



MEMORANDUM

February 14, 2018

TO: Members of the Alameda County Planning Commission

FROM: Cannabis Interdepartmental Work Group

MEETING DATE: February 20, 2018

SUBJECT: Amendments to the Medical Cannabis Dispensary and Cultivation Ordinances

GENERAL INFORMATION

At your July 10, 2017 meeting, your Commission voted to recommend that the Board of Supervisors approve the proposed medical cannabis dispensary and cultivation ordinances. Your Commission also recommended that the Board adopt the Initial Study and Mitigated Negative Declaration (IS/MND) for the proposed ordinances. The Board of Supervisors adopted the IS/MND on July 11, 2017 and approved the medical cannabis ordinances on September 12, 2017; the ordinances went into effect on October 12, 2017.

Request for Proposals for Cultivation Sites

On October 6, 2017, staff released a Request for Proposals (RFP) to solicit applications for four available cultivation permits, pursuant to Section 6.106.070 of the cultivation ordinance. As prescribed in the ordinance, the ten applications submitted to the County were reviewed and scored by the County Selection Committee (CSC), composed of the Planning Director, the Agricultural Commissioner, and a Commander from the Sheriff's Office, based on the evaluation criteria in the RFP. The CSC recommended to the Community Development Agency Director that the four highest ranking applicants be granted permits. The Director concurred with the Committee's recommendation and permits were granted to the four highest ranking applicants. Two of the applicants who were not granted permits appealed the decision of the Director to the Board of Supervisors, pursuant to Section 6.106.120 of the cultivation ordinance. The CSC had ranked the two applicants who filed appeals seventh and eighth out of the ten applications received. The Board of Supervisors considered the appeals on January 9, 2018 and directed staff to amend Chapter 6.106 of the County Ordinance Code to increase the number of permits allowed through the RFP process to eight so that the applicants who ranked fifth through eighth may receive permits in addition to the applicants ranked first through fourth. The Board also directed staff to amend Chapter 6.106 and the relevant sections of the Zoning Ordinance in Title 17 to change the cannabis cultivation program from a pilot program to a permanent use. In addition, the Board directed staff to revise the cultivation and dispensary ordinances to allow the cultivation, sale, and delivery of adult use cannabis, as well as medical cannabis. County staff has also recommended some minor, non-substantive revisions to address technical issues that have come up during the ordinance implementation process.

STAFF RECOMMENDATION

Staff requests that commissioners review the attached revised cannabis dispensary and cultivation ordinances and IS/MND addendum, take public testimony on the draft ordinances and on the IS/MND, take an action to recommend that the Board of Supervisors adopt the IS/MND Addendum and adopt the proposed ordinance amendments, and approve the attached resolution reflecting that recommendation.

STAFF ANALYSIS

Cultivation Ordinances

The cultivation ordinance in Chapter 6.106 currently allows a total of six medical cannabis cultivation permits, up to two permits for dispensaries that have been operating in good standing in the unincorporated area for at least one year, and an additional four cultivation sites to be selected through a "Request for Proposals" (RFP) process. The proposed ordinance amendments would increase the number of cannabis cultivation sites to be granted through the RFP process to eight, increasing the total number of cultivation sites allowed from six to ten. Chapter 6.106 would also be revised to remove the two-year sunset provision of the pilot program. Chapter 6.106 and the relevant sections of the Zoning Ordinance in Title 17 currently allow the cultivation of medical cannabis only. Proposed amendments to these ordinance sections would also allow cultivation of adult use cannabis in accord with the state's Medical and Adult Use Cannabis Regulation and Safety Act (MAUCRSA).

Dispensary Ordinances

The dispensary ordinance in Chapter 6.108 and the relevant sections of the Zoning Ordinance in Title 17 currently allow the sale of medical cannabis and medical cannabis products only. Proposed amendments to these ordinance sections would allow the sale of both medical and adult use cannabis in accord with MAUCRSA.

In addition, staff recommends other minor "clean-up" revisions throughout the cultivation and dispensary ordinances. The revised ordinances which include the proposed amendments are attached.

Agricultural Advisory Committee Meeting

At its January 23, 2018 meeting, the Agricultural Advisory Committee discussed the proposed ordinance amendments. A few of the committee members, as well as members of the public present objected to the proposed increase in the number of cultivation permits and changing the cannabis cultivation program from a pilot program to a permanent use before any of the cultivation sites have been in operation. There was also opposition to allowing the cultivation, sale, and delivery of adult use cannabis, in addition to medical cannabis. Speakers expressed concern about the rapid pace of the ordinance amendment process and the limited opportunities for public input.

Sheriff's Office Concerns

The Sheriff's Office, which is participating in the County's Cannabis Interdepartmental Work Group, opposes any increase in the number of cultivation sites in the County, and the cultivation and sale of adult use cannabis by businesses located in the unincorporated area.

California Environmental Quality Act

A Notice of Intent to Adopt a Mitigated Negative Declaration (NOIA) and an Initial Study/draft Mitigated Negative Declaration (IS/MND) for the proposed Medical Cannabis Ordinances were released on March 7, 2017 for a 21-day public review period which ended on March 27, 2017. Subsequent to the public review period but before it was adopted by the Board of Supervisors, the IS/MND was revised to include analysis of additional ordinance revisions that resulted from deliberations during the public process. The conclusion of that analysis was that the ordinance

revisions did not constitute a substantial revision, pursuant to Section 15073.5 of the California Environmental Quality Act (CEQA) Guidelines; and, therefore, recirculation of the IS/MND for additional public review was not required.

When there are changes to a project after adoption of the MND for the project, Section 15162 of the CEQA Guidelines requires that a supplemental or subsequent MND be prepared if any of the criteria in the section are met. Where a supplemental or subsequent MND is not appropriate, CEQA Guidelines Section 15164(b) allows for the preparation of an Addendum to an adopted negative declaration only if there are minor technical changes or additions that do not meet the conditions of Section 15162. As the Board of Supervisors adopted the IS/MND for the medical cannabis ordinances prior to consideration of the proposed ordinance amendments now before your commission, staff considered whether any of the criteria in Section 15162 had been met. Staff concluded that a supplemental or subsequent MND is not appropriate and prepared the attached MND Addendum pursuant to CEQA Guidelines Section 15164(b).

CONCLUSION

Staff recommends that your Commission recommend that the Board of Supervisors adopt the IS/MND Addendum and approve the ordinances as amended, and adopt the attached resolution reflecting that recommendation.

Attachments:

- Attachment 1 - Draft resolution to recommend that the Board of Supervisors approve the Addendum to the Mitigated Negative Declaration and adopt the Medical Cannabis Dispensary and Cultivation Ordinances
 - Exhibit A – An Ordinance Amending Chapter 6.106 of the Alameda County General Ordinance Code to Regulate the Cultivation of Cannabis in the Unincorporated Area of the County Of Alameda
 - Exhibit B – An Ordinance Amending Chapter 6.108 of the Alameda County General Ordinance Code to Regulate Cannabis Retailers
 - Exhibit A (map of West County)
 - Exhibit B (map of East County)
 - Exhibit C – An Ordinance Amending Title 17 of the Alameda County General Ordinance Code to Conditionally Permit Cannabis Retailers in Specified Districts within the Unincorporated Area of the County of Alameda
 - Exhibit D – An Ordinance Amending Title 17 of the Alameda County General Ordinance Code to Regulate the Cultivation of Cannabis in the Unincorporated Area of the County Of Alameda
- Attachment 2 – Addendum to the Mitigated Negative Declaration for Medical Cannabis Ordinance Amendments

Attachment 1

Draft resolution to recommend that the Board of Supervisors approve the Addendum to the Mitigated Negative Declaration and adopt the Medical Cannabis Dispensary and Cultivation Ordinances

RESOLUTION NO. 18-__ - AT MEETING HELD FEBRUARY 20, 2018

**RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF ALAMEDA
REGARDING
ORDINANCES AMENDING CHAPTERS 6.106 AND 6.108, AND TITLE 17 OF THE ALAMEDA
COUNTY GENERAL ORDINANCE CODE TO INCREASE THE NUMBER OF CANNABIS
CULTIVATION SITES ALLOWED, TO REMOVE REFERENCES TO A PILOT PROGRAM
FROM THE CULTIVATION ORDINANCE, AND TO ALLOW THE CULTIVATION, SALE,
AND DELIVERY OF ADULT USE CANNABIS IN THE UNINCORPORATED AREA OF
ALAMEDA COUNTY**

**Introduced by Commissioner
Seconded by Commissioner**

WHEREAS the Alameda County Planning Commission did hold one public hearing on the proposed amendments to the Medical Cannabis Dispensary Ordinances (comprised of amendments to Chapter 6.108 and amendments to Sections 17.04.010, 17.06.040, 17.38.030, and 17.40.030 of Title 17), Cultivation Ordinances (comprised of the addition of Chapter 6.106 and amendments to Sections 17.04.010, 17.52.585, and 17.54.130 of Title 17)(collective, "Ordinances") at the hour of 3:00 p.m. on February 20, 2018 in the Public Hearing Room of the Alameda County Administration Building, 224 West Winton Avenue, Hayward, California, for which notice was given as required by law, and at which time the Commission took public testimony; and

WHEREAS the Board of Supervisors adopted a revised Initial Study/Mitigated Negative Declaration ("IS/MND") for the Medical Cannabis Dispensary and Cultivation Ordinances at a duly noticed public hearing on July 11, 2017, and approved the Medical Cannabis Dispensary and Cultivation Ordinances at a duly noticed public hearing on September 12, 2017; and

WHEREAS the Board of Supervisors held a duly noticed public hearing to consider appeals of the granting of cultivation permits by the Community Development Agency Director, pursuant to Chapter 6.106, at the hour of 1:00 p.m. on Tuesday, January 9, 2018, in the Board Chambers in the Alameda County Administration Building, 1221 Oak Street, Oakland, California; and

WHEREAS the Board of Supervisors did refer the Ordinances back to the Planning Commission for consideration of proposed amendments to the Ordinances; and

WHEREAS an Addendum to the IS/MND was prepared by the County pursuant to CEQA Guidelines Section 15164(b); and

WHEREAS this Planning Commission has reviewed the Addendum to the IS/MND and on the basis of the record before the Planning Commission, the Planning Commission finds that there is no substantial evidence that the proposed amendments to the Ordinances will have a significant effect on the environment; and

WHEREAS, proposed amendments to Chapter 6.106 to the General Ordinance Code, attached hereto as Exhibit A, will increase the number of cannabis cultivation sites to be granted through a Request for Proposals process to eight, increasing the total number of cultivation sites allowed to ten; will remove the two-year sunset provision of the pilot program; and will allow cultivation of both medical and adult use cannabis in accord with the state's Medical and Adult Use Cannabis Regulation and Safety Act (MAUCRSA); and

WHEREAS, proposed amendments to Chapter 6.108 of the General Ordinance Code, attached hereto as Exhibit B, will allow the sale and delivery of both medical and adult use cannabis in accord with MAUCRSA; and

WHEREAS, proposed amendments to Title 17 of the General Ordinance Code, attached hereto as Exhibits C and D, will allow the sale and delivery of both medical and adult use cannabis as a conditional use in the "A" (Agricultural) District and in specified commercial zoning districts, and the cultivation of both medical and adult use cannabis as a conditional use in the "A" (Agricultural) District; and

WHEREAS, the Planning Commission is authorized and obligated to make recommendations to the Board of Supervisors on matters related to planning and zoning; and

WHEREAS, the testimony submitted in writing and at the public hearing and items in the public record have been considered by the Planning Commission prior to this action; and

WHEREAS, the complete record for this process is in the custody of the Alameda County Planning Department, and may be found at Room 111, 224 West Winton Avenue, Hayward, California 94544.

NOW, THEREFORE,

BE IT RESOLVED, that an Addendum to the Initial Study/Mitigated Negative Declaration is the appropriate and proper environmental analysis for the proposed amendments to the Alameda County General Ordinance Code, was duly prepared by the County and complies with the requirements of CEQA; and

BE IT FURTHER RESOLVED that this Commission does hereby recommend that the Board of Supervisors approve the Addendum to the Initial Study/Mitigated Negative Declaration; and

BE IT FURTHER RESOLVED that this Commission does hereby recommend that the Board of Supervisors adopt the proposed amendments to the Alameda County General Ordinance Code regulating cannabis dispensaries, delivery, and cultivation sites as provided in Exhibits A through D (Draft Ordinances).

ADOPTED BY THE FOLLOWING VOTE:

AYES: Commissioners

NOE: Commissioner

EXCUSED: Commissioners

ABSENT:

ABSTAINED:

**ALBERT LOPEZ, PLANNING DIRECTOR AND SECRETARY,
ALAMEDA COUNTY PLANNING COMMISSION**

Exhibit A

An Ordinance Amending Chapter 6.106 of the Alameda County General Ordinance Code to Regulate the Cultivation of Cannabis in the Unincorporated Area of the County Of Alameda

ORDINANCE NO. 2018-_____

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

SECTION 1

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

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

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

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

19. Increasing the allowable number of cultivation sites to ten, removing the pilot nature of the ordinance and expanding the allowable uses to cultivation of both medicinal and adult-use cannabis will allow the County to more fully implement recent state law and regulation concerning commercial cannabis businesses; and
20. A limited number of medicinal cannabis cultivation sites were selected and approved pursuant to the September 2017 version of the cultivation ordinance; and
21. Allowing approved medical cannabis cultivation sites to cultivate adult-use cannabis will streamline the County's regulation of cannabis sites; and
22. Allowing a single cultivation site to produce cannabis that may eventually be sold to both medicinal and adult-use retail customers will have limited if any impact on other County residents and businesses because the cultivation operation will not be materially impacted by the designation of the eventual retail customer as either medicinal or adult-use; and
23. All commercial cultivation operations will be required to obtain requisite state licenses in order to conduct business, including obtaining an adult-use (A-type) cultivation license and/or a medicinal (M-type) cultivation license as needed for the type of cultivation operation; and
24. All commercial cultivation operations will be required to comply with state law and state regulations, including but not limited to the requirement to record the movement of cannabis cultivated on-site through the supply chain via the state's track and trace system; and
25. The Board of Supervisors acknowledges that regulation of cannabis activities is an evolving field at the state level, as evidenced by the recent passage of Proposition 64, adoption of MAUCRSA, and release of emergency regulations by various state licensing agencies. As a result, the field of local regulation is also expected to continue to evolve over the next several years including possible further revisions to the County ordinances, policies and performance standards; and
26. Nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. §§ 801 *et seq.* or to license any activity that is prohibited under said Act except as mandated by state law; and
27. Nothing in this Ordinance shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) exempt cultivation operations from compliance with zoning and land use regulations, or, (3) allow any activity relating to the manufacturing, distribution, or consumption of cannabis that is illegal under state or federal law.

SECTION 2

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

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

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

Chapter 6.106 – Cannabis Cultivation

6.106.010 Purpose.

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

6.106.020 Definitions.

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

- A. "Applicant" means a person who seeks a permit under this chapter by filing an application as provided for in this chapter.
- B. "Application" means that form provided by the Director and submitted in accordance with this chapter for the purpose of seeking a permit.
- C. "Cannabis" shall have the same definition as in Business and Professions Code section 26001(f), which defines "cannabis" as all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For purposes of this chapter, "cannabis" does

not mean “industrial hemp” as defined by Section 11018.5 of the California Health and Safety Code.

- D. “Cannabis cultivation” or, as used in this chapter, “Cultivation” or “Cultivate”, means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming, including any associated storage, of cannabis, including cannabis for medicinal use and/or adult-use in accordance with the Medicinal and Adult-Use Cannabis Regulation and Safety Act. Cannabis cultivation includes the operations of a cannabis nursery. Cannabis cultivation does not mean the temporary maintenance and selling of clones from a permitted retailer, where such activities are incidental and subordinate to the primary retail operation.
- E. “Cannabis cultivation site” means a location where one or more commercial cannabis cultivation activities takes place.
- F. “Cannabis nursery” means an operation that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.
- G. “Cannabis Operator” or “operator” as used in this chapter means the natural person or designated officer responsible for the operation of any permitted cannabis operation.
- H. “Cannabis product” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.
- I. “Clone” means the cutting of a cannabis plant that has been re-planted and is non-flowering.
- J. “Community Development Agency” means the community development agency of the County of Alameda.
- K. “County” means the County of Alameda.
- L. “Director” means the director of the Community Development Agency or his designee.
- M. “Indoor cannabis cultivation” means the cultivation of cannabis within a permanent enclosed structure using exclusively artificial light or within any type of structure using artificial light at a rate above 25 watts per square foot or such other threshold for indoor cultivation as may be established by the California Department of Food and Agriculture.
- N. “Lot” means a separate parcel of land shown and identified as such on the records of the county recorder or on the final map of an approved and recorded subdivision, excluding therefrom for the purposes of this title any portion thereof which lies within a street, within a lane, or within a fenced-off flood control easement.

- O. "Manufacture" means the process by which the raw agricultural cannabis is transformed into a concentrate, an edible product, topical product or similar cannabis product. Manufacturing includes producing, preparing, propagating, or compounding manufactured cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.
- P. "Mixed-light cannabis cultivation" means the cultivation of cannabis in a greenhouse, hoop-house, glasshouse, conservatory, hothouse, or other similar structure using light deprivation and/or artificial lighting below or equal to 25 watts per square foot or such other maximum threshold for mixed-light cultivation as may be established by the California Department of Food and Agriculture.
- Q. "Permit" means a cannabis cultivation permit issued by the county to operate a cannabis cultivation site under this chapter.
- R. "Permitted cannabis retailer" or "cannabis retailer" means a facility in possession of a permit issued pursuant to Chapter 6.108 where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, under the authority of the California Medicinal and Adult-Use Cannabis Regulation and Safety Act, California Compassionate Use Act, and/or the Medical Marijuana Program, and/or and as regulated by chapter 6.108.
- S. "Permittee" means a person who holds an effective and current permit under this chapter.
- T. "Person" means any human being or an incorporated or unincorporated business entity or association established under the laws of the state.
- U. "Premises" means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.
- V. "Sheriff" means the sheriff of the County of Alameda and his or her authorized representatives.
- W. "State" means the State of California.

