an appeal, notice shall be given in accordance with Section 6.108.050. Such notice shall set forth the grounds for the appeal, the method of submitting comments to the county regarding the appeal and the date and location of the hearing of the appeal.
- E. Any appeal that is not timely filed will be deemed ineffective and the administrative determination that is being appealed will become final.

(Ord. 2005-25 § 2 (part))

6.108.140 - Administrative review of appeal.

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

(Ord. 2005-25 § 2 (part))

6.108.150 - Hearing by the board of supervisors.

- A. Within ninetythirty (~~30~~) days after the filing of an appeal of the administrative panel's decision, the board of supervisors shall conduct a hearing of the appeal.
- B. At least ten days prior to the hearing of the appeal by the board of supervisors, notice shall be given in accordance with Section 6.108.050. Such notice shall set forth the grounds for the appeal, the method of submitting comments to the county regarding the appeal and the date and location of the hearing of the appeal by the board of supervisors. The board of supervisors may give such additional notice of hearing as it deems appropriate in a particular case.

- C. The board of supervisors may take any appropriate action upon the original administrative action that was appealed pursuant to Section 6.108.130, including granting or denying the appeal or imposing, deleting or modifying operating conditions of the permit. The decision of the board of supervisors shall be final.

(Ord. 2005-25 § 2 (part))

6.108.160 - Suspension and revocation.

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

(Ord. 2005-25 § 2 (part))

6.108.170 - Transfer of the permit.

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

(Ord. 2005-25 § 2 (part))

6.108.180 - Prohibited operations.

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

(Ord. 2005-25 § 2 (part))

6.108.190 - Misdemeanor violation.

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

(Ord. 2005-25 § 2 (part))

6.108.200 - Civil injunction.

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

(Ord. 2005-25 § 2 (part))

6.108.210 - Severability.

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

(Ord. 2005-25 § 2 (part))

6.108.220 - Judicial review.

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

(Ord. 2005-25 § 2 (part))

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

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

~~(Ord. 2005-25 § 2 (part))~~

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

A. Preparation of Edibles.

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

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

1. All edibles shall be individually wrapped at the original point of preparation. Labeling shall be distinctly and clearly legible on the front of the package and must include: (a) a warning if nuts or other known allergens are used in the manufacturing of the edibles; (b) a warning that the item is a medication containing cannabis and the total weight (in ounces or grams) and amount of Active Ingredients in the package; (c) the cultivation and date of 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-evident~~ and child resistant.

C. Edible Product Log. Producers of edibles that are ~~not~~ tested for contaminants shall maintain a written or computerized log documenting:

1. The source of the cannabis used in each batch of product;
2. The contaminant testing date; and
3. The testing ~~laboratory facility~~ that analyzed the sample of the medical cannabis product.

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

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

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

AYES:

NOES:

EXCUSED:

President of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors,

By: _____
Deputy Clerk

APPROVED AS TO FORM:

DONNA R. ZIEGLER, COUNTY COUNSEL

ATTACHMENT A

By: _____
Name: _____
Title: _____

Exhibit A ~~and Exhibit B~~ ~~—~~ Medical ~~Cannabis~~ Marijuana Dispensary Areas
[~~new maps to be provided~~ ~~for Option 1 or delete all exhibits if Option 2 is selected~~]

~~Exhibit B~~
~~Existing Medical Marijuana Dispensaries~~

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

ORDINANCE NO. 20176-_____

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

SECTION 1

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

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

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

21. The Board of Supervisors has determined that, with appropriate conditions, dispensaries may be appropriately located in certain commercial and industrial districts; and
22. The Board of Supervisors has determined that, although cultivation of medical cannabis shares some similarities with other agricultural activities, and as identified by recent state legislation, cultivation of medical cannabis raises health, safety and welfare concerns not raised by other traditional agricultural products and therefore, medical cannabis is not a permitted agricultural use by right for the purposes of land use and zoning; and
23. The Board of Supervisors has determined that, with appropriate conditions, cultivation of medical cannabis may be an appropriate conditionally permitted use in the agricultural districts and outside of the urban growth boundary established by Measure D; and
24. Accordingly, the Board of Supervisors has determined that, with appropriate conditions, an on-site dispensary accessory to such a permitted cultivation operation may be an appropriate conditionally permitted use in the agricultural district and outside of the urban growth boundary established by Measure D as an “agriculture enhancing commercial use” or as a “visitor-serving commercial use”; and
25. The Board of Supervisors acknowledges that regulation of medical cannabis is an evolving field at the state level, as evidenced by the recent adoption and revision of the Medical Cannabis Regulation and Safety Act and the related regulations being drafted by various state agencies that are not expected to be finalized and implemented until 2018. As a result, the field of local regulation is also expected to continue to evolve over the next several years including possible further revisions to the County ordinances, policies and performance standards; and
26. On November 8, 2016, In 1996, the voters of the State of California approved Proposition 64 (codified as _____ and titled the “Control, Regulate and Tax Adult Use of Marijuana Act” also referred to as “AUMA”), which decriminalizes the adult use of marijuana for non-medical purposes and establishes a regulatory scheme at the state level; and
27. This Ordinance regulates the cultivation of medical cannabis in the unincorporated areas of the County and does not address the cultivation of marijuana for non-medical use under Proposition 64 or otherwise;
28. Nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. § 801 *et seq.* or to license any activity that is prohibited under said Act except as mandated by State law; and
29. Nothing in this Ordinance shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) allow ~~the use of~~ cannabis uses for non-medical purposes; (3) exempt cultivation, dispensaryies or delivery operations from compliance with ~~zoning and land use regulations~~ permitting regulations pursuant to other titles in this code, or, (4) allow any activity relating to the cultivation, distribution, or consumption of cannabis that is illegal under state or federal law;

SECTION 2

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

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

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

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

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

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

17.06.040 - Conditional uses—Board of zoning adjustments.

