



MEMORANDUM

October 18, 2016

TO: Members of the Agricultural Advisory Committee

FROM: Medical Cannabis Interdepartmental Work Group

MEETING DATE: October 25, 2016

SUBJECT: Draft Medical Cannabis Dispensary and Cultivation Ordinances

GENERAL INFORMATION

At your July 26th, 2016 meeting, the Office of the County Counsel presented an overview of the Medical Cannabis Regulation and Safety Act (MCRSA) and the process underway to revise the existing county dispensary ordinance to align with the local licensing provisions of MCRSA. Since your July meeting, a work group composed of staff from the County Administrator's Office, the Sheriff's Office, the Office of the County Counsel, the Environmental Health Department, the Agriculture/Weights and Measures Department, and the Planning Department has developed draft medical cannabis dispensary and cultivation ordinances consistent with the MCRSA and with direction provided by the Board Transportation and Planning Committee. The draft ordinances are attached (See Attachments 1 – 4.).

STAFF RECOMMENDATION

Staff requests that your Committee review the draft medical cannabis dispensary and cultivation ordinances, take public testimony, and provide comments which will be provided to the Board of Supervisors.

STAFF ANALYSIS

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

The following changes to the provisions of the existing dispensary ordinance are included in the draft ordinances (See Attachments 1 and 2):

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

accessory to a permitted cannabis cultivation site.

- Reduce the buffer required between dispensaries and sensitive receptors from 1,000 feet to 600 feet to align with the MCRSA.
- Require selection of new dispensaries through a “Request for Proposals” (RFP) process.
- Provide appropriate regulation for each license – deferring to anticipated state regulations and augmenting the state regulations as necessary.
- Allow permits for the delivery of medical cannabis from permitted “brick-and-mortar” dispensaries located within the unincorporated area and in other jurisdictions to patients.
- Remove the twenty-pound limit on the amount of cannabis that can be stored at a dispensary.
- Allow the sale, distribution, and delivery of edibles if produced in a commercial facility (that does not produce food items) constructed in accordance with applicable building standards and health and safety standards as opposed to private home kitchens.

Potential Dispensary Locations in 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.

Cultivation Ordinance

The cultivation ordinance would establish a medical cannabis cultivation pilot program that would allow existing dispensaries that have been operating in good standing for at least one year to establish medical cannabis cultivation sites. Implementation of the cultivation pilot program will require revisions to Title 6 of the County General Code to establish requirements for the program, as well as amendments to the Zoning Ordinance in Title 17 to allow the cultivation of medical cannabis as a conditional use in the “A” (Agricultural) District and “M” (Industrial) districts (See Attachment 3).

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

- Limit the duration of the pilot to two years.
- Limit eligibility to obtain a ministerial cultivation permit to currently permitted dispensary operators in good standing.
- Allow medical cannabis cultivation as a conditional use in the “A” (Agricultural) and “M” (Industrial) Zoning Districts.
- Allow only indoor/greenhouse cultivation and limit the size of the cultivation canopy.
- Require each cultivation site to obtain a Conditional Use Permit subject to compliance with adopted performance standards before beginning operation (See Attachment 4).
- Require a 600-foot buffer between cultivation sites and sensitive receptors to align with the MCRSA.

Sheriff’s Office Concerns

The Sheriff’s Office, which is participating in the County’s Medical Cannabis Interdepartmental Work Group, opposes the following provisions of the proposed ordinance amendments, primarily for public safety and quality of life issues, affecting the unincorporated citizens of Alameda County:

- Any increase in the amount of dispensaries in the County:
 - The Sheriff's Office is concerned that more dispensaries could increase crime in the affected areas. The Sheriff's Office feels this has not been an issue with the current dispensaries because of the lesser amount and smaller size of these dispensaries. In the past, with more dispensaries, we had homicides, robberies and burglaries associated with the businesses.
 - The Sheriff's Office does not feel the unincorporated area should have to carry the burden of maintaining an excessive amount of dispensaries when the neighboring cities have less, to none, than the unincorporated area and apparently do not see the need for any.
 - The Sheriff's Office is concerned of the affect to neighboring businesses for any future proposed dispensary site. This was a huge complaint from dispensary neighboring businesses in the past, as the excessive traffic of patients impacted those neighboring businesses.
 - Doubling the amount of dispensaries will require more man hours dedicated to patrolling and inspecting the dispensaries and their proposed larger operations. There is no current revenue stream identified to take effect immediately to augment the Sheriff's Office staffing, as well as the other impacted County agencies.