6.106.030 General requirements and terms.

- A. It is unlawful for any person to conduct, engage in or allow to be conducted or engaged in, cannabis cultivation in the unincorporated portion of the County of Alameda, unless such cannabis cultivation operation has been granted a legally effective permit issued under this chapter. Notwithstanding the above, the permits issued under this chapter do not provide any protection or immunity for any person from state or federal laws, or

from prosecution pursuant to any applicable state or federal laws. The owner, managing partner, corporate officer and/or any other person with primary responsibility for a medical cannabis operation shall maintain such operation in conformity with the terms of this chapter and with the terms of all permits issued pursuant to this chapter.

- B. The county shall have in effect no more than ten cannabis cultivation permits. Two of the ten permits may be issued in accordance with sections 6.106.050 through 6.106.060. The remaining available permits must be selected pursuant to sections 6.106.070 through 6.106.110 herein. The permits shall be issued for indoor cannabis cultivation or mixed-light cultivation only. More than one premises may be located on a single lot. A separate permit must be issued for each premises on a single lot.
- C. Each cannabis cultivation permit shall expire two years after the date of its issuance or upon the expiration date established by the director, whichever is earlier.
- D. The fact that an applicant possesses other types of state or local permits or licenses shall not exempt the applicant from obtaining a cannabis cultivation permit under this chapter.
- E. A permittee may cultivate cannabis during the term of the permit only. A permittee shall have no right to cultivate cannabis before or after the expiration of the permit.
- F. Each cannabis cultivation site shall comply with all requirements in the Alameda County General Plan, including Measure D (Save Agriculture and Open Space Lands), any applicable specific plans, and Title 17 of the Alameda County General Ordinance Code.
- G. The director may adopt such forms and procedures as are necessary to implement this chapter.

6.106.040 Land use approval.

Prior to commencement of cannabis cultivation 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 – vertically integrated operations.

- A. Each application for a cultivation permit by a permitted cannabis retailer in the unincorporated area of the county shall set forth or incorporate by reference the following information:
 - 1. The full name, date of birth, social security number, present address and telephone number of the applicant.
 - 2. Name and location of applicant's permitted cannabis retail operation.

3. 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. A statement that the applicant accepts and will comply with the standard conditions set forth in this chapter.
 6. The names of each person with an ownership interest of more than 10 percent in the proposed cultivation operation.
 7. Certification, under penalty of perjury, that all the information contained in the application is true and correct.
 8. Authorization for the county, its agents and employees to seek verification of the information contained in the application.
 9. 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 6.106.140 and any fee schedule adopted by the County.
- C. The director may establish a submission deadline for applications pursuant to this section.
- D. It is unlawful to make any false statement or representation or to use or submit any false or fraudulent document(s) in any application made pursuant to this chapter.

6.106.060 Application review and action – vertically integrated operations.

- A. The director shall commence review of any application upon its filing. Within thirty business days after the filing of an application, the director shall reject any application and so notify the applicant if the application has been improperly completed or if it is incomplete. The applicant may amend and refile the application within thirty days after such rejection.
- B. Upon receipt of a complete application, the director shall approve the application and issue the applicant a notice of intent to grant the permit, if each of the following conditions are met:
 1. The applicant operates a permitted cannabis retail operation;
 2. The applicant's permitted cannabis retail operation has a record of good standing with the county for at least one year. For the purposes of this section, "good standing" means that the cannabis retailer permit has not been suspended or

revoked and that there are no pending proceedings for the suspension or revocation of the cannabis retailer permit.

3. No person who is listed on the application pursuant to subsection (1) or (5) of Section 6.106.050(A) has been convicted of a felony within the past three years. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
 4. The applicant or the operator listed in the application is at least twenty-one (21) years of age.
- C. Upon receipt of a complete application, the director shall deny the application if one or more of the conditions set forth in subsection (B) above are not met.
- D. The notice of intent to grant permit issued pursuant to subsection (B) shall include notice of the operating conditions that would attach to the permit. Within ten days after notice, the applicant shall either:
1. Certify acceptance of the operating conditions and the standard conditions of the permit, and 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 the permittee to obtain (1) any required state permits or licenses for the operation of a cultivation operation, and (2) all land use entitlements required to operate a cultivation operation. No cultivation permit shall be effective unless and until these conditions of approval are satisfied.

6.106.070 Cannabis cultivation permit application procedures – cultivation only.

- A. The director will initiate a process to solicit applications for the establishment of one or more cannabis cultivation sites that need not be affiliated with a permitted cannabis retailer.
- B. Each application for the establishment of a cannabis cultivation site pursuant to this section shall be filed with the director and the director shall be responsible for administering the application solicitation and renewal application processes as set forth in this chapter.
- C. Wherever this chapter requires the county to give notice to an applicant, appellant or permittee, such notice shall be given by the director, in writing, and shall be delivered either by personal delivery or by certified U.S. mail, postage prepaid, return receipt requested.

D. No person or facility that purports to have cultivated cannabis prior to the enactment of this chapter and issuance of a permit hereunder shall be deemed to have been a legally established cultivation operation under the provisions of this chapter, and such person or facility shall not be entitled to claim a legal nonconforming status.

6.106.080 Contents of cannabis cultivation permit application – cultivation only.

A. In response to a solicitation for applications initiated by the director, each application for a cultivation permit pursuant to section 6.106.070 shall set forth or incorporate by reference the following information in a standard form adopted by the director:

1. Address of the proposed cannabis cultivation site and the name and address of the owner(s) of the lot(s) containing the premises.
2. The full name, date of birth, social security number, present address and telephone number of the applicant.
3. The address to which notice of action on the application is to be mailed.
4. All residential addresses of the applicant for the five years immediately prior to the date of the application.
5. Written proof that the applicant is twenty-one (21) years of age or older (i.e., California driver's license, California identification card or birth certificate).
6. The height and weight and the color of eyes and hair of the applicant.
7. Photographs of the applicant for identification purposes to be taken by the sheriff.
8. The names and addresses of all businesses operated by and the employment history of the applicant for the five years immediately prior to the date of the application.
9. The address of any cannabis cultivation sites or retail operation 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 cannabis cultivation site, whether an employee, volunteer or contractor. The application shall also identify those persons, including telephone numbers (i.e., emergency contact), having management and supervisory responsibilities for the proposed cannabis cultivation site. Every person listed as owner, manager, supervisor or employee must submit fingerprints and other necessary information for a background check to the Alameda County sheriff's office, and be photographed for identification purposes. In addition, any new employees, independent contractors, other persons and/or volunteers who will be regularly engaged at the proposed cannabis cultivation site must submit their information to the sheriff's office within five days prior to their employment.
11. A security plan containing a detailed description of the proposed security arrangements for ensuring the safety of persons from theft and robbery and protection of the premises from theft and burglary. The security plan shall be submitted for review by the Sheriff, and shall include a lighting plan showing existing and proposed exterior

and interior lighting levels, alarms and security surveillance cameras. Security video shall be maintained for 30 business days and shall be made available to the Sheriff upon request. The video system for security cameras must be located in a locked, tamper-proof compartment. A professionally monitored robbery alarm system shall be installed and maintained in good working condition. The security plan shall include the provision of a suitable locked safe on the premises for after-hours storage of cannabis.

12. A site plan, consisting of a sketch or diagram showing the entire lot(s) containing the premises. The site plan shall show the entire premises, including all buildings, accessory structures, storage, and parking areas. The site plan shall show the interior configuration of the greenhouse or other structure housing cultivation activities. The site plan shall include a statement of the floor area occupied by each structure at the premises. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the greenhouse or other structure housing cultivation activities to an accuracy of plus or minus twelve (12) inches.

13. A description of the external appearance of the cannabis cultivation site, including a precise depiction of any signage and access roads. All signage shall comply with the County Zoning Ordinance.

14. A description of products to be cultivated on the premises.

15. If the application proposes cultivation of cannabis for medicinal purposes, the mission statement of the cannabis cultivation site with respect to meeting the medicinal 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 cannabis cultivation site shall be designed to provide sufficient odor absorbing ventilation and exhaust systems so that any odor generated on the premises is not detected outside 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. Written certification that the applicant will comply with all county ordinances, including building, zoning and health codes, allow inspections to ensure conformance with such regulations, cooperate with County agencies' efforts to monitor the retailer's compliance with this applicable ordinances and with all conditions of permits issued pursuant to this Code, and pay any County fees assessed for monitoring permittee's compliance.

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 cannabis cultivation site will operate consistent with state and local law, including but not limited to: the minimum staffing levels for operation of the cannabis cultivation site, policies and procedures for

record keeping, specific details of the cultivation operation's track and trace program, specific details regarding product testing, and other relevant information regarding the operation of the proposed cannabis cultivation site and including a copy of the cultivation operation's labor peace agreement when required by California Business & Professions Code Section 26051.5 to enter into or abide by a labor peace agreement.

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 6.106.140.

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

6.106.090 Initial review of application – cultivation only.

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

1. The sheriff shall be responsible for verifying factual information in the application, including names, addresses and other information on the applicant operator and 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. If the operation will produce cannabis for consumption by medicinal consumers, the health care services agency shall comment upon the services to be provided and the mission statement set forth in the application.

B. Within twenty (20) business days after the filing of an application, the director shall reject any application and so notify the applicant, if the application has been improperly completed or if it is incomplete. The applicant may amend and refile the application within ten days after such rejection.

C. At the conclusion of the initial review, the director shall notify the applicant of the results of the initial review of the application.

6.106.100 - Action upon completion of initial review – cultivation only.

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

1. The proposed cultivation operation does not comply with requirements of this chapter.

2. The applicant has knowingly made a false statement of material fact or has knowingly omitted a material fact from the application.
 3. The proposed cultivation operation at the proposed location is prohibited by any state or local law or regulation.
 4. Any person who is listed on the application pursuant to subsection (A)(10) of Section 6.106.080 has been convicted of a felony within the past three (3) years. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
 5. The applicant or the operator listed in the application is less than twenty-one (21) years of age.
 6. The health care services agency has determined, for an operation that will produce cannabis for consumption by medicinal consumers, that the application for a cannabis cultivation site has failed to state a health care purpose that fulfills the purposes of 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 cannabis cultivation sites – cultivation only.

- A. The final selection phase of the solicitation process shall include selection from the eligible applications and the establishment of operating conditions for any permits issued under this chapter to the selected eligible applicants. The final selection process shall not exceed sixty (60) days in the absence of an appeal.
- B. If the number of eligible applications is the same as or less than the allowable number of cannabis cultivation sites allowed pursuant to section 6.106.030, then all responsible applications shall be submitted for establishment of operating conditions as set forth in subsection C of this section. If the number of eligible applications exceeds the maximum number of cannabis cultivation sites pursuant to 6.106.030, then a competitive evaluation process shall be conducted in which applicants are scored and ranked with the director recommending issuance of a permit to the highest ranked, eligible and responsible applicants. The director may establish a minimum required score or other mechanism to disqualify or reject applications determined to be irresponsible.
- C. The director may establish operating conditions for cannabis cultivation sites for each eligible, responsible application that has been submitted for final selection. The operating conditions shall be limited to those that are necessary to carry out the purposes of this chapter and to mitigate specific and foreseeable adverse impacts on properties in the vicinity.
- D. At the conclusion of the final selection process outlined above, the director shall give notice to the cultivation permit applicant of the operating conditions that would attach to the permit. Within ten days after notice, the applicant shall either:

1. Certify acceptance of the operating conditions and the standard conditions of the permit and pay all required fees, and the permit shall thereupon issue immediately.
2. If the applicant refuses or fails to certify agreement with any operating condition or to pay all required fees, the application shall be denied. The applicant may appeal any condition within ten days after notice of the conditions. Upon either the failure to file a timely appeal or the rejection of the appeal, the application shall be deemed denied.

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

F. In the event that an additional permit becomes available subsequent to the scoring and ranking of applications pursuant to subsections (A) and (B) above, the director may issue a permit to the next highest ranked applicant by following the procedures in subsections (C) through (E), above.

6.106.120 Appeal.

- A. An applicant aggrieved by the decisions described in Section 6.106.060, 6.106.110 or 6.106.170 may appeal that decision to the board of supervisors within ten (10) days following the date of issuance of that decision by filing with the clerk of the board of supervisors or the director a notice of appeal specifying the grounds for such appeal. Filing such notice shall stay all proceedings in furtherance of the decision appealed from, including the proceedings related to the applications or permits of other applicants potentially affected by the board of supervisors' decision on the appeal. The director is designated as an agent of the clerk of the board for purposes of receiving a notice of appeal.
- B. The board of supervisors shall give written notice of the time and place for hearing any appeal filed pursuant this section. Such notice shall be given to the applicant and to the community development agency, and to any other person requesting such notice and depositing with the clerk of the board a self-addressed, stamped envelope to be used for that purpose.
- C. The board of supervisors may hear additional evidence and may sustain, modify, or overrule any order brought before it on appeal and may make such findings and decisions as are not inconsistent with state law and county ordinances. The board of supervisors may also remand the decision to the director for reconsideration of his or her decision in light of new information not previously presented to the director. If no motion relative to the order appealed attains a majority vote of the board of supervisors within thirty (30) days from the date of the hearing by said board thereon, said order of the director shall stand sustained and be final.

- D. For any appeals concerning a decision described in Section 6.106.110, the board of supervisors' review shall be limited to determining whether CDA materially erred in conducting the selection process with respect to following the RFP, County ordinances or state law. The board of supervisors shall not re-judge the proposals, alter the scoring or ranking of the proposals, or consider new evidence concerning the merits of the proposed cultivation operation.
- E. Any appeal that is not timely filed or otherwise fails to comply with Paragraph A of this Section will be deemed ineffective by the Director and the administrative determination that is being appealed will become final.

6.106.130 Term of cannabis cultivation permits and renewals.

- A. Each cannabis cultivation permit shall expire two years after the date of its issuance or upon the expiration date established by the director, whichever is earlier.
- B. Any permit may be renewed by the director for successive periods of up to two years each upon the submission of a renewal application by the permittee. At the time of consideration of a renewal application, the county shall consider compliance with conditions in the prior term.
- C. Any application for renewal must be filed at least forty-five (45) days before expiration of the permit.
- D. Any application for renewal may be rejected if:
 - 1. The application is filed less than forty-five (45) days before its expiration.
 - 2. The permit is suspended or revoked at the time of the application; provided, however, that an application for renewal may be filed within ten days after the granting of a permittee's appeal of the suspension or revocation of a permit.
 - 3. The cultivation operation authorized by the permit has not been in regular operation in the four months prior to the renewal application.
 - 4. The cultivation operation fails to conform to the criteria set forth in Section 6.160.100(A).

6.106.140 Fees.

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

6.106.150 Prohibited operations.

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

6.106.160 Violations, criminal and civil liability and remedies

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

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

The remedies provided by this Chapter are cumulative and in addition to any other remedies available at law or in equity.

6.106.170 - Suspension and revocation.

- A. The director may revoke or suspend a permit when it shall appear that the permittee has committed any of the following actions:
 - 1. Violates the operating or standard conditions of the permit or the requirements of state or local laws.
 - 2. Fails to take reasonable measures to control disturbances, loitering or such other problems on the premises.
- B. The director shall provide the permittee with written notice of the suspension or revocation that shall describe the grounds for revoking or suspending the permit.
- C. The permittee subject to the revocation or suspension may appeal the determination of the director to the board of supervisors within ten days after the date of the notice of the decision of the director. The board of supervisors shall act upon the appeal in accordance with Section 6.108.150.

6.106.180 Limitations.

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

6.106.190 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.

6.106.200 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.