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

- A. Additional dwellings for persons employed in the agricultural use of subject property and the families of those persons, and/or living quarters for farm laborers, when found by the board of zoning adjustments to be necessary to the farming operation;
- B. Outdoor recreation facility;
- C. Animal hospital, kennel;
- D. Killing and dressing of livestock, except when accessory as specified in Section 17.06.050;
- E. Public or private hunting of wildlife or fishing, and public or private hunting clubs and accessory structures;
- F. Packing house for fruit or vegetables, but not including a cannery, or a plant for food processing or freezing;

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

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

~~**17.17.040 – Conditional uses – Planning commission.**~~

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

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

- ~~18. Parking lot;~~
- ~~19. Pharmacy;~~
- ~~20. Private clubhouse;~~
- ~~21. Public utility substation;~~
- ~~22. Repair shop;~~
- ~~23. Restaurant;~~
- ~~24. Retail store;~~
- ~~25. Service station Type A;~~
- ~~26. Tailor;~~
- ~~27. Tavern;~~
- ~~28. Theater;~~
- ~~29. On any parcel that meets the minimum building site requirement for this district and has frontage on a county road, residential units, up to a maximum density of one unit per each eight thousand (8,000) square feet of lot area of the residential portion of the building site, disregarding any fraction, subject to design review by the planning commission as part of its review of the conditional use permit to ensure consistency with the historic, architectural, and visual context of the downtown Sunol plan area. For purposes of this section, the residential portion of the building site shall be that part of the building site not occupied by commercial uses, including accessory uses such as storage or parking.~~

~~[Sections B, C and D remain unchanged]~~

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

17.38.030 - Conditional uses—Board of zoning adjustments.

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

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

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

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

17.40.030 - Conditional uses—Board of zoning adjustments.

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

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

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

~~**17.42.040 - Conditional uses—Board of zoning adjustments.**~~

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

- ~~A. Public utility building or structure, but not including service yard, storage of materials or vehicles, or repair facilities;~~
- ~~B. Parking lot;~~
- ~~C. Mobile outdoor business that directly serves the needs of the occupants of existing industrial uses or workers, patrons, or clients of businesses in the immediate vicinity;~~
- ~~D. Medical cannabis dispensary;~~
- ~~E. Other uses which are found by the board of zoning adjustments to meet the requirements of Section 17.42.020 of this chapter.~~

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

~~17.44.040—Conditional uses—Board of zoning adjustments.~~

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

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

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

~~17.46.030—Conditional uses—Board of zoning adjustments.~~

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

- ~~A. Restaurant, retail store, or personal service establishment, when necessary to serve the needs of the occupants of existing industrial buildings or employees in the immediate vicinity;~~
- ~~B. Advertising signs, provided that no single sign shall be flashing or intermittent, contain moving parts or be located so as to be directed towards lands in any adjacent R district, except pursuant to Section 17.52.515(A)(3) and in conformance with Section 17.54.226;~~
- ~~C. Salvage yards;~~
- ~~D. Abattoir, stockyard;~~
- ~~E. Kennel, animal hospital, menagerie (collection of wild or strange animals);~~
- ~~F. Drive-in theater, amusement park, race track;~~
- ~~G. Service station, Type A or Type B;~~
- ~~H. Housemovers storage yard;~~
- ~~I. Mobile outdoor business that directly serves the needs of the occupants of existing industrial uses or workers, patrons, or clients of businesses in the immediate vicinity;~~
- ~~J. Medical cannabis dispensary.~~

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

SECTION 3

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

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

AYES:

NOES:

EXCUSED:

President of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors,

By: _____
Deputy Clerk

APPROVED AS TO FORM:

DONNA R. ZIEGLER, COUNTY COUNSEL

ATTACHMENT B

By: _____
Name: _____
Title: _____

ORDINANCE NO. ~~2016~~2017-_____

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

SECTION 1

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

1. In 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code section 11362.5 and titled the "Compassionate Use Act of 1996"); and
2. The intent of Proposition 215 was to enable persons who are in need of cannabis for medical purposes to be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances; and
3. In 2004, Senate Bill 420 was enacted (codified as California Health and Safety Code section 11362.7 *et seq.* and titled the "Medical Marijuana Program Act") to clarify the scope of the Compassionate Use Act of 1996. The Medical Marijuana Program Act allows counties to adopt and enforce rules and regulations consistent with its provisions; and
4. In 2011, Assembly Bill 2650 was enacted (codified as California Health and Safety Code section 11362.768). This law affirms that counties can adopt ordinances that restrict the location and establishment of medical cannabis collectives and cooperatives; and
5. Pursuant to the Medical Marijuana Program Act, patients and caregivers may provide and acquire medical cannabis in a cooperative or collective manner wherein caregiver members may cultivate cannabis for the use of patient members, with costs and revenues of the cooperative or collective allocated accordingly; and
6. In 2015 and 2016, Assembly Bill 243, Assembly Bill 266, Senate Bill 643 and Senate Bill 837 were enacted (codified, in part, as California Business and Professions Code section 19300 *et seq.* and titled the "Medical Cannabis Regulation and Safety Act"). These bills also amended provisions of the Medical Marijuana Program Act related to the cultivation of medical cannabis; and
7. The Medical Cannabis and Safety Act establishes a comprehensive framework to license and regulate commercial medical cannabis cultivation, manufacturing, distribution, transportation, sales, and testing; and
8. The County adopted an ordinance prohibiting delivery and cultivation of cannabis on January 16, 2016 (Ordinance No. 2016-6, codified as Chapter 6.106 of the County General Ordinance Code) in response to a provision of the Medical Cannabis Regulation

and Safety Act that included a March 1, 2016 deadline for local jurisdictions to act, which provision was repealed by AB 21 on February 3, 2016; and