- Any cultivation in the County:
 - Cultivation sites would be target for robbery and this is especially concerning in the Tri-Valley area where our patrol response time can be extended. Security is a major concern at any proposed site of this kind.
 - The Sheriff's Office believes there should be more discussion on cultivation and interaction with the Bureau of Medical Cannabis Regulation for a creation of best practices before any cultivation, if any, is allowed in unincorporated Alameda County. At this time there are just too many unknown consequences that could be detrimental to the unincorporated County and its citizens.
 - There has not been a substantial plan submitted by any proposed cultivator yet that addresses water drainage issues or other environmental impacts.

- Any deliveries in the County:
 - The Sheriff's Office is concerned that deliveries into neighborhoods will be targets for robbery and endanger the public. Currently, delivery is not allowed under the existing ordinance and the draft amendment does not establish any limits to the amount of marijuana these deliverers can possess, or any other regulatory oversight, making them attractive targets of criminals.

- Unlimited amount of cannabis at the dispensaries:
 - Allowing an unlimited amount of marijuana that a dispensary can have on hand will make it an attractive target for robbery and burglary by criminals. Again, another major security concern.
 - Additionally, large amounts of cannabis will produce a strong, pungent, and offensive odor that could create a nuisance to the neighborhood and neighboring businesses.

- Any edibles sold at the dispensaries:
 - The Sheriff's Office is concerned about public safety when it comes to edibles. Even though the ordinance will require the packaging not to be enticing to children it still has to come out of the package at some point and could be accidently consumed by children and pets.
 - There is nothing in place at this time to insure actual product quality and potency. All that is proposed is to make sure the product is manufactured in an approved kitchen.
 - There are still too many uncertainties with edibles. The Sheriff's Office feels that this is another area in which the County should have further interaction with the Bureau of Medical Cannabis Regulation for the creation of best practices, if edibles are ever allowed to be sold by dispensaries in the unincorporated area.
 - It has been well documented in Colorado that edibles have contributed to an increase in hospital emergency room visits for children. There was one such incident recently in San Francisco that poisoned several adults and children.

The Sheriff's Office, along with other County agencies, has worked extremely hard over the last several years to improve the quality of life for the citizen's and families of the unincorporated area of Alameda County. Just one example of this is the beautiful REACH Center located on E. 14th Street, which was created as a place where families and children of our area could go to for program assistance and to meet in a safe place. The Sheriff's Office believes to allow more dispensaries would be counter intuitive to the progress that has been made to improve this area, and others, in unincorporated Alameda County.

California Environmental Quality Act

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

Fee Study

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

CONCLUSION

The table below contains the tentative schedule to complete the ordinance approval process.

October 24, 2016	Castro Valley MAC Meeting
October 25, 2016	Ag Advisory Committee Meeting
November 7, 2016	Transportation/Planning Committee Meeting
November 15, 2016	East County Community Meeting
December 5, 2016	Second Planning Commission Meeting
December 7, 2016	Unincorporated Services Committee Meeting (if needed)
January TBD, 2017	Transportation/Planning Committee Meeting
January 10, 2017	Board of Supervisors – First Reading
January 24, 2017	Board of Supervisors – Second Reading
February 24, 2017	New ordinances becomes effective.

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

A link to the draft ordinances is also provided on the Unincorporated Communities Website at: <http://www.acgov.org/uninc/>.

ATTACHMENTS

1. Draft Ordinance Amending Chapter 6.108 of the Alameda County General Code to Conform the Medical Marijuana Dispensaries Ordinance to the California Medical Cannabis Regulatory and Safety Act, and to Permit and Regulate the Delivery of Medical Cannabis in the Unincorporated Area of Alameda County, and to Regulate the Sale, Dispensing and Delivery of Edibles.
2. Draft Ordinance Amending Title 17 of the Alameda County General Code to Conditionally Permit Medical Cannabis Dispensaries in Specified Districts within the Unincorporated Area of Alameda County
3. Draft Ordinance Amending Chapter 6.106 and Title 17 of the Alameda County General Code to Implement a Pilot Program Regulating the Cultivation of Medical Cannabis in the Unincorporated Area of Alameda County
4. Draft Performance Standards and Standard Conditions for Cultivation Sites