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 _____, 2018, by the following called vote:

AYES:

NOES:

EXCUSED:

WILMA CHAN
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: _____
Heather Littlejohn

Deputy County Counsel

Exhibit B

**An Ordinance Amending Chapter 6.108 of the Alameda County General Ordinance Code to
Regulate Cannabis Retailers**

- Exhibit A (map of West County)
- Exhibit B (map of East County)

ORDINANCE NO. 2018-_____

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

SECTION 1

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

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

10. Pursuant to California Business and Professions Code section 26200, nothing in MAUCRSA shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local permit or licensing requirements; and
11. This Ordinance is enacted, consistent with the Compassionate Use Act of 1996, the Medical Marijuana Program Act, and MAUCRSA to protect the public health, safety, and welfare of residents of the County of Alameda in relation to the retail sale and delivery of cannabis; and
12. The County has a compelling interest in protecting the public health, safety, and welfare of its residents, visitors and businesses, in preserving the peace and quiet of the neighborhoods within the unincorporated areas of the County by regulating the sale and delivery of cannabis and the packaging, labeling and sale of edible cannabis products; and
13. In adopting the East County Area Plan (ECAP) in 1994 and Measure D in 2000, the Board of Supervisors and the voters established an urban growth boundary and associated goals and policies to protect agricultural and open space uses while allowing some limited development, including "agriculture enhancing commercial uses" that can demonstrate an economic connection to agricultural use and production and "visitor-serving commercial uses" that promote agriculture and are subordinate and directly related to the area's agricultural production; and
14. The Board of Supervisors has determined that, with appropriate conditions, cultivation of cannabis may be an appropriate conditionally permitted use in the agricultural districts and outside of the urban growth boundary established by Measure D; and
15. The Board of Supervisors has determined that, with appropriate conditions, a cannabis retail operation may be an appropriate conditionally permitted use in the agricultural district and outside of the urban growth boundary established by Measure D as an "agriculture enhancing commercial use" and a "visitor-serving commercial use" that is economically related to and supports the area's cannabis cultivation; and
16. On September 12, 2017, the County adopted an amendment to Chapter 6.108 of the Ordinance Code that allowed up to two medical cannabis retailers (or, "dispensaries") in the East County and up to three medical cannabis retailers in the West County; and
17. Allowing approved medical cannabis retailers to expand their operations to include the sale and delivery of both medicinal and adult-use cannabis and cannabis products will allow the County to more fully implement recent state law and regulation concerning commercial cannabis businesses; and
18. Allowing approved medical cannabis retailers to sell adult-use cannabis will streamline the County's regulation of cannabis businesses; and
19. Allowing a single retailer to sell cannabis and cannabis products for both medicinal and adult-use will have limited if any impact on other County residents and businesses because the retail operation will not be materially impacted by the designation of the customer as either a medicinal or adult-use customer; and

20. All commercial retail operations will be required to obtain requisite state licenses in order to conduct business, including obtaining an adult-use (A-type) retailer license and/or a medicinal (M-type) retailer license as needed for the type of retail operation; and
21. All commercial retail operations will be required to comply with state law and state regulations, including but not limited to the requirement to record the movement of cannabis into and out of the retail site via the state's track and trace system; and
22. The Board of Supervisors acknowledges that regulation of cannabis activities is an evolving field at the state level, as evidenced by the recent passage of Proposition 64, adoption of MAUCRSA, and release of emergency regulations by various state licensing agencies. As a result, the field of local regulation is also expected to continue to evolve over the next several years including possible further revisions to the County ordinances, policies and performance standards; and
23. 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
24. Nothing in this Ordinance shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) exempt retailers or delivery operations from compliance with zoning and land use regulations, or, (3) allow any activity relating to the cultivation, distribution, or consumption of cannabis that is illegal under state or federal law.

SECTION 2

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

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

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

Chapter 6.108 – Cannabis Retailers, Delivery Operations and Edibles

6.108.010 - Purpose and intent.

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

6.108.020 - Definitions.

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

- A. "Applicant" means a person who seeks a permit under this chapter by filing an application as provided for in this chapter.
- B. "Application" means that form provided by the director and submitted by an applicant in accordance with this chapter for the purpose of seeking a permit.
- C. "Bureau" means the Bureau of Cannabis Control within the California Department of Consumer Affairs.
- D. "Brick and mortar" retailer means a cannabis retailer with a permanent, physical, store-front retail location allowing direct physical access to customers.
- E. "Cannabis" shall have the same definition as in Business and Professions Code section 26001(f), which defines "cannabis" as all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For purposes of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the California Health and Safety Code.
- F. "Cannabis concentrate" or "Concentrate" shall have the same definition as in Business and Professions Code section 26001(h), which defines "cannabis concentrate" to mean cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this chapter.
- G. "Cannabis cultivation," "Cultivate" or "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. Cannabis cultivation includes the operations of a cannabis nursery. Cannabis cultivation does not mean the temporary maintenance and selling of clones from a permitted retailer, where such activities are incidental and subordinate to the primary retailer operation.
- H. "Cannabis delivery" or "Delivery" means the commercial transfer of cannabis or cannabis products from a retailer to a retail customer. "Delivery" also includes the use by a retailer of a technology platform that enables retail customers to arrange for or facilitate retail sale and delivery of cannabis or cannabis products.
- I. "Cannabis delivery operator" means a person holding a permit under this chapter to engage in the delivery of cannabis or cannabis products.
- J. "Cannabis Operator" means the natural person or designated officer responsible for the operation of any permitted cannabis operation.
- K. "Cannabis product" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.
- L. "Cannabis retailer," "Retailer" or "Retail site" means a premises where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are

offered, either individually or in any combination, for retail sale, including cannabis for medicinal use and/or adult-use under the authority of the Medicinal and Adult-Use Cannabis Regulation and Safety Act, California Compassionate Use Act, and/or the Medical Marijuana Program, and/or, and including an establishment that delivers, cannabis and cannabis products.

- M. "Clone" means the cutting of a cannabis plant that has been re-planted and is non-flowering.
- N. "Community Development Agency" means the community development agency of the County of Alameda.
- O. "County" means the County of Alameda.
- P. "Director" means the director of the Community Development Agency or his designee.
- Q. "Dispensing" means any activity involving the retail sale of cannabis or cannabis products from a retailer.
- R. "Distribution" means the procurement, sale, and transport of cannabis and cannabis products between entities licensed pursuant to the provisions of Division 10 of the California Business and Professions Code.
- S. "Edible cannabis product", "Edible" or "Edibles" shall have the same definition as in Business and Professions Code section 26001(t), which defines "edible cannabis product" as a cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the California Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code.
- T. "Identification card" has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended.
- U. "Labeling" means any label or other written, printed, or graphic matter upon a cannabis product, or upon its container or wrapper, or that accompanies any cannabis product.
- V. "Lot" means a separate parcel of land shown and identified as such on the records of the county recorder or on the final map of an approved and recorded subdivision, excluding therefrom for the purposes of this title any portion thereof which lies within a street, within a lane, or within a fenced-off flood control easement.
- W. "Nursery" means a cannabis operation that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.
- X. "Permit" means a permit issued by the county to a cannabis retailer or delivery operator under this chapter.
- Y. "Permittee" means a person who holds an effective and current permit under this chapter.
- Z. "Person" means any human being or an incorporated or unincorporated business entity or association established under the laws of the state.

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

6.108.030 – General cannabis retailer requirements and terms.

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

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

6.108.035 – General cannabis delivery permit requirements and terms.

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

B. The owner, managing partner, officer of a corporation or such other person who shall be primarily responsible for the operation of a proposed cannabis delivery operation shall apply for a permit under this chapter. If such a permit is granted, the owner, managing partner, corporate officer, and any person with primary responsibility for the operation of the retailer shall ensure the operation is maintained in conformity with the terms of this chapter and of the permit.

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

D. A cannabis delivery permit shall be issued only to a "brick and mortar" retailer holding a valid license or permit for the retail sale of cannabis issued by the State of California and by the local jurisdiction in which the retailer is located. Mobile retailers that do not have a permanent physical "brick and mortar" retail location 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 retailer 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 retailer permit.

6.108.040 - Term of cannabis permits and renewals.

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

6.108.050 – Cannabis retailer permit application and renewal procedures.

- A. When one or more cannabis retailer permits authorized by Section 6.108.030 is available for award, the director will initiate a process to solicit applications for the establishment of a retailer within an area where a retailer could be established based upon the provisions of Section 6.108.030.
- B. Each application for the establishment of a retailer or renewal of an existing cannabis retailer permit shall be filed with the director and the director shall be responsible for administering the application solicitation and renewal application processes as set forth in this chapter.
- C. The director shall adopt such forms 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, 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 retailer on the date of the mailing of notice.
- D. Any application for renewal shall be filed at least forty-five (45) days before expiration of the permit.

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

6.108.060 - Contents of cannabis retailer permit application.

- A. In response to a solicitation for applications initiated by the director, each application for a cannabis retailer permit shall set forth or incorporate by reference the following information and such other relevant information determined by the director to be reasonably required, all in a standard form adopted by the director:
1. Address of the proposed cannabis retailer and the name and address of the owner of the lot(s) containing the premises.
 2. The full name, date of birth, social security number, present address and telephone number of the applicant.
 3. The address to which notice of action on the application is to be mailed.
 4. All residential addresses of the applicant for the five years immediately prior to the date of the application.
 5. Written proof that the applicant is twenty-one (21) years of age or older (i.e., California driver's license, California identification card or birth certificate).
 6. The height and weight and the color of eyes and hair of the applicant.
 7. Photographs of the applicant for identification purposes to be taken by the sheriff.
 8. The names and addresses of all businesses operated by and the employment history of the applicant for the five years immediately prior to the date of the application.
 9. The address of any retailers 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 cannabis retailer, 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 retailer. Every person listed as owner, manager, supervisor or employee must submit fingerprints and other necessary information for a background check to the Alameda County Sheriff's Office, and be photographed for identification purposes. In addition, any new employees, independent contractors, other persons and/or volunteers regularly engaged in the proposed cannabis retailer must submit their information to the sheriff's office within five days prior to their employment pursuant to Section 6.108.120(A)(11).

11. A security plan containing a detailed description of the proposed security arrangements for ensuring the safety of persons from theft and robbery and protection of the premises from theft and burglary. The security plan shall be submitted for review by the Sheriff, and shall include a lighting plan showing existing and proposed exterior and interior lighting levels, alarms and security surveillance cameras. Security video shall be maintained for 30 business days and shall be made available to the Sheriff upon request. The video system for security cameras must be located in a locked, tamper-proof compartment. A professionally monitored robbery alarm system shall be installed and maintained in good working condition. The security plan shall include the provision of a suitable locked safe on the premises for after-hours storage of cannabis.
12. A site plan and floor plan, consisting of a sketch or diagram showing the interior and exterior configuration of the premises of the cannabis retailer. The site plan shall show the entire premises, including all buildings, accessory structures, storage, and parking areas, and a statement of the total floor area occupied by the retailer. 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 retailer must have a lobby waiting area at the entrance to receive clients, and a separate and secure designated area for dispensing cannabis to qualified patients, persons with an identification card or designated caregivers. The primary entrance shall be located and maintained clear of barriers, landscaping or similar obstructions so that it is clearly visible from public streets, sidewalks, or site driveways.
13. A description of external appearance of the retailer, including a precise depiction of any signage, which shall not obstruct the entrance or windows of the retailer. All signage shall comply with the County Zoning Ordinance.
14. A description of products to be sold by the retailer.
15. If the application proposes sale of cannabis for medicinal purposes, the mission statement of the retailer with respect to meeting the medicinal needs of patients in its area, as delineated by subsection D of Section 6.108.030.
16. A description of the methods by which the applicant will mitigate any potentially adverse impacts, such as loitering, odors or noise, on surrounding property owners. The retailer shall be designed to provide sufficient odor absorbing ventilation and exhaust systems to that any odor generated inside the retailer 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 retailer if it occupies only a portion of the building.
17. Authorization for the county, its agents and employees to seek verification of the information contained in the application.
18. Written certification that the applicant has reviewed and understands and accepts the standard conditions that are set forth in Section 6.108.120. Written certification that the applicant will comply with all county ordinances, including building, zoning and health codes, allow inspections to ensure conformance with such regulations, cooperate with County agencies' efforts to monitor the retailer's compliance with this applicable ordinances and with all conditions of permits issued pursuant to this Code, and pay any County fees assessed for monitoring permittee's compliance.
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 retailer will operate consistent with State and local law, including but not limited to: the minimum staffing levels for operation of the retailer, policies and procedures for record keeping, specific details of the retailer's track and trace program, specific details of the retailer's product testing, specific details of the retailer's proposed odor absorbing ventilation and exhaust systems, and other relevant information regarding the operation of the proposed retailer and including a copy of the retailer's labor peace agreement when the retailer is required by California Business & Professions Code Section 26051.5 to enter into or abide by a labor peace agreement.
- B. The filing of an application shall be deemed complete upon the submission of an application in conformance with this section and payment of the application fees required by Section 6.108.080.
 - C. It is unlawful to make any false statement or representation or to use or submit and false or fraudulent document in any application made pursuant to this chapter.

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

- A. The owner, managing partner, officer of a corporation of a licensed or permitted cannabis retailer or such other person who shall be authorized by the licensed or permitted cannabis retailer may apply for a delivery permit or for renewal of a delivery permit under this chapter. If such a permit is granted, the owner, managing partner, corporate officer, and any person with primary responsibility for the operation of the retailer shall ensure the delivery operations are maintained in conformity with the terms of this chapter and of the permit.
- B. Each application for a delivery permit or renewal of a cannabis delivery permit shall set forth or incorporate by reference the information set forth below and such other information as the director may require in a standard form adopted by the director.
 1. Address of the brick and mortar cannabis retailer from which deliveries are proposed to be made and the name and address of the owner(s) of the lot(s) containing the retail site.
 2. The full name, date of birth, social security number, present address and telephone number of the applicant.
 3. The address to which notice of action on the application is to be mailed.
 4. All residential addresses of the applicant for the five years immediately prior to the date of the application.
 5. Written proof that the applicant is twenty-one (21) years of age or older (i.e., California driver's license, California identification card or birth certificate).
 6. The height and weight and the color of eyes and hair of the applicant.
 7. Photographs of the applicant for identification purposes to be taken by the sheriff.

8. The names and addresses of all businesses operated by and the employment history of the applicant for the five years immediately prior to the date of the application.
 9. The name and address of any retail or delivery operations 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 cannabis delivery operation, whether an employee, volunteer or contractor. The application shall also identify those persons, including telephone numbers (i.e., emergency contact), having management and supervisory responsibilities for the proposed retailer. Every person listed as owner, manager, supervisor or employee must submit fingerprints and other necessary information for a background check to the Alameda County Sheriff's Office, and be photographed for identification purposes. In addition, any new employees, independent contractors, other persons and/or volunteers regularly engaged in the proposed cannabis retailer must submit their information to the sheriff's office within five days prior to their employment pursuant to Section 6.108.120(A)(11).
 11. A security plan containing a detailed description of the proposed security arrangements for ensuring the safety of persons from theft and robbery and protection of the vehicle from theft and burglary. The security plan shall be submitted for review by the Sheriff.
 12. A description of products to be sold by delivery.
 13. If the application proposes delivery of cannabis for medicinal purposes, the mission statement of the retailer with respect to meeting the medicinal needs of patients.
 16. A description of the methods by which the applicant will mitigate any potentially adverse impacts, such as safety, odors or noise, on surrounding property owners.
 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 6.108.125. Written certification that the applicant will comply with all county ordinances, including building, zoning and health codes, allow inspections to ensure conformance with such regulations, cooperate with County agencies' efforts to monitor the retailer's compliance with this applicable ordinances and with all conditions of permits issued pursuant to this Code, and pay any County fees assessed for monitoring permittee's compliance.
 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 retailer will operate consistent with State and local law, including but not limited to: the minimum staffing levels for operation of the delivery operation, policies and procedures for record keeping, specific details of the retailer's track and trace program.
- C. Any application for renewal shall be filed at least forty-five (45) days before expiration of the permit.
- D. Any application for renewal may be rejected if:

1. The application is filed less than forty-five (45) days before its expiration.
 2. The 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 retailer authorized by the retailer permit has not been in regular operation in the four months prior to the renewal application.
 4. The applicant fails to conform to the criteria set forth in Section 6.108.125.
- E. The filing of an application shall be deemed complete upon the submission of an application in conformance with this section and payment of the application fees required by Section 6.108.080.
- F. It is unlawful to make any false statement or representation or to use or submit and false or fraudulent document in any application made pursuant to this chapter.

6.108.080 - Fees.

- A. Every application or renewal of a retailer 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 retailer 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 retailers and delivery operations.

6.108.090 - Initial review of application.

- A. The director shall commence review of any application immediately upon its filing. For retailer permit applications, the director shall complete such initial review within the time period established in the solicitation process for retailer permits, but in no event shall the initial review exceed one hundred and twenty (120) days. For delivery permit applications, delivery permit renewal applications, and retailer renewal applications, the director shall complete such initial review within forty-five (45) days. In conducting this review, the following county agencies shall comment on specific portions of the application:
 1. The sheriff shall be responsible for verifying factual information in the application, including names, addresses and other information on the applicant operator and its employees of the proposed retailer or delivery operation.
 2. The sheriff shall comment upon the adequacy of security measures that are described in the application, and, for retailer applications, the security plan, the floor plan, and other relevant aspects of the application.
 3. For retail applications, the community development agency shall comment upon the proposed location's compliance with the requirements of subsections D and E of Section 6.108.030, the general responsiveness to the solicitation process in Section 6.108.050, and conditions that are needed to mitigate adverse impacts on surrounding uses.
 4. If the proposed operation will sell cannabis for consumption by medicinal consumers, the health care services agency shall comment upon the services to be provided and the mission statement set forth in the application.

5. If the proposed operation will include the sale of edibles, the department of environmental health shall comment upon the application's compliance with the requirements of Section 6.108.190.
- B. Within twenty (20) business days after the filing of an application, the director shall reject any application and so notify the applicant, if the application has been improperly completed or if it is incomplete. The applicant may amend and refile the application within ten days after such rejection.
- C. At the conclusion of the initial review, the director shall notify the applicant of the results of the initial review of the application.

6.108.100 - Action upon completion of initial review.

- A. Upon completion of the initial review, the director shall reject any permit application that meets any of the following criteria:
 1. The proposed retailer 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 retailer at the proposed location is prohibited by any state or local law or regulation.
 4. Any person who is listed on the application pursuant to subsection (A)(10) of Section 6.108.060 or pursuant to Section 6.108.070 has been convicted of a felony within the past three (3) years. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
 5. The applicant or the operator listed in the application is less than twenty-one (21) years of age.
 6. The health care services agency has determined, for an operation that will sell cannabis for consumption by medicinal consumers, that the application has failed to state a health care purpose that fulfills the purposes of Section 11362.5 *et seq.* of the California Health and Safety Code.
- B. Any retailer application that is not rejected upon completion of the initial review shall be deemed an eligible application and submitted to the final selection phase of the solicitation process described in Section 6.108.110.
- C. Any delivery application that is not rejected upon completion of the initial review shall be deemed an eligible application and submitted to the final phase of the permit process described in Section 6.108.115.