9. Ordinance No. 2016-6 provided, "This Ordinance shall be repealed by its own terms upon the adoption of state legislation repealing or eliminating the March 1, 2016 deadline in Health and Safety Code section 11362.777(c)(4)" and accordingly, Chapter 6.106 of the General Ordinance Code was repealed on February 3, 2016.
- ~~8.10.~~ Pursuant to California Business and Professions Code section 19315(a), nothing in the Medical Cannabis Regulation and Safety Act shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local permit or licensing requirements; and
- ~~9.11.~~ This Ordinance is enacted, consistent with the Compassionate Use Act of 1996, the Medical Marijuana Program Act, and the Medical Cannabis Regulation and Safety Act to protect the public health, safety, and welfare of Alameda County residents in relation to the cultivation of medical cannabis; and
- ~~10. The Alameda County Zoning Ordinance (codified as Alameda County General Ordinance Code, Title 17) is a permissive zoning ordinance, enumerating permitted uses in the various zoning districts of the unincorporated county and thereby prohibiting those uses not specifically permitted, under a principle known as "permissive zoning"; and~~
- ~~11. The cultivation of cannabis is not explicitly addressed by the Alameda County Zoning Ordinance and therefore has previously been considered a prohibited illegal activity under the principles of permissive zoning; and~~
12. The cultivation of medical cannabis in appropriate locations will help ensure that medical cannabis will be available to the patients in need of it while preserving the character, health and safety of the surrounding area; and
13. Absent appropriate regulation, the cultivation of medical cannabis in the unincorporated area of Alameda County poses a potential threat to the public peace, health, and safety; and
14. The County of Alameda intends to proceed with further study and public meetings to consider a permanent, countywide ordinance that effectively regulates and licenses cultivation of medical cannabis, including commercial cultivation; and
15. The County has a compelling interest in protecting the public health, safety, and welfare of its citizens, residents, visitors and businesses, in preserving the safety, peace and quiet of the neighborhoods and agricultural districts within the unincorporated areas of the County by regulating the cultivation of medical cannabis; and
16. Pursuant to the Medical Cannabis Regulation and Safety Act, the California Department of Food and Agriculture is responsible for promulgating regulations governing commercial cannabis cultivation and issuing cultivation licenses, which are anticipated to become effective in or around the year 2018; and
17. The adoption of a pilot program allowing the short-term, small-scale cultivation of medical cannabis will allow the County to evaluate appropriate districts, performance

standards and prohibitions prior to consideration of a permanent, countywide ordinance regulating all aspects of cannabis cultivation and implementing state regulations; and

18. Participants in the pilot cultivation program would be permitted to cultivate medical cannabis through the duration of the pilot program only and would have no right to continue cultivation beyond the expiration of the pilot program or the expiration or revocation of the permit; and
19. The existing dispensaries operating in the County have demonstrated an ability to operate secure and responsible medical cannabis dispensary establishments and to comply with existing county and state laws concerning the dispensing of medical cannabis; and
20. Initiating the first phase of the cultivation pilot program by expanding the permissible operations of these dispensaries to include limited cultivation in an approved location will allow the County to study cultivation-specific issues, including any effects on neighboring uses and mechanisms to track the product from cultivation through ultimate sale with one responsible entity at both the beginning and end of the supply chain in a closed-loop, vertically integrated structure; and
21. Subsequently expanding cultivation operations in a second phase of the cultivation pilot program will allow the County to study the implementation of the pilot program during the first phase in order to further refine regulations and performance standards for cultivation-specific issues, including any effects on neighboring uses and mechanisms to track the product from cultivation through ultimate sale; and
22. During the term of the pilot program, the County will retain the authority to modify the terms, duration or requirements of the pilot program, including the authority to cancel the pilot program, revoke or modify permits issued, adopt a moratorium on cultivation, and any take any other actions within its power to protect the health, safety and welfare of County residents.
23. On November 8, 2016, ~~In 1996,~~ the voters of the State of California approved Proposition 64 (codified as _____ and titled the "Control, Regulate and Tax Adult Use of Marijuana Act" also referred to as "AUMA"), which decriminalizes the adult use of marijuana for non-medical purposes and establishes a regulatory scheme at the state level; and
- ~~19.~~24. This Ordinance regulates the cultivation of medical cannabis in the unincorporated areas of the County and does not address the cultivation of marijuana for non-medical use under Proposition 64 or otherwise;
- ~~20. The existing dispensaries operating in the County have demonstrated an ability to operate secure and responsible medical cannabis dispensary establishments and to comply with existing county and state laws concerning the dispensing of medical cannabis; and~~
- ~~21. Expanding the permissible operations of these dispensaries to include limited cultivation in an approved location will allow the County to study cultivation-specific issues, including any effects on neighboring uses and mechanisms to track the product from~~

~~cultivation through ultimate sale with one responsible entity at both the beginning and end of the supply chain in a closed-loop, vertically integrated structure; and~~

~~22.25.~~ Nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. §§ ~~801~~840-*et seq.* or to license any activity that is prohibited under said Act except as mandated by ~~s~~State law; and

~~23.26.~~ Nothing in this Ordinance shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) allow the ~~use~~cultivation of cannabis for non-medical purposes; (3) exempt cultivation operations from compliance with zoning and land use regulations, or, (4) allow any activity relating to the manufacturing, distribution, or consumption of cannabis that is illegal under state or federal law.

SECTION 2

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

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

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

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

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

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

~~A. Cultivation of cannabis for medicinal uses shall be permitted as a conditional use in the A, M-P, M-1 and M-2 districts only if approved by the board of zoning adjustments as provided in Section 17.54.130 and only to the extent required to implement the county's pilot program for the cultivation of medicinal cannabis established by Chapter 6.106 of this code.~~

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

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

17.54.130 – Conditional uses.

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

- ~~A. Is required by the public need;~~
- ~~B. Will be properly related to other land uses and transportation and service facilities in the vicinity;~~

~~C. If permitted, will under all the circumstances and conditions of the particular case, materially affect adversely the health or safety of persons residing or working in the vicinity, or be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood; and~~

~~D. Will be contrary to the specific intent clauses or performance standards established for the district, in which it is to be located.~~

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

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

6.106.010 Purpose.

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

6.106.020 Definitions.

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

- A. "Applicant" means a person who shall seek a permit under this chapter by filing an application as provided for in this chapter. "Application" means that form provided by the Director in accordance with this chapter for the purpose of seeking a permit.
- B. "Cannabis" shall have the same definition as in Business and Professions Code section 19300.5(f), which defines "cannabis" as all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" also means marijuana as defined by Section 11018 of the California Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For purposes of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.
- C. "Community Development Agency" means the community development agency of the County of Alameda.

D. "County" means the County of Alameda.

~~D.E.~~ "Cannabis cultivation" ~~"Cultivate" or "Cultivation"~~ "or, as used in this chapter, "Cultivation" or "Cultivate", means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming, including any associated storage, of medical cannabis.

~~E.F.~~ "Cultivation Area" means the portion of the premises used for cultivation activities including all buildings, accessory structures, storage and parking areas, other than as may be required for security purposes.

~~F.G.~~ "Director" means the director of the Community Development Agency or his designee.

~~G.H.~~ "Manufacture" means the process by which the raw agricultural cannabis product is transformed into a concentrate, an edible product, or a topical product. Manufacturing includes producing, preparing, propagating, or compounding manufactured cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.

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

~~H.J.~~ "Permitted dispensary" means a facility in possession of a permit issued pursuant to Chapter 6.108 where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, medical cannabis and medical cannabis products as part of a retail sale under the authority of the California Compassionate Use Act, the Medical Marijuana Program Act, and/or the California Medical Cannabis Regulation and Safety Act and as regulated by chapter 6.108.

~~I.K.~~ "Permit" means a cultivation permit issued by the county to ~~a permitted dispensary to~~ operate a cultivation site under this chapter.

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

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

~~L.N.~~ "Premises" means the parcel or parcels containing a medical cannabis cultivation site, including any buildings, greenhouses, accessory structures and appurtenant areas.

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

~~N.O.~~ “Sheriff” means the sheriff of the county of Alameda and his or her authorized representatives.

~~O.P.~~ “State” means the state of California.

6.106.030 General Requirements and Program Terms.

- A. It shall be unlawful for any person to conduct, engage in or allow to be conducted or engaged in, cannabis cultivation in the unincorporated portion of Alameda County, unless such cannabis cultivation operation has been granted a legally effective permit issued under this chapter. Permits to cultivate medical cannabis under this chapter shall be issued on a temporary basis until such time as the county adopts a permanent ordinance regulating or banning cannabis cultivation in the unincorporated county. Notwithstanding the above, the permits issued under this chapter do not provide any protection or immunity for any person from state or federal laws, or from prosecution pursuant to any applicable state or federal laws. A permitted dispensary with a record of good standing with the County for at least one year may apply for a permit to cultivate medical cannabis on a temporary basis until such time as the County adopts a permanent cannabis cultivation ordinance regulating or banning cultivation in the unincorporated County.
- B. The county shall have in effect no more than ~~two~~ four cannabis cultivation permits throughout the duration of the pilot program. Two permits shall be available during Phase One of the pilot program and two additional permits shall become available during Phase Two of the pilot program.
- C. During Phase One of the pilot program, a permitted dispensary with a record of good standing with the County for at least one year may apply for a permit ~~to cultivate medical cannabis on a temporary basis until such time as the County adopts a permanent cannabis cultivation ordinance regulating or banning cultivation in the unincorporated County pursuant to this chapter. Applications for permits pursuant to Phase One of the pilot program may be submitted immediately upon the effective date of this chapter.~~
- ~~B.D.~~ During Phase Two of the pilot program, applicants need not be affiliated with a permitted dispensary in order to apply for a permit pursuant to this chapter. Applications for permits pursuant to Phase Two of the pilot program must be submitted in accordance with the timelines established in the solicitation process described in Section 6.106.170.
- ~~G.E.~~ Each cannabis cultivation permit shall expire two years after the date of its issuance, or upon the sunset and termination of this pilot program pursuant to section 6.106.180 herein, whichever is earlier.
- ~~D.F.~~ The fact that an applicant possesses other types of state or ~~county-local~~ permits or licenses shall not exempt the applicant from obtaining a cannabis cultivation cultivation permit under this chapter.
- G. A permittee may cultivate medical cannabis during the term of the permit only. A permittee shall have no right to cultivate medical cannabis before or after the expiration of the permit.

H. Each medical cannabis cultivation site shall comply with all requirements in the Alameda County General Plan, including Measure D (Save Agriculture and Open Space Lands), any applicable specific plans, and Title 17 of the Alameda County General Code.

~~E. A cultivation permit shall automatically expire, be suspended or revoked when the permit holder's dispensary permit expires, is suspended or revoked.~~

6.106.040 Land Use Approval.

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

6.106.050 Cannabis cultivation permit application procedures - Phase One.

A. Each application for a Phase One cultivation permit pursuant to Section 6.106.130(C) shall set forth or incorporate by reference the following information:

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

B. The filing of an application shall be deemed complete upon the submission of an application in conformance with this section and payment of the application fees required by Section 6.106.130 ~~6.106.080~~ and any fee schedule adopted by the County.