6.108.110 - Final selection of cannabis retailers.

- A. The final selection phase of the solicitation process shall be comprised of selection of which eligible applications shall be submitted for final selection and the establishment of operating conditions of any permits issued under this chapter. The final selection process shall not exceed one hundred and twenty (120) days in the absence of an appeal.
- B. The final selection process for retailers shall commence with the separation of all eligible applications into the areas that are delineated in subsection D of Section 6.108.030. If an area has a number of eligible applications that is the same as or less than the allowable

number of cannabis retailers 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 retailers for such area, the eligible applications to be submitted for final selection shall be designated by a competitive evaluation process in which applicants are scored and ranked with the director recommending issuance of a permit to the highest ranked, eligible and responsible applicants in each geographic area where retailer permits are available, provided they meet the spacing requirements set forth in Section 6.108.030(D) and (E). The director may establish a minimum required score or other mechanism to disqualify or reject applications determined to be irresponsible.

- C. The director may establish operating conditions, in addition to the standard conditions contained in Section 6.108.120 for each eligible, responsible application that has been submitted for final review. The operating conditions shall be limited to those that are necessary to carry out the purposes of this chapter and to mitigate specific and foreseeable adverse impacts on properties in the vicinity.
- D. At the conclusion of the final selection, the director shall give notice to the retailer permit applicant of the operating conditions that would attach to the permit. Within ten days after notice, the applicant shall either:
 - 1. Certify acceptance of the operating conditions and the standard conditions of the permit and pay all required fees and the permit shall thereupon issue immediately.
 - 2. If the applicant refuses or fails to certify agreement with any operating condition or standard condition or to pay required fees, the application shall be denied. The applicant may appeal any condition within ten days after notice of the conditions. Upon either the failure to file a timely appeal or the rejection of the appeal, the application shall be deemed denied.
- E. The operating conditions established by the director shall include the requirement for each selected applicant to obtain (1) any required state permits or licenses for the retail operation, and (2) all land use entitlements required to operate a retail operation. No retailer permit shall be effective until these conditions of approval are satisfied.
- F. In the event that an additional permit becomes available subsequent to the scoring and ranking of applications pursuant to subsections (A) and (B) above, the director may issue a permit to the next highest ranked applicant by following the procedures in subsections (C) through (E), above, provided the applicant meets the spacing requirements set forth in Section 6.108.030(D) and (E).

6.108.115 - Final permit phase for cannabis delivery operators.

- A. The director may establish operating conditions, in addition to the standard conditions contained in Section 6.108.125 for each eligible application that has been submitted for final permit approval. The director shall give notice to eligible delivery permit applicants of the operating conditions that would attach to the permit. Within ten days after notice, the applicant shall either:

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

6.108.120 - Standard conditions for cannabis retailers.

- A. Throughout the term of the cannabis retailer permit, each permittee shall not violate this chapter, shall comply with the following standard conditions and shall not allow or tolerate violations of these standard conditions to occur at the retailer:
1. It shall be a violation of this chapter for a retailer to deliver, distribute, provide or allow to be provided cannabis to any person except those persons who are 21 years of age or older or who are primary caregivers, qualified patients or persons with an identification card, as defined by California Health and Safety Code section 11362.7. All retail sales that do not comply with the provisions of Sections 26000, *et seq.*, of the Business and Professions Code applicable to retail operations, associated state regulations and the terms of the permit and this chapter is prohibited. It shall be the responsibility of the permittee to ensure that a good faith effort be made to verify the validity of any proof of age, identification card and written recommendation provided to the retailer.
 2. Each retailer shall maintain records of persons who have received cannabis from the retailer. These records shall include a retailer-assigned customer number and shall not identify such persons by full name.
 3. No retailer shall be open for business between the hours of 12:00 a.m. and 9:00 a.m. or between the hours of 9:00 p.m. and 11:59 p.m. on any day. No activities that are undertaken in the operation of the retailer shall be conducted outside the interior premises of the retailer.
 4. Unless and until a local permit and state license allowing nursery or cultivation uses (e.g., Type 12 – Microbusiness) has been issued for the retailer location, cannabis may not be grown or cultivated on the premises. However, the retailer may sell clones and may provide such water, heat, and light as may be necessary to maintain the clones prior to sale, provided that such activities are incidental and subordinate to the primary retailer operation.

A retailer shall actively regulate and monitor its purchasing limits, such that no qualified patient, person with an identification card or primary caregiver is permitted to purchase in excess of eight ounces of cannabis in any calendar month.
 5. No cannabis shall be smoked, ingested or otherwise consumed on the premises of a retailer.
 6. A cannabis retailer shall ensure that its products are in tamper-evident packages and labeled as required by California Business and Professions Code Section 26120, regulations established by the Bureau, and requirements of the California Department of

Food and Agriculture and by stating the name of the retailer and the weight of cannabis. Any edible cannabis product must be contained in a package that is labeled to indicate the ingredients, including the amount of cannabis contained in the package, identify the product, state who is responsible for the product, and such other information as may be required by state or local law.

7. Cannabis may be provided by a retailer in an edible form, provided that the edibles meet all applicable state and county requirements, including but not limited to the provisions in Section 6.108.190.
8. A retailer that sells adult-use cannabis or cannabis products shall not allow any person under 21 years of age on its premises, employ or retain persons under 21 years of age, or sell cannabis or cannabis products unless the person to whom the cannabis or cannabis product is to be sold first presents documentation which reasonably appears to be a valid government-issued identification card showing that the person is 21 years of age or older.

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

9. The entrance to a retailer shall be posted with a notice that states the restrictions on the presence of persons under the age of 21 and/or 18, as applicable, and that smoking, ingesting or consuming cannabis on the premises is prohibited. In addition, each retailer shall conspicuously display the permit.
10. No retailer may hold a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, nor may it include a business that sells alcoholic beverages on the same premises. No alcohol may be stored, sold, dispensed or used on the same premises.
11. Each permittee shall maintain a current registry of persons, including, but not limited to, employees, contractors and volunteers, who are regularly engaged in the operation of the retailer. The registry shall be provided to the director at any time upon request. The registry shall include the name, current residential address, telephone number, date of birth and the height, weight and color of eyes and hair of each such person. In addition, any new employees, independent contractors, other persons and/or volunteers to be regularly engaged in the operation of the proposed cannabis retailer must submit their information to the sheriff's office within five days prior to their employment or engagement.
12. No person who has been convicted of a felony within the past three years may be actively engaged in the operation of any retailer. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
13. A retailer shall provide adequate security on the premises, including lighting and alarms, to ensure the safety of persons and to protect the premises from theft.
14. The permittee shall provide the director with the name, telephone number and facsimile number of a community relations contact to whom one can provide notice of problems associated with the retailer. The permittee shall make a good faith effort to resolve problems without the need for intervention by the county.

15. A retailer shall provide litter removal services twice each day of operation on and in front of the premises and, if necessary, on public sidewalks within one hundred (100) feet of the premises.
 16. A retailer shall comply with all county ordinances, including building, zoning and health codes, and shall allow inspections to ensure conformance with such regulations. A retailer shall cooperate with County agencies' efforts to monitor the retailer's compliance with this applicable ordinances and with all conditions of permits issued pursuant to this Code. The County may assess fees for monitoring permittee's compliance.
 17. A retailer shall not be delinquent in the payment of fees required by this chapter.
 18. All activities of the retailer must take place within the interior of the building
 19. A retailer must have appropriate restroom facilities that will accommodate both male and female customers.
 20. A retailer shall ensure that a representative sample of its cannabis and cannabis products have been submitted for analytical testing at a licensed testing laboratory, as defined in Business and Professions Code section 26001(as), before the cannabis and cannabis products are delivered to the retailer.
 21. A retailer shall package all cannabis flowers sold on its premises in child resistant packaging.
 22. A retailer shall implement a track and trace program with a unique identifier for every product, both for inventory stored in a safe and inventory packaged for sale. A retailer shall implement a track and trace program that shall be in compliance with Section 26067, 26068 and 26069 of the California Business and Professions Code and all applicable regulations.
 23. A retailer 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 retailer shall (a) enter into any agreement with or employ a physician for the purpose of evaluating patients for the issuance of a medicinal cannabis recommendation or identification card; (b) allow a physician to locate on the retailer premises at any time for the purpose of issuing a medicinal cannabis recommendation or identification card; (c) give or offer to give any form of remuneration to a physician if the physician or his or her immediate family have a financial interest (as that term is defined in California Business and Professions Code section 650.01) in the retailer; and (d) not distribute any form of advertising for physician recommendations for medicinal cannabis in California unless the advertisement bears the notice to consumers contained in California Business and Professions Code section 2525.5.
 25. A retailer 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 retailer and without notice, the director, acting in conjunction with other appropriate county officials, may enter the premises for the purpose of observing compliance of the retailer with the conditions of its permit.
- E. Release of the county from liability. The owner and permittee of each retailer 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 retailer 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 retailer 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 retailer or by the delivery operator, and for any claims brought by any of their clients for problems, injuries, damages or liabilities of any kind that may arise out of the sale, delivery and/or on- or off-site use of cannabis provided at the retailer or delivered by the delivery operator in a form satisfactory to the director.

6.108.125 - Standard conditions for cannabis delivery operations.

- A. Throughout the term of the cannabis delivery permit, each permit holder shall not violate this chapter and shall comply with the following standard conditions:
 1. It is unlawful to deliver, distribute, provide or allow to be provided cannabis to any person except those persons who are 21 years of age or older or who are primary caregivers, qualified patients or persons with an identification card, as defined by California Health and Safety Code section 11362.7. All deliveries that do not comply with provisions of Sections 26000, et seq., of the Business and Professions Code applicable to operations, associated state regulations, and the terms of the permit and this chapter are prohibited. It shall be the responsibility of the permit holder to ensure that a good faith effort is made to verify the validity of any proof of age, identification card or the written recommendation from a licensed physician provided to the delivery operator.
 2. All employees of a delivery operator delivering cannabis or cannabis products shall carry a copy of the retailer's current retailer license or permit and the retailer'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 copy of the delivery request and shall make it available upon request of the director or law enforcement officers. The delivery request documentation shall comply with state and federal law regarding the protection of confidential medical information, if any.

4. The qualified patient, person with an identification card or primary caregiver requesting the delivery shall maintain a copy of the delivery request and shall make it available, upon request, to the director or law enforcement officers.
5. No deliveries shall be made between the hours of 12:00 a.m. and 9:00 a.m. or between the hours of 9:00 p.m. and 11:59 p.m. on any day.
6. It is unlawful to employ a person who is less than 21 years of age to engage in the delivery of cannabis.
7. It shall be unlawful for any delivery operation to provide medical cannabis to any person under the age of eighteen (18) unless that person is a qualified patient or a primary caregiver with a valid identification card in accordance with California Health and Safety Code section 11362.7 or has a verifiable written recommendation from a licensed physician for medical cannabis.
8. Each permittee shall maintain a current registry of persons, including, but not limited to, employees, contractors and volunteers, who are regularly engaged in delivery operations. The registry shall be provided to the director at any time upon request. The registry shall include the name, current residential address, telephone number, date of birth and the height, weight and color of eyes and hair of each such person. Every person listed as owner, manager, supervisor or employee must submit fingerprints and other necessary information for a background check to the Alameda County sheriff's office, and be photographed for identification purposes. In addition, any new employees, independent contractors, other persons and/or volunteers to be regularly engaged in the delivery operation must submit their information to the sheriff's office within five days prior to their employment.
9. It is unlawful to employ a person who has been convicted of a felony within the past three years to engage in the delivery of cannabis. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
10. Delivery vehicles shall not include signage or markings that identify the vehicle as a cannabis delivery vehicle.
11. Delivery operators shall provide adequate security for their delivery personnel and vehicles, to ensure the safety of persons and to protect the vehicle operators from theft.
12. The delivery permit holder will satisfy the release of liability and county indemnification requirements in subdivision E and F of Section 6.108.120.
13. A retailer shall cooperate with County agencies' efforts to monitor the retailer's compliance with this applicable ordinances and with all conditions of permits issued pursuant to this Code. The County may assess fees for monitoring permittee's compliance.

6.108.130 - Appeal from administrative determinations.

- A An applicant aggrieved by the decisions described in Sections 6.108.110, 6.108.115, or 6.108.160 may appeal that decision to the board of supervisors within ten (10) days following the date of issuance of that decision by filing with the clerk of the board of supervisors or the director a notice of appeal specifying the grounds for such appeal. Filing such notice shall stay all proceedings in furtherance of the decision appealed from, including the proceedings related to the applications or permits of other applicants potentially affected by the board of supervisors' decision on the appeal. The director is

designated as an agent of the clerk of the board for purposes of receiving a notice of appeal.

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

6.108.160 - Suspension and revocation.

- A. The director may revoke or suspend a permit when it shall appear that the permittee has committed any of the following actions:
 - 1. Violates the operating or standard conditions of the permit or the requirements of state or local laws.
 - 2. Fails to take reasonable measures to control disturbances, loitering or such other problems on the retail premises or in the vicinity of its delivery activities.
- B. The director shall provide the permittee with written notice of the suspension or revocation that shall describe the grounds for revoking or suspending the permit.
- C. The permittee subject to the revocation or suspension may appeal the determination of the director to the board of supervisors within ten days after the date of the notice of the decision of the director. The board of supervisors shall act upon the appeal in accordance with Section 6.108.150.

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 retailer permit by submitting an application that complies with Section 6.108.060. The director shall verify information in the application and

shall approve the transfer unless it fails to comply with the 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 6.108.070. 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.

6.108.180 - Prohibited operations.

The permittee shall not cultivate or manufacture cannabis on the premises. A retailer shall not deliver cannabis off the site of the retailer premises unless the retailer holds a valid delivery permit.

6.108.190 – Sale, Distribution and Delivery of Edibles.

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

A. Preparation of Edibles.

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

B. Packaging and Labeling of Edibles. Edibles shall be labeled and packaged in accordance with Section 26120 of the California Business and Professions Code and all applicable regulations and as provided in this subdivision.

1. All edibles shall be individually wrapped at the original point of preparation. Labeling shall be distinctly and clearly legible on the front of the package and must include: (a) a warning if nuts or other known allergens are used in the manufacturing of the edibles; (b) a warning that the item 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 manufacture date and source; (d) a statement that the contents are not a food product; and (e) information indicating any caloric impact on the consumer. The package label must have a warning clearly legible emphasizing that the product is to be kept away from children.
2. Labels of edibles that are not tested for contaminants (baked goods) shall include a statement that the cannabis used in the product was tested for contaminants.
3. Packaging of edibles shall be opaque (non see-through), and may not make it appear as if the edible is a food product. Packaging that makes the product attractive to children or imitates candy is prohibited.
4. Packaging of edibles shall be tamper proof and child resistant.

C. Edible Product Log. Producers of edibles that are tested for contaminants shall maintain a written or computerized log documenting:

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

6.108.200 - Misdemeanor violations.

Any person violating any of the provisions of this chapter or of a permit issued pursuant to this chapter, is guilty of a misdemeanor. Each person is guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter or the permit is committed, continued or allowed in conjunction with the retailer or delivery operation and is punishable accordingly. For purposes of this section, each and every day of violation includes each day on which a failure to comply with this chapter or any conditions of a permit issued pursuant to this chapter continues.

No proof of knowledge, intent, or other mental state is required to establish a violation.

6.108.210 - Civil Remedies

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

6.108.2220- Severability.

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

6.108.230 - 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.

Exhibits

Exhibit A attached hereto, is incorporated into this Ordinance.

Exhibit B attached hereto, is incorporated into this Ordinance.