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

6.106.0506.106.060 Application review and action - Phase One.

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

6.106.070 Cannabis cultivation permit application procedures - Phase Two.

- A. When one or more cannabis cultivation permits authorized by this Chapter is available for award during Phase Two of the pilot program, the director will initiate a process to solicit applications for the establishment of a cultivation site.
- B. Each application for the establishment of a cultivation site shall be filed with the director and the director shall be responsible for administering the application solicitation and renewal application processes as set forth in this chapter.
- C. The director shall adopt such forms and procedures as are necessary to implement this chapter with respect to the selection, revocation and suspension of permits.
- D. Wherever this chapter requires the county to give notice to an applicant, appellant or permittee, such notice shall be given by the director, in writing, and shall be delivered either by personal delivery or by certified U.S. mail, postage prepaid, return receipt requested.
- E. No person or facility that purports to have cultivated cannabis prior to the enactment of this chapter shall be deemed to have been a legally established cultivation

operation under the provisions of this chapter, and such person or facility shall not be entitled to claim a legal nonconforming status.

6.106.0606.106.080 Contents of cannabis cultivation ~~cultivation~~ permit application – Phase Two.

A. In response to a solicitation for applications initiated by the director, each application for a cultivation permit shall set forth or incorporate by reference the following information in a standard form adopted by the director:

1. Address of the proposed cultivation site and the name and address of the owner of the premises.
2. The full name, date of birth, social security number, present address and telephone number of the applicant.
3. The address to which notice of action on the application is to be mailed.
4. All residential addresses of the applicant for the five years immediately prior to the date of the application.
5. Written proof that the applicant is eighteen (18) years of age or older (i.e., California driver's license, California identification card or birth certificate).
6. The height and weight and the color of eyes and hair of the applicant.
7. Photographs of the applicant for identification purposes to be taken by the sheriff.
8. The names and addresses of all businesses operated by and the employment of the applicant for the five years immediately prior to the date of the application.
9. The address of any cultivation sites or dispensaries that currently is or previously had been operated by the applicant and a statement of whether the authorization for any such operation had been revoked or suspended and, if so, the reason therefor.
10. The names and telephone numbers of the person or persons to be regularly engaged in the operation of the proposed cultivation site, whether an employee, volunteer or contractor. The application shall also identify those persons, including telephone numbers (i.e., emergency contact), having management and supervisory responsibilities for the proposed cultivation site. Every person listed as owner, manager, supervisor or employee must submit fingerprints and other necessary information for a background check to the Alameda County sheriff's office, and be photographed for identification purposes. In addition, any new employees, independent contractors, other persons and/or volunteers who will work at the proposed medical cannabis cultivation site must submit their information to the sheriff's office within five days prior to their employment.
11. A security plan containing a detailed description of the proposed security arrangements for insuring the safety of persons from theft and robbery and protection of the premises from theft and burglary. The security plan shall be approved by the Sheriff, and shall include a lighting plan showing existing and

- proposed exterior premises and interior lighting levels, alarms and security surveillance cameras. Security video shall be maintained for 30 business days and shall be made available to the Sheriff upon request. The video system for security cameras must be located in a locked, tamper-proof compartment. A professionally monitored robbery alarm system shall be installed and maintained in good working condition. The security plan shall include the provision of a suitable locked safe on the premises for after-hours storage of medical cannabis.
12. A site plan, consisting of a sketch or diagram showing the entire parcel and the area designated for cultivation activities, including the interior configuration of the greenhouse or other structure housing cultivation activities, including a statement of the floor area occupied each structure at the cultivation site. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus twelve (12) inches.
 13. A description of external appearance of the cultivation site, including a precise depiction of any signage and access roads. All signage shall comply with the County Zoning Ordinance.
 14. A description of products to be cultivated on the premises.
 15. The mission statement of the cultivation site with respect to meeting the medical needs of patients.
 16. A description of the methods by which the applicant will mitigate any potentially adverse impacts, such as traffic, light, odors or noise, on surrounding property owners. The cultivation shall be designed to provide sufficient odor absorbing ventilation and exhaust systems so that any odor generated on the premises is not detected outside property on which it operates.
 17. Authorization for the county, its agents and employees to seek verification of the information contained in the application.
 18. Written certification that the applicant has reviewed and understands and accepts any performance standards for cannabis cultivation that may be adopted by the director.
 19. Certification, under penalty of perjury, that all the information contained in the application is true and correct.
 20. A statement by the applicant that it has the ability to comply with all laws regulating businesses in the state of California and that it shall maintain compliance during the term of the permit.
 21. An operating plan specifically describing how the cultivation site will operate consistent with State and local law, including but not limited to: the minimum staffing levels for operation of the cultivation site, policies and procedures for record keeping, specific details of the cultivation operation's track and trace program, specific details regarding product testing, and other relevant information regarding the operation of the proposed cultivation site and including a copy of the cultivation operation's labor peace agreement when required by California

Business & Professions Code Section 19322(a)(6) to enter into or abide by a labor peace agreement.

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

6.106.090 Initial review of application – Phase Two.

- A. The director shall commence review of any application immediately upon its filing and shall complete such initial review within the time period established in the solicitation process for cannabis cultivation permits, but in no event shall the initial review exceed sixty (60) days. In conducting this review, the following county agencies shall comment on specific portions of the application:
1. The sheriff shall be responsible for verifying factual information in the application, including names, addresses and other information on the applicant operator and its employees of the proposed cultivation operation.
 2. The sheriff shall comment upon the adequacy of security measures that are described in the application, the security plan, the site plan, and other relevant aspects of the application.
 3. The community development agency shall comment upon the proposed location's compliance with zoning regulations and conditions that are needed to mitigate adverse impacts on surrounding uses.
 4. The health care services agency shall comment upon the services to be provided and the mission statement set forth in the application.
 5. The environmental health services agency shall comment upon the application's compliance with the requirements of Section 6.108.230.
- B. Within twenty (20) business days after the filing of an application, the director shall reject any application and so notify the applicant, if the application has been improperly completed or if it is incomplete. The applicant may amend and refile the application within ten days after such rejection.
- C. At the conclusion of the initial review, the director shall notify the applicant of the results of the initial review of the application.

6.106.100 - Action upon completion of initial review – Phase Two.

- 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 6.106.060 has been convicted of a felony or a drug related misdemeanor reclassified by Section 1170.18 of the California Penal Code (Proposition 47) within the past ten (10) years. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
 5. The applicant or the operator listed in the application is less than eighteen (18) years of age.
 6. The health care services agency has determined that the application for a cultivation site has failed to state a health care purpose that fulfills the purposes of Section 11362.5 et seq. of the California Health and Safety Code.
 7. The applicant is delinquent in the payment of any applicable state or County taxes and fees.
- B. Any application that is not rejected upon completion of the initial review shall be deemed an eligible application and submitted to the final selection phase of the solicitation process.
- 6.106.110 - Final selection of medical cannabis cultivation sites – Phase Two.**
- A. The final selection phase of the solicitation process shall include selection from the eligible applications and the establishment of operating conditions for any permits issued under this chapter to the selected eligible applicants. The final selection process shall not exceed sixty (60) days in the absence of an appeal.
 - B. If the number eligible applications is the same as or less than the allowable number of cannabis cultivation sites allowed pursuant to section 6.106.030, then all applications shall be submitted for establishment of operating conditions as set forth in subsection C of this section. If the number of eligible applications exceeds the maximum number of cultivation sites pursuant to 6.106.030, then a competitive evaluation process shall be conducted in which applicants are scored and ranked with the director recommending issuance of a permit to the highest ranked, eligible applicants.
 - C. The sheriff and the director shall establish operating conditions for cultivation sites for each eligible application that has been submitted for final selection. The operating conditions shall be limited to those that are necessary to carry out the purposes of this chapter and to mitigate specific and foreseeable adverse impacts on properties in the vicinity.
 - D. At the conclusion of the final selection process outlined above, the director shall give notice to the cultivation permit applicant of the operating conditions that would attach to the permit. Within ten days after notice, the applicant shall either:
 1. Certify acceptance of the operating conditions and the standard conditions of the permit, and the permit shall thereupon issue immediately.

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

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

~~The full name, date of birth, social security number, present address and telephone number of the applicant.~~

~~Name and location of applicant's permitted dispensary.~~

~~The address to which notice of action on the application is to be mailed.~~

~~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.~~

~~The names of each person with an ownership interest of more than 10 percent in the proposed cultivation operation.~~

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

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

~~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.~~

~~The filing of an application shall be deemed complete upon the submission of an application in conformance with this section and payment of the application fees required by Section 6.106.080 and any fee schedule adopted by the County. An application may be reviewed and copied by any member of the public in accordance with the California Public Records Act.~~

~~Application review and action.~~

~~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.~~

~~Upon receipt of a complete application, the director shall approve the application and grant the cultivation permit if each of the following conditions are met:~~

~~The applicant operates a permitted dispensary;~~

~~The applicant's permitted dispensary has a record of good standing with the county for at least one year. For the purposes of this section, "good standing" means that the dispensary permit has not been suspended or revoked and that there are no pending proceedings for the suspension or revocation of the dispensary permit.~~

~~No person who is listed on the application pursuant to subsection (1) or (5) of Section 6.106.060 has been convicted of a felony or a drug related misdemeanor reclassified by Section 1170.18 of the California Penal Code (Proposition 47) within the past ten years. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.~~

~~The applicant or the operator listed in the application is at least eighteen (18) years of age.~~

~~Upon receipt of a complete application, the director shall deny the application if one or more of the conditions set forth in subsection (B) above are not met.~~

6.106.0706.106.120 Appeal.

- A. An applicant aggrieved by the decisions described in Section 6.106.060 or Section 6.106.060 110 may appeal that decision to the board of supervisors within ten (10) days following the date of issuance of that decision by filing with the clerk of the board of supervisors or the director a notice of appeal specifying the grounds for such appeal. Filing such notice shall stay all proceedings in furtherance of the decision appealed from. The director is designated as an agent of the clerk of the board for purposes of receiving a notice of appeal.
- B. The board of supervisors shall give written notice of the time and place for hearing any appeal filed pursuant this section. Such notice shall be given to the applicant and to the agency which made the order appealed, and to any other person requesting such notice and depositing with the clerk of the board a self-addressed, stamped envelope to be used for that purpose.
- C. The board of supervisors may hear additional evidence and may sustain, modify, or overrule any order brought before it on appeal pursuant to Section 17.54.670, and may make such findings and decisions as are not inconsistent with state law and county ordinances. The board of supervisors may also remand the decision to the director for reconsideration of his or her decision in light of new information not previously presented to the director. If no motion relative to the order appealed attains a majority vote of the board of supervisors within thirty (30) days from the date of the hearing by said board thereon, said order of the director shall stand sustained and be final.

6.106.0806.106.130 Fees.

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

6.106.0906.106.140 Prohibited operations.

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

6.106.150 Limitations.

Nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. §§ 840 et seq. or to license any activity that is prohibited under said Act except as mandated by state law; and

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

6.106.106.160 Severability.

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

6.106.1106.106.170 Judicial review.

Judicial review of a final decision made under this chapter may be had by filing a petition for a writ of mandate with the Superior Court in accordance with the provisions of Section 1094.5 of the California Code of Civil Procedure. Any such petition or any other action seeking judicial review shall be filed within thirty (30) days after the day the decision becomes final.