SECTION 3

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

Adopted by the Board of Supervisors of the County of Alameda, State of California, on the ___ day of _____, 2018, by the following called vote:

AYES:

NOES:

EXCUSED:

WILMA CHAN
President of the Board of Supervisors

ATTEST:

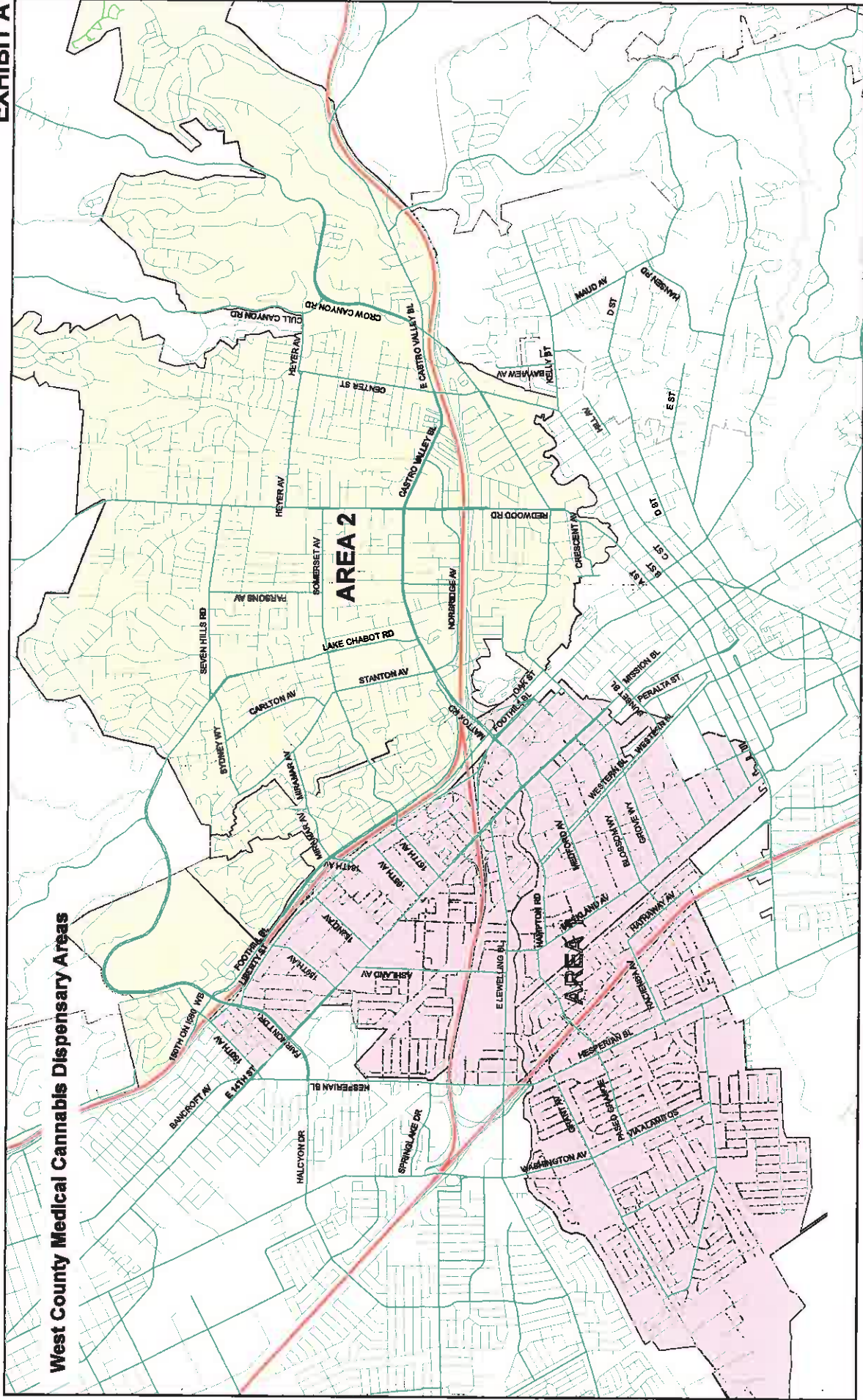
Clerk of the Board of Supervisors,

By: _____
Deputy Clerk

APPROVED AS TO FORM:
DONNA R. ZIEGLER, COUNTY COUNSEL

By: _____
Heather Littlejohn
Deputy County Counsel

EXHIBIT A



West County Medical Cannabis Dispensary Areas

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

Legend

- Interstates
- Major Roads
- Waterbodies
- Cities
- Unincorporated



Exhibit C

**An Ordinance Amending Title 17 of the Alameda County General Ordinance Code to
Conditionally Permit Cannabis Retailers in Specified Districts within the Unincorporated
Area of the County Of Alameda**

ORDINANCE NO. 2018-_____

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

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 cannabis for medical purposes to be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances; and
3. In 2004, Senate Bill 420 was enacted (codified as California Health and Safety Code section 11362.7 *et seq.* and titled the "Medical Marijuana Program Act") to clarify the scope of the Compassionate Use Act of 1996; and
4. In 2011, Assembly Bill 2650 was enacted (codified as California Health and Safety Code section 11362.768); which affirmed that counties can adopt ordinances that restrict the location and establishment of medical cannabis collectives and cooperatives; and
5. In 2015, Assembly Bill 243, Assembly Bill 266 and Senate Bill 643 were enacted and subsequently revised by Assembly Bill 21 in 2016 (codified in part as California Business and Professions Code sections 19300 *et seq.* and titled the "Medical Marijuana Regulation and Safety Act"). These bills also amended provisions of the Medical Marijuana Program Act related to the cultivation of medical cannabis; and
6. In 2016, Senate Bill 837 was enacted to change all references to medical marijuana or marijuana to medical cannabis or cannabis, including changing the name of the Medical Marijuana Regulation and Safety Act to the Medical Cannabis Regulation and Safety Act (MCRSA); and
7. MCRSA established a comprehensive framework to license and regulate commercial medical cannabis cultivation, manufacturing, distribution, transportation, sales, and testing; and
8. On November 8, 2016, the voters of the State of California approved Proposition 64 (codified, in part, as California Business and Professions Code sections 26000 *et seq.* and titled the "Control, Regulate and Tax Adult Use of Marijuana Act"), which decriminalized the adult use of cannabis for non-medical purposes and established a regulatory scheme at the state level; and
9. On June 27, 2017, Senate Bill 94 (codified, in part, as California Business and Professions Code sections 26000 *et seq.* and titled the "Medicinal and Adult-Use Cannabis Regulation

and Safety Act”, or, “MAUCRSA”) repealed and replaced MCRSA. MAUCRSA consolidates the medical and non-medical cannabis statutes (MCRSA and Proposition 64).

10. Pursuant to California Business and Professions Code section 26200, nothing in MAUCRSA shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local permit or licensing requirements; and
11. On September 12, 2017, the County adopted ordinances regulating medical cannabis cultivation and retail operations (or, “dispensaries”), including amendments to Title 17 to allow medical cannabis dispensaries as a conditional use in certain commercial districts and in the agricultural district; and
12. This Ordinance is enacted, consistent with the Compassionate Use Act of 1996, the Medical Marijuana Program Act, and MAUCRSA to protect the public health, safety, and welfare of residents of the County of Alameda in relation to the retail sale and delivery of cannabis; and
13. The County has a compelling interest in protecting the public health, safety, and welfare of its residents, visitors and businesses, in preserving the peace and quiet of the neighborhoods within the unincorporated areas of the County by regulating cannabis retailers as a land use; and
14. Concurrent with this ordinance, the County is considering amending Chapter 6.106 of the General Ordinance Code and amending the Zoning Ordinance to conditionally permit and regulate cultivation of cannabis for both medicinal and adult-use in Agricultural district of the unincorporated County; and
15. Concurrent with this ordinance, the County is considering amending Chapter 6.108 of the General Ordinance Code which regulates cannabis retailers, including allowing retailers to sell cannabis to both medicinal and adult-use customers; and
16. Allowing approved medical cannabis retail sites to sell adult-use cannabis will streamline the County’s regulation of cannabis businesses; and
17. Allowing a single retailer to sell cannabis and cannabis products for both medicinal and adult-use will have limited if any impact on other County residents and businesses because the retail operation will not be materially impacted by the designation of the customer as either a medicinal or adult-use customer; and
18. The Board of Supervisors has determined that, with appropriate conditions, cannabis retailers may be appropriately located in certain commercial districts; and
19. The Board of Supervisors has determined that, although cultivation of cannabis shares some similarities with other agricultural activities, and as identified by recent state legislation, cultivation of cannabis raises health, safety and welfare concerns not raised by other traditional agricultural products and therefore, cannabis is not a permitted agricultural use by right for the purposes of land use and zoning; and
20. 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

21. The Board of Supervisors has determined that, with appropriate conditions, cultivation of cannabis may be an appropriate conditionally permitted use in the agricultural districts and outside of the urban growth boundary established by Measure D; and
22. The Board of Supervisors has determined that, with appropriate conditions, a cannabis retailer may be an appropriate conditionally permitted use in the agricultural district and outside of the urban growth boundary established by Measure D as an “agriculture enhancing commercial use” and a “visitor-serving commercial use” that is economically related to and supports the area's cannabis cultivation; and
23. The Board of Supervisors acknowledges that regulation of cannabis activities is an evolving field at the state level, as evidenced by the recent passage of Proposition 64, adoption of MAUCRSA, and release of emergency regulations by various state licensing agencies. As a result, the field of local regulation is also expected to continue to evolve over the next several years including possible further revisions to the County ordinances, policies and performance standards; and
24. 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
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) exempt cultivation, retailer or delivery operations from compliance with permitting regulations pursuant to other titles in this code, or, (3) allow any activity relating to the cultivation, distribution, or consumption of cannabis that is illegal under state or federal law.

SECTION 2

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

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

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

Section 17.04.010 of the Alameda County General Ordinance Code is hereby amended to delete the term and the entirety of the definition for "Medical Cannabis Dispensary."

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

Delete Paragraph R, "Medical cannabis dispensary."

Insert as Paragraph R: "Cannabis retailer, subject to and in compliance with Chapter 6.108 of this code;"

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

Delete Paragraph W, "Medical cannabis dispensary."

Insert as Paragraph W: "Cannabis retailer, subject to and in compliance with Chapter 6.108 of this code."

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

Delete Paragraph Q, "Medical cannabis dispensary."

Insert as Paragraph Q: "Cannabis retailer, subject to and in compliance with Chapter 6.108 of this code."

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 _____, 2018, by the following called vote:

AYES:

NOES:

EXCUSED:

WILMA CHAN
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: _____
Heather Littlejohn
Deputy County Counsel

Exhibit D

An Ordinance Amending Title 17 of the Alameda County General Ordinance Code to Regulate the Cultivation of Cannabis in the Unincorporated Area of the County Of Alameda

ORDINANCE NO. 2018-_____

AN ORDINANCE AMENDING TITLE 17 OF THE ALAMEDA COUNTY GENERAL
ORDINANCE CODE TO REGULATE THE CULTIVATION OF CANNABIS IN THE
UNINCORPORATED AREA OF THE COUNTY OF ALAMEDA

SECTION 1

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

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

8. On June 27, 2017, Senate Bill 94 (codified, in part, as California Business and Professions Code sections 26000 *et seq.* and titled the “Medicinal and Adult-Use Cannabis Regulation and Safety Act”, or, “MAUCRSA”) repealed and replaced MCRSA. MAUCRSA consolidates the medical and non-medical cannabis statutes (MCRSA and Proposition 64).
9. Pursuant to California Business and Professions Code section 26200, nothing in MAUCRSA shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local permit or licensing requirements; and
10. The County adopted ordinances authorizing and regulating medical cannabis cultivation operations on September 12, 2017; and
11. This Ordinance is enacted, consistent with the Compassionate Use Act of 1996, the Medical Marijuana Program Act, and MAUCRSA to protect the public health, safety, and welfare of residents of the County of Alameda in relation to the cultivation of 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 in appropriate locations will help ensure that locally-produced cannabis cultivated pursuant to local and state regulatory schemes will be available to other businesses within the supply chain while preserving the character, health and safety of the surrounding area; and
14. Absent appropriate regulation, the cultivation of cannabis in the unincorporated area of the County poses a potential threat to public peace, health, and safety; 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 cannabis; and
16. The Board of Supervisors has determined that, although cultivation of 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
17. 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

18. The Board of Supervisors has determined that, with appropriate conditions, cultivation of cannabis may be an appropriate conditionally permitted use in the agricultural districts and outside of the urban growth boundary established by Measure D; and
19. Pursuant to MAUCRSA, the California Department of Food and Agriculture has promulgated regulations governing commercial cannabis cultivation and has begun issuing commercial cultivation licenses; and
20. On September 12, 2017, the County adopted a zoning ordinance amendment conditionally permitting medical cannabis cultivation sites to implement the County’s pilot program for cannabis cultivation; and
21. Allowing a single cultivation site to produce cannabis that may eventually be sold to both medicinal and adult-use retail customers will have limited if any impact on other County residents and businesses because the cultivation operation will not be materially impacted by the designation of the eventual retail customer as either medicinal or adult-use; and
22. Nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. sections 801, *et seq.* or to license any activity that is prohibited under said Act except as mandated by state law; and
23. Nothing in this Ordinance shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) exempt cultivation operations from compliance with zoning, land use regulations and health and safety regulations, or, (3) 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 Ordinance Code is hereby amended as follows:

The definition of “Cannabis Cultivation” is revised to read:

“Cannabis Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming, including any associated storage, of Cannabis, including cannabis for medicinal use and/or adult-use in accordance with the Medicinal and Adult-Use Cannabis Regulation and Safety Act.

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

Add "Cannabis Cultivation, subject to and in compliance with Chapter 6.106 of this code and Section 17.52.585 of this title." as paragraph S at the end of the list of conditional uses.

Delete the "." (period) following the penultimate conditional use listed and replace with ";" (semicolon).

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

17.52.585 Conditional Use—Cannabis Cultivation.

- 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 pursuant to Section 17.06.040(S).
- 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 pursuant to Chapter 6.106 and a valid and effective state license permitting Cannabis Cultivation.
- C. Cannabis Cultivation uses approved pursuant to this section shall meet the criteria established by section 17.06.040(S), 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; and
9. The areas of the site to be actively used for Cannabis Cultivation activities are set back as follows:
 - a. At least fifty (50) feet from any property line shared with an adjacent property with different ownership, unless waived in writing by the adjacent owner;
 - b. At least three hundred (300) feet from any residence on an adjacent property with different ownership, unless waived in writing by the adjacent owner; and
 - c. At least one thousand (1000) feet from any school for pre-K to 12th grade students, licensed child or day care facility, public park or playground, drug or alcohol recovery facility or public recreation center.
- D. The Planning Director may establish additional performance standards and standard conditions providing detailed guidance for applicants and permittees. Permittees shall be required to comply with the performance standards and any conditions of approval applicable to a permit issued pursuant to this chapter.

SECTION 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 _____, 2018, by the following called vote:

AYES:

NOES:

EXCUSED:

WILMA CHAN
President of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors,

By: _____
Deputy Clerk

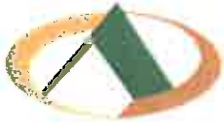
APPROVED AS TO FORM:

DONNA R. ZIEGLER, COUNTY COUNSEL

By: _____
Heather Littlejohn
Deputy County Counsel

Attachment 2

Addendum to the Mitigated Negative Declaration for Medical Cannabis Ordinance Amendments



**ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT**

**ADDENDUM
to the MITIGATED NEGATIVE DECLARATION for
Medical Cannabis Ordinance Amendments
Alameda County, California**

FEBRUARY 2018

I. INTRODUCTION AND SUMMARY

Background

The Mitigated Negative Declaration for Medical Cannabis Ordinance Amendments (MND) (attached) was adopted by the Alameda County Board of Supervisors on July 11, 2017. On September 12, 2017, the Board approved the medical cannabis ordinance amendments. The project included the following four ordinances regulating dispensaries, deliveries, the sale of edibles, a pilot cultivation program, and associated zoning:

- a. An ordinance amending Chapter 6.108 of the Alameda County General Code permitting and regulating medical cannabis dispensaries, the delivery of medical cannabis and the sales of edible medical cannabis products in the unincorporated area of Alameda County, hereinafter referred to as the “Dispensary Ordinance”
- b. An ordinance amending Title 17 Alameda County General Code to effectuate zoning changes to implement the Dispensary Ordinance, hereinafter referred to as “Dispensary Zoning”
- c. An ordinance amending Chapter 6.106 of the Alameda County General Code to implement a pilot program regulating the cultivation of medical cannabis in the unincorporated area of Alameda County, hereinafter referred to as the “Cultivation Ordinance.”
- d. An ordinance amending Title 17 of the Alameda County General Code to effectuate zoning changes to implement the Cultivation Ordinance hereinafter referred to as “Cultivation Zoning.”

Dispensary Ordinance and Dispensary Zoning

The ordinance amendments pertaining to medical cannabis dispensaries and delivery included revisions to Chapter 6.108 of the County General Code, as well as amendments to the Zoning Ordinance in Title 17 of the General Code. The revisions to Chapter 6.108 increased the number of dispensaries allowed in the unincorporated area from three to five, three in the urban West County and two in the rural East County. The ordinance amendments added requirements for selection of new dispensaries through a “Request for Proposals” (RFP) process; and established a permitting process for delivery of medical cannabis to patients from permitted “brick-and-mortar” dispensaries located within the unincorporated area and in other jurisdictions. Amendments to the Zoning Ordinance added medical cannabis dispensaries as a conditional use in specified commercial zoning districts and in the “A” (Agricultural) Zoning District as a conditional agriculture-related uses.

Cultivation Ordinance and Cultivation Zoning

The ordinances pertaining to cannabis cultivation established a medical cannabis cultivation pilot program that allows up to two dispensaries that have been operating in good standing for at least one year to establish medical cannabis cultivation sites, and allows an additional four cultivation sites to be selected through a “Request for Proposals” (RFP) process. Chapter 6.106 was added to Title 6 of the County General Code to establish requirements for the program, and the Zoning Ordinance in Title 17 was

amended to allow the cultivation of medical cannabis as a conditional use in the "A" (Agricultural) District.

Additional Proposed Ordinance Amendments

Since the adoption of the MND in July of 2017 and the medical cannabis ordinances in October of 2017, further changes to the ordinances have been proposed. An addendum to the MND is necessary to assess the potential environmental effects of the additional ordinance amendments. The proposed changes to the ordinances that may have relevance to CEQA are:

- increasing the allowable number of cultivation sites from six to ten;
- removing the pilot nature of the ordinance; and
- expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis.

Purpose of this Addendum

Under CEQA Guidelines Section 15162, after a negative declaration has been adopted for a project, a subsequent or supplemental negative declaration shall not be required unless the lead agency determines one or more of the following:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
 - (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

For the proposed ordinance amendments, staff considered whether any of the foregoing criteria have been met since original approval of the MND and concluded that, using these criteria, a supplemental or subsequent MND is not appropriate. Where a supplemental or subsequent MND is not appropriate, CEQA Guidelines Section 15164(b) allows for the preparation of an Addendum to an adopted negative declaration only if there are minor technical changes or additions that do not meet the conditions of Section 15162.

II. ANALYSIS OF PROPOSED PROJECT IMPACTS

Staff's review of the proposed ordinance amendments focused on whether the proposed changes to the project require MND revisions due to the involvement of new significant environmental impacts, whether substantial changes have occurred with respect to the circumstances under which the project is being undertaken, and whether previously unavailable and important new information within the meaning of CEQA Guidelines Section 15162 has become available.