6.106.1206.106.180 Sunset and termination.

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

SECTION 3

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

Adopted by the Board of Supervisors of the County of Alameda, State of California, on the ____ day of _____, 2017~~6~~, by the following called vote:

AYES:

NOES:

EXCUSED:

President of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors,

By: _____
Deputy Clerk

APPROVED AS TO FORM:

DONNA R. ZIEGLER, COUNTY COUNSEL

By: _____

Name: _____

Title: _____

ORDINANCE NO. 2017-_____

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

SECTION 1

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

1. In 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code section 11362.5 and titled the "Compassionate Use Act of 1996"); and
2. The intent of Proposition 215 was to enable persons who are in need of cannabis for medical purposes to be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances; and
3. In 2004, Senate Bill 420 was enacted (codified as California Health and Safety Code section 11362.7 *et seq.* and titled the "Medical Marijuana Program Act") to clarify the scope of the Compassionate Use Act of 1996. The Medical Marijuana Program Act allows counties to adopt and enforce rules and regulations consistent with its provisions; and
4. In 2011, Assembly Bill 2650 was enacted (codified as California Health and Safety Code section 11362.768). This law affirms that counties can adopt ordinances that restrict the location and establishment of medical cannabis collectives and cooperatives; and
5. Pursuant to the Medical Marijuana Program Act, patients and caregivers may provide and acquire medical cannabis in a cooperative or collective manner wherein caregiver members may cultivate cannabis for the use of patient members, with costs and revenues of the cooperative or collective allocated accordingly; and
6. In 2015 and 2016, Assembly Bill 243, Assembly Bill 266, Senate Bill 643 and Senate Bill 837 were enacted (codified, in part, as California Business and Professions Code section 19300 *et seq.* and titled the "Medical Cannabis Regulation and Safety Act"). These bills also amended provisions of the Medical Marijuana Program Act related to the cultivation of medical cannabis; and
7. The Medical Cannabis and Safety Act establishes a comprehensive framework to license and regulate commercial medical cannabis cultivation, manufacturing, distribution, transportation, sales, and testing; and
8. The County adopted an ordinance prohibiting delivery and cultivation of cannabis on January 16, 2016 (Ordinance No. 2016-6, codified as Chapter 6.106 of the County General Ordinance Code) in response to a provision of the Medical Cannabis Regulation and Safety Act that included a March 1, 2016 deadline for local jurisdictions to act, which provision was repealed by AB 21 on February 3, 2016; and

9. Ordinance No. 2016-6 provided, "This Ordinance shall be repealed by its own terms upon the adoption of state legislation repealing or eliminating the March 1, 2016 deadline in Health and Safety Code section 11362.777(c)(4)" and accordingly, Chapter 6.106 of the General Ordinance Code was repealed on February 3, 2016.
10. Pursuant to California Business and Professions Code section 19315(a), nothing in the Medical Cannabis Regulation and Safety Act shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local permit or licensing requirements; and
11. This Ordinance is enacted, consistent with the Compassionate Use Act of 1996, the Medical Marijuana Program Act, and the Medical Cannabis Regulation and Safety Act to protect the public health, safety, and welfare of Alameda County residents in relation to the cultivation of medical cannabis; and
12. The Alameda County Zoning Ordinance (codified as Alameda County General Ordinance Code, Title 17) is a permissive zoning ordinance, enumerating permitted uses in the various zoning districts of the unincorporated county and thereby prohibiting those uses not specifically permitted, under a principle known as "permissive zoning"; and
13. The cultivation of cannabis is not explicitly addressed by the Alameda County Zoning Ordinance and therefore has previously been considered a prohibited illegal activity under the principles of permissive zoning; and
14. The cultivation of medical cannabis in appropriate locations will help ensure that medical cannabis will be available to the patients in need of it while preserving the character, health and safety of the surrounding area; and
15. Absent appropriate regulation, the cultivation of medical cannabis in the unincorporated area of Alameda County poses a potential threat to the public peace, health, and safety; and
16. The County of Alameda intends to proceed with further study and public meetings to consider a permanent, countywide ordinance that effectively regulates and licenses cultivation of medical cannabis, including commercial cultivation; and
17. The County has a compelling interest in protecting the public health, safety, and welfare of its citizens, residents, visitors and businesses, in preserving the safety, peace and quiet of the neighborhoods and agricultural districts within the unincorporated areas of the County by regulating the cultivation of medical cannabis; and
18. Pursuant to the Medical Cannabis Regulation and Safety Act, the California Department of Food and Agriculture is responsible for promulgating regulations governing commercial cannabis cultivation and issuing cultivation licenses, which are anticipated to become effective in or around the year 2018; and
19. The adoption of a pilot program allowing the short-term, small-scale cultivation of medical cannabis will allow the County to evaluate appropriate districts, performance

- standards and prohibitions prior to consideration of a permanent, countywide ordinance regulating all aspects of cannabis cultivation and implementing state regulations; and
20. Participants in the pilot cultivation program would be permitted to cultivate medical cannabis through the duration of the pilot program only and would have no right to continue cultivation beyond the expiration of the pilot program or the expiration or revocation of the permit; and
 21. During the term of the pilot program, the County will retain the authority to modify the terms, duration or requirements of the pilot program, including the authority to cancel the pilot program, revoke or modify permits issued, adopt a moratorium on cultivation, and any take any other actions within its power to protect the health, safety and welfare of County residents.
 22. On November 8, 2016, the voters of the State of California approved Proposition 64 (codified as ___ and titled the "Control, Regulate and Tax Adult Use of Marijuana Act" also referred to as "AUMA"), which decriminalizes the adult use of marijuana for non-medical purposes and establishes a regulatory scheme at the state level; and
 23. This Ordinance regulates the cultivation of medical cannabis in the unincorporated areas of the County and does not address the cultivation of marijuana for non-medical use under Proposition 64 or otherwise;
 24. Nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. §§ 840 801 *et seq.* or to license any activity that is prohibited under said Act except as mandated by state law; and
 25. Nothing in this Ordinance shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) allow the use cultivation of cannabis for non-medical purposes; (3) exempt cultivation operations from compliance with zoning and land use regulations, or, (4) allow any activity relating to the manufacturing, distribution, or consumption of cannabis that is illegal under state or federal law.

SECTION 2

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

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

"Cannabis" shall have the same definition as in Business and Professions Code section 19300.5(f), which defines "cannabis" as all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" also means marijuana as defined by Section 11018 of the California Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. "Cannabis" does not include the mature stalks of the plant, fiber produced from the

stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For purposes of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

"Cannabis Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming, including any associated storage, of ~~Cannabis intended to be sold for use by medical Cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code or pursuant to the Medical Cannabis Regulation and Safety Act (codified, in part, as California Business and Professions Code section 19300 et seq.)~~ Medical Cannabis.

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

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

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

- A. Cannabis Cultivation shall be permitted as a conditional use in the A district only if approved by the board of zoning adjustments as provided in Section 17.54.130 and only to the extent required to implement the county's pilot program for Cannabis Cultivation established by Chapter 6.106 of this code.
- B. A Cannabis Cultivation permit must be issued and any appeals finally determined in accordance with Chapter 6.106 of this code prior to the hearing on an application for a conditional use permit pursuant to this section. A conditional use permit issued pursuant to this section shall be effective only during such time as the permittee also holds a valid and effective Cannabis Cultivation permit or license pursuant to Chapter 6.106 or a subsequent ordinance permitting or licensing Cannabis Cultivation and a valid and effective state license permitting Cannabis Cultivation, once such licenses become available.
- C. Cannabis Cultivation uses approved pursuant to this section shall meet the criteria established by section 17.54.130, section 17.54.140 and any criteria established for the district. In addition, no conditional use permit for Cannabis Cultivation shall issue unless the following additional findings are made by the board of zoning adjustments based on sufficient evidence:
 - 1. The applicant has demonstrated an ability to provide effective security for the Cannabis Cultivation site and to provide a safe environment for people working at the site;

2. Theft and diversion of Cannabis cultivated on the premises is prevented;
3. Artificial light shall not escape structures used for Cannabis Cultivation (e.g. greenhouses) at a level that is visible from neighboring properties between sunset and sunrise. Lighting that is visible from the exterior of the Cannabis Cultivation area is prohibited, except such lighting as is reasonably utilized for the security of the premises;
4. Any direct or sky-reflected glare or heat shall not be perceptible at any point outside of the Cannabis Cultivation site;
5. Noise or vibration, other than that related to transportation activities and temporary construction work, shall not be discernible without instruments at any lot line of the site;
6. Odorous gases or odorous matter shall not be emitted in quantities such as to be perceptible outside of the Cannabis Cultivation site;
7. The discharge into any public sewer, private sewage disposal system or stream or into the ground shall not occur except in accordance with the standards approved by the State Department of Health, of any materials of such nature or temperature as to contaminate any water supply, interfere with bacterial processes and sewage treatment, or in any way cause the emission of dangerous or offensive elements;
8. Any dust, dirt or particulate matter shall not be discharged into the air from any activity or from any products stored on the site;
9. The areas of the site to be actively used for Cannabis Cultivation activities are set back as follows:
 - a. At least fifty (50) feet from any property line shared with an adjacent property with different ownership, unless waived in writing by the adjacent owner;
 - b. At least three hundred (300) feet from any residence on an adjacent property with different ownership, unless waived in writing by the adjacent owner; and
 - c. At least six hundred (600) feet from any school for pre-K to 12th grade students, licensed child or day care facility, public park or playground, drug or alcohol recovery facility or public recreation center.
- D. The Planning Director may establish additional performance standards and standard conditions providing detailed guidance for applicants and permittees. Permittees shall be required to comply with the performance standards and any conditions of approval applicable to a permit issued pursuant to this chapter.

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

17.54.130 - Conditional uses.

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

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

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

SECTION 3

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

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

AYES:

NOES:

EXCUSED:

President of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors,

By: _____
Deputy Clerk

APPROVED AS TO FORM:

DONNA R. ZIEGLER, COUNTY COUNSEL

By: _____
Name: _____
Title: _____

Attachment E

Chronology of Public Meetings Held December 2015-January 2017

December 10, 2015	Board Transportation/Planning Committee
January 12, 2016	Board Transportation/Planning Committee
January 21, 2016	Board of Supervisors
January 26, 2016	Board of Supervisors
April 13, 2016	Board Transportation/Planning Committee
May 2, 2016	Board Transportation/Planning Committee
June 20, 2016	Castro Valley Municipal Advisory Council
June 23, 2016	Board Transportation/Planning Committee
June 29, 2016	Unincorporated Services Committee
July 18, 2016	Board Transportation/Planning Committee
July 26, 2016	Agricultural Advisory Committee
September 7, 2016	Board Transportation/Planning Committee
September 12, 2016	Castro Valley Municipal Advisory Council
September 15, 2016	San Lorenzo Village Homes Association
September 19, 2016	Planning Commission
September 21, 2016	Sunol Citizens Advisory Committee
September 28, 2016	Unincorporated Services Committee
October 3, 2016	Board Transportation/Planning Committee
October 24, 2016	Castro Valley Municipal Advisory Council
October 25, 2016	Agricultural Advisory Committee
November 7, 2016	Board Transportation/Planning Committee
November 15, 2016	East County Community Meeting
December 8, 2016	Board Transportation/Planning Committee
January 11, 2017	Agricultural Advisory Committee
January 12, 2017	Board Transportation/Planning Committee