For each environmental factor analyzed in the MND, a summary of the original analysis is provided below, followed by an explanation of why the proposed project changes would not result in additional significant impacts or exacerbate existing impacts to the point where additional mitigation would become necessary.

A. Aesthetics

1. Original Medical Cannabis Ordinance MND Analysis

The Medical Cannabis Ordinance MND analyzed the effects of the project with respect to aesthetic impacts and found that the ordinances would have no effect on scenic vistas, scenic resources, or the visual character or quality of a site or its surroundings. The analysis also concluded that any potential impacts resulting from a new source of substantial light or glare from the use of artificial light in the cultivation process would be less than significant due to required performance standards which require shielding of artificial lights so they are not visible from neighboring properties.

2. Proposed Project Changes

The proposed ordinance changes would have no additional impact on scenic vistas, scenic resources, or the visual character or quality of a site or its surroundings. As any potential impacts related to the use of artificial light at cultivation sites would be addressed on a site-specific basis at the time of construction through the implementation of existing performance standards, any potential impacts that may result from the proposed increase in the number of allowable cultivation sites from six to ten would remain less than significant. Removing the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to aesthetics would result from these proposed ordinance changes.

There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

B. Agriculture Resources

1. Original Medical Cannabis Ordinance MND Analysis

The Medical Cannabis Ordinance MND analyzed the effects of the project on agricultural resources and concluded that the medical cannabis ordinances would have no impacts. The MND found that cannabis cultivation is compatible with agricultural resources and the resulting use of agricultural

lands for cultivation purposes would not result in the loss or conversion of farmland to non-agricultural use. With respect to the dispensaries that could be allowed within an agriculturally zoned district, the MND found that such uses would be considered “agriculture enhancing commercial uses” and “visitor-serving commercial uses” that are permitted in the agricultural district pursuant to Measure D, and thus would not conflict with agricultural zoning in the County.

2. Proposed Project Changes

The proposed ordinance changes would have no additional impacts on agricultural resources. As cultivation sites and dispensaries have been determined to be compatible with existing agricultural uses, no additional impacts on agricultural resources would result from the proposed increase in the number of allowable cultivation sites from six to ten. Removing the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to agricultural resources would result from these proposed ordinance changes.

There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

C. Air Quality

1. Original Medical Cannabis Ordinance MND Analysis

Analysis of potential air quality impacts in the Medical Cannabis Ordinance MND found that there would be no potential conflict with the Clean Air Plan and; therefore, no impacts from potential conflicts. In addition, with the implementation of provisions included within the ordinance amendments and the performance standards associated with the cultivation program, there would be no impacts resulting from the creation of objectionable odors. The MND also concluded that cannabis cultivation sites and dispensaries permitted as a result of the project would not be expected to generate significant criteria air pollutant emissions; therefore, potential impacts associated with such emissions would be less than significant.

The MND did find that the project could result in significant impacts caused by dust emissions from construction activities; however, construction-period air quality effects would be reduced to less than significant with the application of a mitigation measure requiring implementation of standard Best Management Practices for construction activity.

2. Proposed Project Changes

As any potential impacts related to air quality would be addressed on a site-specific basis at the time of construction through the implementation of the prescribed mitigation measure, any potential impacts that may result from the proposed increase in the number of allowable cultivation sites from six to ten would remain less than significant. Removing the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to air quality would result from these proposed ordinance changes.

There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

D. Biological Resources

1. Original Medical Cannabis Ordinance MND Analysis

The Medical Cannabis Ordinance MND analyzed the effects of the project with respect to biological resources in the unincorporated area and found that any potential impacts would be less than significant. Any future development of new or reuse of existing structures pursuant to the project would be individually evaluated against biological resource criteria at each location, based on applicable federal, state, and local regulatory requirements. With effective implementation of these existing regulations, the MND concluded that the project will not result in impacts to special status species, riparian habitats, other sensitive natural communities, federally protected wetlands, or native resident or migratory wildlife corridors. In addition, the MND found that project implementation will not conflict with any local policies or ordinances protecting biological resources. Any new uses established pursuant to the proposed Ordinance Amendments would be subject to the applicable goals, policies, and regulations for the protection and conservation of biological resources.

2. Proposed Project Changes

As any potential impacts related to biological resources would be addressed on a site-specific basis at the time of construction through the implementation of existing federal, state and local requirements, any potential impacts that may result from the proposed increase in the number of allowable cultivation sites from six to ten would remain less than significant. Removing the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to biological resources would result from these proposed ordinance changes.

There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

E. Climate Change and Greenhouse Gas Emissions

1. Original Medical Cannabis Ordinance MND Analysis

The Medical Cannabis Ordinance MND analyzed the effects of the project with respect to climate change and greenhouse gas emissions and found that greenhouse gas emissions from indoor and mixed-light cultivation sites may exceed the calculated threshold, potentially resulting in a significant impact; however, the effects of these emissions would be reduced to less than significant with the

application of a mitigation measure requiring implementation of measures to reduce energy consumption or purchase of carbon credits.

2. Proposed Project Changes

As any potential impacts related to climate change and greenhouse gas emissions would be addressed on a site-specific basis at the time of construction through the implementation of the prescribed mitigation measure, any potential impacts that may result from the proposed increase in the number of allowable cultivation sites from six to ten would remain less than significant. Removing the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to climate change and greenhouse gas emissions would result from these proposed ordinance changes.

There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

F. Cultural Resources

1. Original Medical Cannabis Ordinance MND Analysis

The Medical Cannabis Ordinance MND analyzed the effects of the project with respect to cultural resources in the unincorporated area and found that any potential impacts would be less than significant. Any future development of new structures or reuse of existing structures pursuant to the project would be individually evaluated against historic and cultural resource criteria at each location, based on applicable federal, state, and local statutes, regulations, and requirements. The MND concluded that, with effective implementation of these existing regulations, the project will not cause a substantial adverse change in the significance of a historical resource, a change in the significance of an archaeological resource, or directly or indirectly destroy a unique paleontological resource or a tribal cultural resource.

2. Proposed Project Changes

As any potential impacts related to cultural or historical resources would be addressed on a site-specific basis at the time of construction through the implementation of existing state and local requirements, any potential impacts that may result from the proposed increase in the number of allowable cultivation sites from six to ten would remain less than significant. Removing the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to cultural resources would result from these proposed ordinance changes.

There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new

mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

G. Geology and Soils

1. Original Medical Cannabis Ordinance MND Analysis

The Medical Cannabis Ordinance MND analyzed the effects of the project with respect to geology and seismicity in the unincorporated area and found that any potential impacts would be less than significant. Any future development of new or reuse of existing structures pursuant to the project would be individually evaluated against geological and soil criteria at each location. The MND concluded that, with effective implementation of all applicable state statutes, regulations and requirements, as well as applicable County ordinances, regulations, guidelines, standards and requirements, the project will not expose people or structures to potential substantial adverse effects involving rupture of a known earthquake fault, strong seismic ground shaking, seismic-related ground failure, landslides, result in substantial soil erosion or loss of topsoil, be located on a geologic unit or unstable soil, be located on expansive soil, or have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater.

2. Proposed Project Changes

As any potential impacts related to geology or seismicity would be addressed on a site-specific basis at the time of construction through the implementation of existing state and local requirements, any potential impacts that may result from the proposed increase in the number of allowable cultivation sites from six to ten would remain less than significant. Removing the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to geology or seismicity would result from these proposed ordinance changes.

There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

H. Hazards and Hazardous Materials

1. Original Medical Cannabis Ordinance MND Analysis

The Medical Cannabis Ordinance MND analyzed the effects of the project with respect to hazards and hazardous materials and found that, with state and local regulations imposed on operations through the permit review and issuance process, any potential impacts resulting from the creation of a significant hazard to the public or to the environment through the routine transport, use, or disposal of hazardous materials; or through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment would be less than significant. No other potential impacts related to criteria for hazards and hazardous materials were identified.

2. Proposed Project Changes

As any potential impacts related to hazards and hazardous materials would be addressed on a site-specific basis at the time of construction through the implementation of existing state and local requirements, any potential impacts that may result from the proposed increase in the number of allowable cultivation sites from six to ten would remain less than significant. Removing the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to hazards and hazardous materials would result from these proposed ordinance changes.

There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

I. Hydrology and Water Quality

1. Original Medical Cannabis Ordinance MND Analysis

The Medical Cannabis Ordinance MND analyzed the effects of the project with respect to hydrology and water quality impacts and found that, with state and local laws and regulations pertaining to wastewater disposal and stormwater management imposed through the permit review and issuance process, the project would not result in significant impacts related to wastewater treatment or construction of necessary storm water facilities. In addition, the review and permitting process to which all cannabis related activities would be subject, pursuant to the terms of the proposed Ordinance Amendments, would assure that the activities would have a less than significant impact on groundwater supplies and would introduce no new impacts related to the depletion of the groundwater supply. No other potential impacts related to criteria for hydrology and water quality were identified.

2. Proposed Project Changes

As any potential impacts related to hydrology and water quality would be addressed on a site-specific basis at the time of construction through the implementation of existing state and local laws and requirements, any potential impacts that may result from the proposed increase in the number of allowable cultivation sites from six to ten would remain less than significant. Removing the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to hydrology and water quality would result from these proposed ordinance changes.

There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

J. Land Use and Planning

1. Original Medical Cannabis Ordinance MND Analysis

Analysis of potential land use and planning related impacts in the Medical Cannabis Ordinance MND found that the cannabis ordinances would not create the potential to divide an established community, and would not conflict with any applicable land use plan, policy, or regulation; therefore, the project would have no impacts related to land use and planning criteria.

2. Proposed Project Changes

Consistency with local plans and policies would be determined through the permitting process for cultivation sites and dispensaries; therefore, no additional impacts with regard to land use and planning would result from the proposed increase in the number of allowable cultivation sites from six to ten. Removing the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to land use and planning would result from these proposed ordinance changes.

There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

K. Mineral Resources

1. Original Medical Cannabis Ordinance MND Analysis

The Medical Cannabis Ordinance MND analyzed the effects of the project with respect to mineral resources and found that the project would not result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state, or of a locally-important mineral resource recovery site; therefore, the project would have no impacts related to mineral resources.

2. Proposed Project Changes

The proposed ordinance changes would have no additional impacts with regard to mineral resources as existing County plans and policies would prevent cannabis cultivation sites and dispensaries from locating in areas identified as containing known mineral resources; therefore, no additional impacts on mineral resources would result from the proposed increase in the number of allowable cultivation sites from six to ten. Removing the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to mineral resources would result from these proposed ordinance changes.

There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance

amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

L. Noise

1. Original Medical Cannabis Ordinance MND Analysis

The Medical Cannabis Ordinance MND analyzed the effects of the project with respect to potential noise impacts and found that, with County ordinances and policies imposed through the permit review and issuance process, there would be no noise related impacts resulting from the project.

2. Proposed Project Changes

As any potential impacts related to noise would be addressed on a site-specific basis at the time of construction through the implementation of existing County ordinances and policies, no additional impacts would result from the proposed increase in the number of allowable cultivation sites from six to ten. Removing the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to noise would result from these proposed ordinance changes.

There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

M. Population/Housing

1. Original Medical Cannabis Ordinance MND Analysis

The Medical Cannabis Ordinance MND analyzed the effects of the project with respect to population and housing and found that, as the project would not involve any form of subdivision, no new housing or infrastructure that could induce housing growth is contemplated, and no housing would be demolished, the project will not induce population growth in the area or displace existing housing or people necessitating the construction of housing elsewhere; therefore, the project would have no impacts related to population and housing.

2. Proposed Project Changes

The proposed increase in the number of allowable cultivation sites from six to ten would have no additional impacts with regard to population and housing. In addition, removing the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to population and housing would result from these proposed ordinance changes.

There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

N. Public Services

1. Original Medical Cannabis Ordinance MND Analysis

The Medical Cannabis Ordinance MND analyzed the effects of the project on public services and found that the ordinances would have no effects on schools or parks and recreation facilities; and, with local ordinances and regulations imposed through the permit review and issuance process, the project would not result in significant impacts related to fire protection. The analysis also concluded that any potential impacts on police protection would be less than significant as the project would not result in substantial adverse physical impacts associated with the provision of new or physically altered Sheriff's facilities in order to maintain acceptable service ratios, response times or other performance objectives, the construction of which could cause significant environmental impacts.

2. Proposed Project Changes

The proposed increase in the number of allowable cultivation sites from six to ten would have no additional impacts with regard to public services. In addition, removing the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to public services would result from these proposed ordinance changes.

There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

O. Transportation

1. Original Medical Cannabis Ordinance MND Analysis

The Medical Cannabis Ordinance MND analyzed the effects of the project with respect to transportation impacts and found that any development resulting from approval of the ordinances would be consistent with transportation policies in the County General Plans and Specific Plans applicable in the areas where the facilities would be permitted. In addition, as any requirements for circulation improvements or fair-share contributions to ensure that adequate levels of services are maintained at intersections and on streets, roads, and highways would be considered as part of the site-specific permit review process, the project would not result in significant impacts related to transportation. The Medical Cannabis Ordinance MND concluded that traffic generated by the proposed cannabis activities would be comparable to other commercial retail business or agricultural

operation and the limited number of potential facilities suggests that the combined traffic for all possible operations, dispersed geographically in accordance with the proposed ordinance, would have an imperceptible effect on traffic circulation.

2. Proposed Project Changes

As any potential site-specific impacts related to transportation would be identified and addressed through the permitting process, any potential impacts that may result from the proposed increase in the number of allowable cultivation sites from six to ten would remain less than significant. Removing the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to transportation would result from these proposed ordinance changes.

There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

P. Utilities and Service Systems

1. Original Medical Cannabis Ordinance MND Analysis

The Medical Cannabis Ordinance MND analyzed the effects of the project on utilities and service systems and found that, based on required compliance with all applicable state and local laws and regulations pertaining to wastewater disposal and stormwater management, the project would not result in significant impacts related to wastewater treatment or construction of necessary storm water facilities. The analysis also concluded that, because cannabis cultivation permittees' demand for water was estimated to represent a small percentage of Zone 7 water that is available to East County agricultural users, Zone 7 would not need to expand its access to water supplies or entitlements or modify or expand its existing service system infrastructure to meet the demands of cultivation sites. Also, cannabis cultivation water customers would be subject to system-wide restrictions and cut-backs during drought conditions. For these reasons, potential impacts to water resources resulting from cannabis cultivation sites would be less than significant. The analysis also found that approval of the ordinance amendments would not substantially affect the ability of solid waste collection and disposal services to accommodate waste disposal within existing capacity limits; therefore, no significant impacts related to solid waste disposal would occur as a result of the proposed project's implementation.

2. Proposed Project Changes

As the permittee for any cannabis facility must comply with all local ordinances, regulations, guidelines, standards and requirements of all local agencies and departments; must obtain and maintain any permit, license, certification or registration required by a local agency or department; and must pay all local taxes and fees; and any potential impacts related to utilities and service systems would be addressed on a site-specific basis through the implementation of existing local requirements; any potential impacts that may result from the proposed increase in the number of allowable cultivation sites from six to ten would remain less than significant. In addition, removing

the pilot nature of the ordinance and expanding the allowable uses to include cultivation, sale, and delivery of both medicinal and adult-use cannabis would not affect the physical development of dispensaries or cultivation sites; therefore, no impacts related to utilities and service systems would result from these proposed ordinance changes.

There are no proposed changes in the project or in the circumstances surrounding project approval since approval of the original ordinances in September 2017 that indicate there will be new or substantially more severe significant impacts on land uses as a result of the proposed ordinance amendments than predicted in the MND for Medical Cannabis Ordinance Amendments, or that new mitigation measures or alternatives would substantially reduce this potential impact. Furthermore, no previously unavailable and important new information within the meaning of Section 15162 has become available.

III. CONCLUSION OF THIS ADDENDUM

Based on the analysis in this addendum the proposed cannabis ordinance amendments do not result in circumstances that would justify the preparation of a subsequent or supplemental CEQA analysis for this project, pursuant to Section 15162 of the CEQA Guidelines. There have been no changes proposed that constitute substantial changes in the project which will require major revisions of the previous negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; there have been no changes in project circumstances or previously unavailable new information that indicate that the project will have new or substantially more severe significant impacts than predicted in the 2017 Medical Cannabis Ordinance MND, or that new mitigation measures or alternatives would substantially lessen the project's significant impacts. This should not be taken to imply that additional or amended Conditions of Approval for cannabis operations approved pursuant to these ordinances should not be considered for items of concern that may be raised by Planning Staff, the Planning Commission or the County Board of Supervisors.

ORDINANCE NO. ~~2017~~2018-_____

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

SECTION 1

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

1. In 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code section 11362.5 and titled the "Compassionate Use Act of 1996"); and
2. The intent of Proposition 215 was to enable persons who are in need of cannabis for medical purposes to be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances; and
3. In 2004, Senate Bill 420 was enacted (codified as California Health and Safety Code section 11362.7 *et seq.* and titled the "Medical Marijuana Program Act") to clarify the scope of the Compassionate Use Act of 1996. ~~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, which affirmed~~ ~~affirms~~ that counties ~~cannot~~ could 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~~
- 6-5. _____ In 2015, Assembly Bill 243, Assembly Bill 266, Senate Bill 643 were enacted and were subsequently revised by Assembly Bill 21 in 2016 (codified, in part, as California Business and Professions Code 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 cannabis; and
- 7-6. _____ In 2016, Senate Bill 837 was enacted to change all references to medical marijuana or marijuana to medical cannabis or cannabis, including changing the name of the Medical Marijuana Regulation and Safety Act to the Medical Cannabis Regulation and Safety Act; ~~(MCRSA);~~ and

- ~~8-7.~~ ~~The Medical Cannabis Regulation and Safety Act~~~~MCRSA~~ established a comprehensive framework to license and regulate commercial medical cannabis cultivation, manufacturing, distribution, transportation, sales, and testing; and
- ~~9-8.~~ On November 8, 2016, the voters of the State of California approved Proposition 64 (codified, in part, as California Business and Professions Code sections 26000 *et seq.* and titled the "Control, Regulate and Tax Adult Use of Marijuana Act"), which decriminalized the adult use of cannabis for non-medical purposes and established a regulatory scheme at the state level; and
- ~~10-9.~~ On June 27, 2017, Senate Bill 94 (codified, in part, as California Business and Professions Code sections 26000 *et seq.* and titled the "Medicinal and Adult-Use Cannabis Regulation and Safety Act", or, "MAUCRSA") repealed and replaced MCRSA. MAUCRSA consolidates the medical and non-medical cannabis statutes (MCRSA and Proposition 64).
- ~~11-10.~~ Pursuant to California Business and Professions Code section 26200, nothing in ~~the Medicinal and Adult-Use Cannabis Regulation and Safety Act~~~~MAUCRSA~~ shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local permit or licensing requirements; and
- ~~12.~~ ~~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 Assembly Bill 21 on February 3, 2016; and~~
- ~~13.~~ ~~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 Alameda County General Ordinance Code was repealed on February 3, 2016.~~
11. The County adopted ordinances authorizing and regulating medical cannabis cultivation operations on September 12, 2017; and
- ~~14-12.~~ This Ordinance is enacted, consistent with the Compassionate Use Act of 1996, the Medical Marijuana Program Act, and ~~the Medicinal and Adult-Use Cannabis Regulation and Safety Act~~~~MAUCRSA~~, to protect the public health, safety, and welfare of residents of the County of Alameda in relation to the cultivation of ~~medical~~ cannabis; and
- ~~15-13.~~ The cultivation of ~~medical~~ cannabis in appropriate locations will help ensure that medical/locally-produced cannabis cultivated pursuant to local and state regulatory

schemes will be available to other cannabis businesses within the patients in need of its supply chain while preserving the character, health and safety of the surrounding area; and

~~16.14.~~ Absent appropriate regulation, the cultivation of ~~medical~~ cannabis in the unincorporated area of the County poses a potential threat to public peace, health, and safety; and

~~17. 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~~

~~18.15.~~ 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

~~19.16.~~ Pursuant to ~~the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA)~~, the California Department of Food and Agriculture ~~is responsible for promulgating~~ has promulgated regulations governing commercial cannabis cultivation and ~~is responsible for issuing state cultivation licenses, which are anticipated to become effective in or around the year 2018; and~~; and

~~20. 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~~

~~21. 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~~

~~22.17.~~ The existing ~~dispensaries~~ retailers operating in the County have demonstrated an ability to operate secure and responsible ~~medical~~ cannabis ~~dispensary~~ retail establishments and to comply with existing county and state laws concerning the sale and dispensing of ~~medical~~ cannabis; and

~~23. Allowing these dispensaries/retailers to expand operations to 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 a consistent, responsible entity at both the beginning and end/impact of the supply in a vertically integrated structure on implementation of the state's track and trace program; and~~

- ~~24. Allowing limited additional cultivation operations during this pilot program will allow the County to study cultivation specific issues, including any effects on neighboring uses and mechanisms to impact on implementation of the state's track the product from cultivation through ultimate sale with multiple parties participating in the supply chain and trace program of operating outside of a vertically integrated structure; and~~
- ~~25. 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 take any other actions within its power to protect the health, safety and welfare of County residents.~~
- ~~26. This Ordinance regulates the cultivation of medical cannabis in the unincorporated areas of the County and does not address the cultivation of cannabis for non-medical use under Proposition 64, MAUCRSA or otherwise;~~
18. In September 2017, the County adopted a pilot program allowing and regulating up to six medical cannabis cultivation sites; and
19. Increasing the allowable number of cultivation sites to ten, removing the pilot nature of the ordinance and expanding the allowable uses to cultivation of both medicinal and adult-use cannabis will allow the County to more fully implement recent state law and regulation concerning commercial cannabis businesses; and
20. A limited number of medicinal cannabis cultivation sites were selected and approved pursuant to the September 2017 version of the cultivation ordinance; and
21. Allowing approved medical cannabis cultivation sites to cultivate adult-use cannabis will streamline the County's regulation of cannabis sites; and
22. Allowing a single cultivation site to produce cannabis that may eventually be sold to both medicinal and adult-use retail customers will have limited if any impact on other County residents and businesses because the cultivation operation will not be materially impacted by the designation of the eventual retail customer as either medicinal or adult-use; and
23. All commercial cultivation operations will be required to obtain requisite state licenses in order to conduct business, including obtaining an adult-use (A-type) cultivation license and/or a medicinal (M-type) cultivation license as needed for the type of cultivation operation; and
24. All commercial cultivation operations will be required to comply with state law and state regulations, including but not limited to the requirement to record the movement of cannabis cultivated on-site through the supply chain via the state's track and trace system; and

~~27-25.~~ The Board of Supervisors acknowledges that regulation of cannabis activities is an evolving field at the state level, as evidenced by the recent ~~adoption of the Medicinal and Adult Use Cannabis Regulation and Safety Act~~, passage of Proposition 64 ~~and the related, adoption of MAUCRSA, and release of emergency regulations being drafted by various state licensing 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

~~28-26.~~ Nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. §§ 801 *et seq.* or to license any activity that is prohibited under said Act except as mandated by state law; and

~~29-27.~~ Nothing in this Ordinance shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) ~~allow the 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:

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

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

~~Chapter 6.106 – Medical Cannabis Cultivation Pilot Program~~

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 of Alameda.

6.106.020 Definitions.

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

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

H. “Cannabis product” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

H.I. “Clone” means the cutting of a cannabis plant that has been re-planted and is non-flowering.

I.J. “Community Development Agency” means the community development agency of the County of Alameda.

J.K. “County” means the County of Alameda.

K.L. “Director” means the director of the Community Development Agency or his designee.

L.M. “Indoor cannabis cultivation” means the cultivation of ~~medical~~ cannabis within ~~ana~~ permanently enclosed structure using exclusively artificial light, or within any type of structure using artificial light at a rate ~~of or greater than~~ above 25 watts per square foot or such other threshold for indoor cultivation as may be established by the California Department of Food and Agriculture.

N. “Lot” means a separate parcel of land shown and identified as such on the records of the county recorder or on the final map of an approved and recorded subdivision, excluding therefrom for the purposes of this title any portion thereof which lies within a street, within a lane, or within a fenced-off flood control easement.

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

N. ~~“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 11018.5 of the Health and Safety Code.~~

O.P. “Mixed-light cannabis cultivation” means the cultivation of ~~medical cannabis~~ cannabis in a greenhouse, hoop-house, glasshouse, conservatory, hothouse, or other similar structure using light deprivation and/or artificial lighting below or equal to 25 watts per square foot or such other maximum threshold for mixed-light

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

P-Q. "Permit" means a cannabis cultivation permit issued by the county to operate a cannabis cultivation site under this chapter.

Q-R. "Permitted cannabis ~~dispensaryretailer~~" or "cannabis ~~dispensaryretailer~~" 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, under the authority of the California ~~Compassionate Use Act, the Medical Marijuana Program Act, and/or the California Medicinal and Adult-Use Cannabis Regulation and Safety Act, California Compassionate Use Act, and/or the Medical Marijuana Program, and/or~~ and as regulated by chapter 6.108.

R-S. "Permittee" means a person who holds an effective and current permit under this chapter.

S-T. "Person" means any human being or an incorporated or unincorporated business entity or association established under the laws of the state.

T-U. ~~"Premises" means the parcel or parcels containing a medical cannabis cultivation site, including any buildings, greenhouses, accessory structures and appurtenant areas."~~ "Premises" means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.

U-V. "Sheriff" means the sheriff of the County of Alameda and his or her authorized representatives.

V-W. "State" means the State of California.

6.106.030 General requirements and ~~program~~ terms.

- A. It is unlawful for any person to conduct, engage in or allow to be conducted or engaged in, cannabis cultivation in the unincorporated portion of the County of Alameda, unless such cannabis cultivation operation has been granted a legally effective permit issued under this chapter. ~~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 area of the 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. The owner, managing partner, corporate officer and/or any other person with primary responsibility for a medical cannabis operation shall maintain such operation

in conformity with the terms of this chapter and with the terms of all permits issued pursuant to this chapter.

- B. The county shall have in effect no more than ~~sixteen~~ cannabis cultivation permits ~~throughout the duration.~~ Two of the pilot program, ten permits may be issued in accordance with sections 6.106.050 through 6.106.060. The remaining available permits must be selected pursuant to sections 6.106.050 through 6.106.110 herein. ~~A maximum of two~~The permits will~~be available~~shall be available issued for indoor cannabis cultivation operations. ~~A maximum of four permits will be available for or mixed-light cannabis cultivation operations only.~~ More than one premises may be located on a single parcel lot. A separate permit must be issued for each premises on a single parcel lot.
- C. 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 6.106.190 herein~~expiration date established by the director, whichever is earlier.
- D. The fact that an applicant possesses other types of state or local permits or licenses shall not exempt the applicant from obtaining a cannabis cultivation permit under this chapter.
- E. A permittee may cultivate ~~medical~~ cannabis during the term of the permit only. A permittee shall have no right to cultivate ~~medical~~ cannabis before or after the expiration of the permit.
- F. 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 Ordinance Code.

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

6.106.040 Land use approval.

Prior to commencement of cannabis cultivation 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 – vertically integrated operations.

- A. Each application for a cultivation permit by a permitted cannabis ~~dispensary~~retailer in the unincorporated area of the county shall set forth or incorporate by reference the following information:

1. The full name, date of birth, social security number, present address and telephone number of the applicant.
 2. Name and location of applicant's permitted cannabis dispensaryretail operation.
 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. A statement that the applicant accepts and will comply with the standard conditions set forth in this chapter.
 - ~~5.6.~~ _____ The names of each person with an ownership interest of more than 10 percent in the proposed cultivation operation.
 - ~~6.7.~~ _____ Certification, under penalty of perjury, that all the information contained in the application is true and correct.
 - ~~7.8.~~ _____ Authorization for the county, its agents and employees to seek verification of the information contained in the application.
 - ~~8.9.~~ _____ 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 6.106.430140 and any fee schedule adopted by the County.
- C. The director may establish a submission deadline for applications pursuant to this section.
- It is unlawful to make any false statement or representation or to use or submit any false or fraudulent document(s) in any application made pursuant to this chapter.

B.D.

6.106.060 Application review and action – vertically integrated operations.

- A. The director shall commence review of any application upon its filing. Within thirty business days after the filing of an application, the director shall reject any application and so notify the applicant if the application has been improperly completed or if it is incomplete. The applicant may amend and refile the application within thirty days after such rejection.
- B. Upon receipt of a complete application, the director shall approve the application and issue the applicant a notice of intent to grant the cultivation-permit, if each of the following conditions are met:

1. The applicant operates a permitted cannabis dispensaryretail operation;
 2. The applicant's permitted cannabis dispensaryretail operation has a record of good standing with the county for at least one year. For the purposes of this section, "good standing" means that the cannabis dispensaryretailer permit has not been suspended or revoked and that there are no pending proceedings for the suspension or revocation of the cannabis dispensaryretailer permit.
 3. No person who is listed on the application pursuant to subsection (1) or (5) of Section 6.106.050(A) has been convicted of a felony within the past three years. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
 4. The applicant or the operator listed in the application is at least eighteen ~~(18)~~twenty-one (21) years of age.
- C. Upon receipt of a complete application, the director shall deny the application if one or more of the conditions set forth in subsection (B) above are not met.
- D. The notice of intent to grant permit issued pursuant to subsection (B) shall include notice of the operating conditions that would attach to the permit. Within ten days after notice, the applicant shall either:
1. Certify acceptance of the operating conditions and the standard conditions of the permit, and 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 the permittee to obtain (1) any required state permits or licenses for the operation of a cultivation operation, and (2) all land use entitlements required to operate a cultivation operation. No cultivation permit shall be effective unless and until these conditions of approval are satisfied.

6.106.070 Cannabis cultivation permit application procedures – cultivation only.

- A. The director will initiate a process to solicit applications for the establishment of one or more cannabis cultivation sites that need not be affiliated with a permitted cannabis dispensaryretailer.
- B. Each application for the establishment of a cannabis cultivation site pursuant to this section shall be filed with the director and the director shall be responsible for administering the application solicitation and renewal application processes as set forth in this chapter.

~~C. 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.~~

DC. 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.

ED. No person or facility that purports to have cultivated cannabis prior to the enactment of this chapter and issuance of a permit hereunder shall be deemed to have been a legally established cultivation operation under the provisions of this chapter, and such person or facility shall not be entitled to claim a legal nonconforming status.

6.106.080 Contents of cannabis cultivation permit application – cultivation only.

A. In response to a solicitation for applications initiated by the director, each application for a cultivation permit pursuant to section 6.106.070 shall set forth or incorporate by reference the following information in a standard form adopted by the director:

1. Address of the proposed cannabis cultivation site and the name and address of the owner ~~of(s) of the parcel~~(s) containing the premises.
2. The full name, date of birth, social security number, present address and telephone number of the applicant.
3. The address to which notice of action on the application is to be mailed.
4. All residential addresses of the applicant for the five years immediately prior to the date of the application.
5. Written proof that the applicant is ~~eighteen (18)~~twenty-one (21) years of age or older (i.e., California driver's license, California identification card or birth certificate).
6. The height and weight and the color of eyes and hair of the applicant.
7. Photographs of the applicant for identification purposes to be taken by the sheriff.
8. The names and addresses of all businesses operated by and the employment history of the applicant for the five years immediately prior to the date of the application.
9. The address of any cannabis cultivation sites or ~~dispensaries~~retail operation 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 cannabis cultivation site, whether an employee, volunteer or contractor. The application shall also identify those persons, including telephone numbers (i.e., emergency contact), having management and supervisory responsibilities for the proposed cannabis cultivation site. Every person listed as owner, manager, supervisor or employee must submit fingerprints and other

necessary information for a background check to the Alameda County sheriff's office, and be photographed for identification purposes. In addition, any new employees, independent contractors, other persons and/or volunteers who will be regularly engaged at the proposed cannabis cultivation site must submit their information to the sheriff's office within five days prior to their employment.

11. A security plan containing a detailed description of the proposed security arrangements for ensuring the safety of persons from theft and robbery and protection of the premises from theft and burglary. The security plan shall be ~~approved~~submitted for review 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~~lot and (s) containing the cannabis cultivation area designated premises. ~~The site plan shall show the entire portion of the premises, used for cultivation activities, including all buildings, accessory structures, storage, and parking areas. The site plan shall show the interior configuration of the greenhouse or other structure housing cultivation activities, including~~. The site plan shall include a statement of the floor area occupied by each structure at the ~~cannabis cultivation site~~premises. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the ~~premises~~greenhouse or other structure housing cultivation activities to an accuracy of plus or minus twelve (12) inches.

13. A description of the external appearance of the cannabis cultivation site, including a precise depiction of any signage and access roads. All signage shall comply with the County Zoning Ordinance.

14. A description of products to be cultivated on the premises.

15. ~~The~~If the application proposes cultivation of cannabis for medicinal purposes, the mission statement of the cannabis cultivation site with respect to meeting the ~~medical~~medicinal 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 cannabis cultivation site shall be designed to provide sufficient odor absorbing ventilation and exhaust systems so that any odor generated on the premises is not detected outside 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. Written certification that the applicant will comply with all county ordinances, including building, zoning and health codes, allow inspections to ensure conformance with such regulations, cooperate with County agencies' efforts to monitor the retailer's

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

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

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.~~130-140.~~

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

6.106.090 Initial review of application – cultivation only.

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

1. The sheriff shall be responsible for verifying factual information in the application, including names, addresses and other information on the applicant operator and 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~~ 4. If the operation will produce cannabis for consumption by medicinal consumers, the health care services agency shall comment upon

the services to be provided and the mission statement set forth in the application.

B. Within twenty (20) business days after the filing of an application, the director shall reject any application and so notify the applicant, if the application has been improperly completed or if it is incomplete. The applicant may amend and refile the application within ten days after such rejection.

C. At the conclusion of the initial review, the director shall notify the applicant of the results of the initial review of the application.

6.106.100 - Action upon completion of initial review – cultivation only.

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

1. The proposed cultivation operation does not comply with requirements of this chapter.
2. The applicant has knowingly made a false statement of material fact or has knowingly omitted a material fact from the application.
3. The proposed cultivation operation at the proposed location is prohibited by any state or local law or regulation.
4. Any person who is listed on the application pursuant to subsection (A)(10) of Section 6.106.080 has been convicted of a felony within the past three (3) years. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
5. The applicant or the operator listed in the application is less than ~~eighteen~~ eighteen (18) or twenty-one (21) years of age.
6. The health care services agency has determined, for an operation that will produce cannabis for consumption by medicinal consumers, that the application for a cannabis cultivation site has failed to state a health care purpose that fulfills the purposes of 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 – cultivation only.

A. The final selection phase of the solicitation process shall include selection from the eligible applications and the establishment of operating conditions for any permits issued under this chapter to the selected eligible applicants. The final selection process shall not exceed sixty (60) days in the absence of an appeal.

B. If the number of eligible applications is the same as or less than the allowable number of cannabis cultivation sites allowed pursuant to section 6.106.030, then all responsible applications shall be submitted for establishment of operating conditions as

set forth in subsection C of this section. If the number of eligible applications exceeds the maximum number of cannabis cultivation sites pursuant to 6.106.030, then a competitive evaluation process shall be conducted in which applicants are scored and ranked with the director recommending issuance of a permit to the highest ranked, eligible ~~applicants~~ and responsible applicants. The director may establish a minimum required score or other mechanism to disqualify or reject applications determined to be irresponsible.

C. The director ~~shall~~ may establish operating conditions for cannabis cultivation sites for each eligible, responsible application that has been submitted for final selection. The operating conditions shall be limited to those that are necessary to carry out the purposes of this chapter and to mitigate specific and foreseeable adverse impacts on properties in the vicinity.

D. At the conclusion of the final selection process outlined above, the director shall give notice to the cultivation permit applicant of the operating conditions that would attach to the permit. Within ten days after notice, the applicant shall either:

1. Certify acceptance of the operating conditions and the standard conditions of the permit and pay all required fees, and the permit shall thereupon issue immediately.
2. If the applicant refuses or fails to certify agreement with any operating condition or to pay all required fees, the application shall be denied. The applicant may appeal any condition within ten days after notice of the conditions. Upon either the failure to file a timely appeal or the rejection of the appeal, the application shall be deemed denied.

E. The operating conditions established by the director shall include the requirement for each eligible ~~selected~~ 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.

F. In the event that an additional permit becomes available subsequent to the scoring and ranking of applications pursuant to subsections (A) and (B) above, the director may issue a permit to the next highest ranked applicant by following the procedures in subsections (C) through (E), above.

6.106.120 Appeal.

A. An applicant aggrieved by the decisions described in Section 6.106.060 ~~or Section~~, 6.106.110 or 6.106.170 may appeal that decision to the board of supervisors within ten (10) days following the date of issuance of that decision by filing with the clerk of the board of supervisors or the director a notice of appeal specifying the grounds for such appeal. Filing such notice shall stay all proceedings in furtherance of the decision appealed from, including the proceedings related to the applications or permits of other applicants potentially affected by the board of supervisors' decision

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

6.106.130 Term of cannabis cultivation permits and renewals.

- A. Each cannabis cultivation permit shall expire two years after the date of its issuance or upon the expiration date established by the director, whichever is earlier.
- B. Any permit may be renewed by the director for successive periods of up to two years each upon the submission of a renewal application by the permittee. At the time of consideration of a renewal application, the county shall consider compliance with conditions in the prior term.
- C. Any application for renewal must be filed at least forty-five (45) days before expiration of the permit.
- D. Any application for renewal may be rejected if:
 - 1. The application is filed less than forty-five (45) days before its expiration.
 - 2. The permit is suspended or revoked at the time of the application; provided, however, that an application for renewal may be filed within ten days after the granting of a permittee's appeal of the suspension or revocation of a permit.
 - 3. The cultivation operation authorized by the permit has not been in regular operation in the four months prior to the renewal application.

4. The cultivation operation fails to conform to the criteria set forth in Section 6.160.100(A).

6.106.1306.106.140 Fees.

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

6.106.1406.106.150 Prohibited operations.

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

6.106.1506.106.160 Violations, criminal and civil liability and remedies

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

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

The remedies provided by this Chapter are cumulative and in addition to any other remedies available at law or in equity.

6.106.170 - Suspension and revocation.

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

1. Violates the operating or standard conditions of the permit or the requirements of state or local laws.
2. Fails to take reasonable measures to control disturbances, loitering or such other problems on the premises.

B. The director shall provide the permittee with written notice of the suspension or revocation that shall describe the grounds for revoking or suspending the permit.

C. The permittee subject to the revocation or suspension may appeal the determination of the director to the board of supervisors within ten days after the date of the notice of the decision of the director. The board of supervisors shall act upon the appeal in accordance with Section 6.108.150.

6.106.1606.106.180 Limitations.

Nothing in this Ordinance shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) ~~allow the cultivation of cannabis or cannabis for non-medical purposes;~~ (3) exempt cannabis cultivation operations from compliance with zoning and land use regulations, or, (43) allow any activity relating to the manufacturing, distribution, or consumption of cannabis that is illegal under state or federal law.

6.106.1706.106.190 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.

6.106.1806.106.200 Judicial review.

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

6.106.040 ~~Sunset and termination.~~

~~The pilot program for cultivation of cannabis shall terminate two years from the effective date of this ordinance. 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 the second anniversary of the effective date of 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~~2018~~, by the following called vote:

AYES:

NOES:

EXCUSED:

WILMA CHAN
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: _____
Heather Littlejohn
Deputy County Counsel

ORDINANCE NO. ~~20172018~~_____

AN ORDINANCE AMENDING CHAPTER 6.108 OF THE ALAMEDA COUNTY
GENERAL ORDINANCE CODE TO REGULATE ~~MEDICAL CANNABIS
DISPENSARIES, TO PERMIT AND REGULATE THE DELIVERY OF MEDICAL
CANNABIS IN THE UNINCORPORATED AREA OF THE COUNTY OF ALAMEDA,
AND TO REGULATE THE SALE, DISPENSING AND DELIVERY OF
EDIBLES~~RETAILERS

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,~~ which affirmed that counties can adopt ordinances that restrict the location and establishment of medical cannabis collectives and cooperatives; and
5. In 2015, Assembly Bill 243, Assembly Bill 266 and Senate Bill 643 were enacted (codified in part as California Business and Professions Code 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 cannabis; and
6. In 2016, Senate Bill 837 was enacted to change all references to medical marijuana or marijuana to medical cannabis or cannabis, including changing the name of the Medical Marijuana Regulation and Safety Act to the Medical Cannabis Regulation and Safety Act (MCRSA); and
7. ~~The Medical Cannabis Regulation and Safety Act~~MCRSA established a comprehensive framework to license and regulate commercial medical cannabis cultivation, manufacturing, distribution, transportation, sales, and testing; and
8. On November 8, 2016, the voters of the State of California approved Proposition 64 (codified, in part, as California Business and Professions Code sections 26000 *et seq.* and titled the "Control, Regulate and Tax Adult Use of Marijuana Act"), which decriminalized the

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

9. On June 27, 2017, Senate Bill 94 (codified, in part, as California Business and Professions Code sections 26000 *et seq.* and titled the "Medicinal and Adult-Use Cannabis Regulation and Safety Act", or, "MAUCRSA") repealed and replaced MCRSA. MAUCRSA consolidates the medical and non-medical cannabis statutes (MCRSA and Proposition 64).
10. Pursuant to California Business and Professions Code section 26200, nothing in ~~the Medicinal Cannabis Regulation and Safety Act~~ MAUCRSA shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local permit or licensing requirements; and
11. This Ordinance is enacted, consistent with the Compassionate Use Act of 1996, the Medical Marijuana Program Act, and ~~the Medicinal and Adult-Use Cannabis Regulation and Safety Act~~ MAUCRSA to protect the public health, safety, and welfare of residents of the County of Alameda in relation to the ~~distribution~~ retail sale and delivery of ~~medical~~ cannabis; and
- ~~12. 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 precludes a local jurisdiction from regulating or prohibiting facilities that distribute medical cannabis; and~~
- ~~13. Although not authorized by the County, it is believed that the delivery of medical cannabis has been occurring in the unincorporated area of the County; and~~
- ~~14. 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~~
- ~~15. Absent appropriate regulation, the delivery of medical cannabis in the unincorporated area of the County poses a potential threat to the public peace, health, and safety; and~~
- ~~16. 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~~
- ~~17. The County 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~~
- ~~18-12.~~ The County has a compelling interest in protecting the public health, safety, and welfare of its residents, visitors and businesses, in preserving the peace and quiet of the neighborhoods within the unincorporated areas of the County by regulating the ~~distributions~~ sale and delivery of ~~medical~~ cannabis and the packaging, labeling and sale of ~~edibles~~ edible cannabis products; and
- ~~19-13.~~ In adopting the East County Area Plan (ECAP) in 1994 and Measure D in 2000, the

Board of Supervisors and the voters established an urban growth boundary and associated goals and policies to protect agricultural and open space uses while allowing some limited development, including “agriculture enhancing commercial uses” that can demonstrate an economic connection to agricultural use and production and “visitor-serving commercial uses” that promote agriculture and are subordinate and directly related to the area’s agricultural production; and

~~20.14.~~ 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

~~24.15.~~ The Board of Supervisors has determined that, with appropriate conditions, a ~~dispensary~~ cannabis retail operation may be an appropriate conditionally permitted use in the agricultural district and outside of the urban growth boundary established by Measure D as an “agriculture enhancing commercial use” and a “visitor-serving commercial use” that is economically related to and supports the area’s cannabis cultivation; and

~~16.~~ ~~This~~ On September 12, 2017, the County adopted an amendment to Chapter 6.108 of the Ordinance ~~regulates the dispensing and delivery of Code that allowed up to two~~ medical cannabis ~~and~~retailers (or, “dispensaries”) in the East County and up to three ~~medical cannabis~~ retailers in the West County; and

~~17.~~ Allowing approved medical cannabis retailers to expand their operations to include the sale and delivery of both medicinal and adult-use cannabis and cannabis products in the unincorporated areas of the County and does not address the dispensing or delivery will allow the County to more fully implement recent state law and regulation concerning commercial cannabis businesses; and

~~18.~~ Allowing approved medical cannabis retailers to sell adult-use cannabis will streamline the County’s regulation of cannabis for non-medical use underbusinesses; and

~~19.~~ Allowing a single retailer to sell cannabis and cannabis products for both medicinal and adult-use will have limited if any impact on other County residents and businesses because the retail operation will not be materially impacted by the designation of the customer as either a medicinal or adult-use customer; and

~~20.~~ All commercial retail operations will be required to obtain requisite state licenses in order to conduct business, including obtaining an adult-use (A-type) retailer license and/or a medicinal (M-type) retailer license as needed for the type of retail operation; and

~~21.~~ All commercial retail operations will be required to comply with state law and state regulations, including but not limited to the requirement to record the movement of cannabis into and out of the retail site via the state’s track and trace system; and

~~22.~~ The Board of Supervisors acknowledges that regulation of cannabis activities is an evolving field at the state level, as evidenced by the recent passage of Proposition 64, adoption of MAUCRSA or otherwise, and release of emergency regulations by various state licensing

agencies. As a result, the field of local regulation is also expected to continue to evolve over the next several years including possible further revisions to the County ordinances, policies and performance standards; and

23. 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
24. Nothing in this Ordinance shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) ~~allow the use of cannabis for non-medical purposes;~~ (3) ~~exempt dispensaryretailers~~ or delivery operations from compliance with zoning and land use regulations, or, (43) allow any activity relating to the cultivation, distribution, or consumption of cannabis that is illegal under state or federal law.

SECTION 2

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

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

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

Chapter 6.108 — ~~Medical Cannabis~~ DispensariesRetailers, 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 cannabis~~ dispensariesretailers, the delivery of ~~medical cannabis~~ and the packaging, labeling and sale 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.

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~~seeks a permit under this chapter by filing an application as provided for in this chapter.
- B. "Application" means that form provided by the director and submitted by an applicant in accordance with this chapter for the purpose of seeking a permit.
- C. "Bureau" means the Bureau of Cannabis Control within the California Department of Consumer Affairs.
- D. "Brick and mortar" dispensaryretailer means a cannabis dispensaryretailer with a permanent, physical ~~location for which a license or permit to dispense medical cannabis from a~~ store-front retail premise forlocation allowing direct physical access to ~~qualified patients and primary caregivers has been issued by the local jurisdiction~~

~~in which the dispensary is located and by the state, once state licenses become available customers.~~

- E. "Cannabis" shall have the same definition as in Business and Professions Code section 26001(f), which defines "cannabis" as all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For purposes of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the California Health and Safety Code.
- F. "Cannabis concentrate" or "Concentrate" shall have the same definition as in Business and Professions Code section 26001(h), which defines "cannabis concentrate" to mean cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this chapter. ~~A cannabis concentrate is not considered food, as defined by Section 409935 of the California Health and Safety Code, or a drug, as defined by Section 409925 of the California Health and Safety Code.~~
- G. "Cannabis cultivation," "Cultivate" or "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of medical cannabis. Cannabis cultivation includes the operations of a cannabis nursery. Cannabis cultivation does not mean the temporary maintenance and selling of clones from a permitted dispensaryretailer, where such activities are incidental and subordinate to the primary dispensaryretailer operation.
- H. "Cannabis Deliverydelivery" or "Delivery" means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, ~~up to an amount determined by the Bureau, or, until the Bureau establishes an allowed amount, the amount allowed by California Health and Safety Code Section 11362.77,~~retailer to a primary caregiver, qualified patient or person with an identification card as defined in Section 11362.7 of the California Health and Safety Code, or a testing laboratory.retail customer. "Delivery" also includes the use by a dispensaryretailer of anya technology platform ~~owned and controlled by the dispensary, or independently licensed by the Bureau,~~ that enables qualified patients, persons with an identification card or primary caregiversretail customers to arrange for or facilitate ~~the commercial transfer by a licensed dispensary of medical~~retail sale and delivery of cannabis or medical cannabis products.
- I. "Cannabis Delivery Operatordelivery operator" means a person holding a permit under this chapter to engage in the delivery of medical cannabis or medical cannabis products.
- ~~J. "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, 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 medical provisions of the California Medicinal and Adult-Use 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.~~

~~K.J. 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.~~ “Cannabis Operator” means the natural person or designated officer responsible for the operation of any permitted cannabis operation.

~~K. “Cannabis product” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.~~

~~L. “Cannabis retailer,” “Retailer” or “Retail site” means a premises where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including cannabis for medicinal use and/or adult-use under the authority of the Medicinal and Adult-Use Cannabis Regulation and Safety Act, California Compassionate Use Act, and/or the Medical Marijuana Program, and/or, and including an establishment that delivers, cannabis and cannabis products.~~

~~L.M. “Clone” means the cutting of a cannabis plant that has been re-planted and is non-flowering.~~

~~M.N. “Community Development Agency” means the community development agency of the County of Alameda.~~

~~N.O. “County” means the County of Alameda.~~

~~O.P. “Director” means the director of the Community Development Agency or his designee.~~

~~P.Q. “Dispensing” means any activity involving the retail sale of ~~medical~~ cannabis or ~~medical~~ cannabis products from a ~~dispensary~~retailer.~~

~~Q.R. “Distribution” means the procurement, sale, and transport of ~~medical~~ cannabis and ~~medical~~ cannabis products between entities licensed pursuant to the ~~medical~~ provisions of Division 10 of the California Business and Professions Code.~~

~~R.S. “Edible cannabis product”, “Edible” or “Edibles” shall have the same definition as in Business and Professions Code section 26001(t), which defines “edible cannabis product” as a cannabis product that is intended to be used, in whole or in part, for~~

human consumption, including, but not limited to chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the California Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code.

~~S. "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.~~

T. "Identification card" has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended.

U. "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.

~~V. "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.~~

~~W. "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 11018.5 of the Health and Safety Code.~~

V. "Lot" means a separate parcel of land shown and identified as such on the records of the county recorder or on the final map of an approved and recorded subdivision, excluding therefrom for the purposes of this title any portion thereof which lies within a street, within a lane, or within a fenced-off flood control easement.

~~X.W.~~ "Nursery" means a cannabis operation that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of ~~medical~~ cannabis.

~~Y.X.~~ "Permit" means a permit issued by the county to a ~~medical~~ cannabis ~~dispensary~~retailer or delivery operator under this chapter.

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

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

~~BB-AA.~~ "Person with an identification card" means an individual who is a qualified patient who has applied for and received a valid identification card pursuant to Article 2.5 of the California Health and Safety Code

~~CC.~~ "Premises" means the building in which a medical cannabis dispensary is operated and, in addition, any accessory structures and appurtenant areas.

BB. "Premises" means the designated structure or structures and land specified in the application or in the permit that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or

is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.

~~DD-CC.~~ "Primary caregiver" means the individual, designated by a qualified patient or a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, and may include those persons identified in subdivision (e) of Section 11362.5 of the California Health and Safety Code, as it may be amended.

~~EE-DD.~~ "Qualified patient" means a person who is entitled to the protections of Section 11362.5 of the California Health and Safety Code, but who does not have an identification card issued pursuant to Article 2.5 of the California Health and Safety Code.

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

~~GG-FF.~~ "Sheriff" means the sheriff of the County of Alameda and his or her authorized representatives.

~~HH-GG.~~ "State" means the state of California.

6.108.030 – ~~Cannabis dispensary permit required~~General cannabis retailer requirements and terms.

- 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~~ cannabis ~~dispensary~~retailer in the unincorporated portion of Alameda County, unless such ~~medical~~ cannabis ~~dispensary~~retailer 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~~ cannabis ~~dispensary~~retailer shall apply for a permit under this chapter ~~and, if, If such a permit is granted, shall maintain the owner, managing partner, corporate officer, and any person with primary responsibility for~~ the operation of the ~~medical~~ cannabis ~~dispensary~~retailer shall ensure the operation is retailer maintained in conformity with the terms of this chapter and of the permit.
- C. The fact that an applicant possesses other types of state or county permits or ~~licenses other than those identified in Section 6.108.020 shall~~licenses shall not exempt the applicant from obtaining a permit under this chapter, nor shall the terms and conditions of any other such permit or license modify the requirements of a permit granted under this chapter.
- D. At no time shall the county have in effect more than five permits.
1. In the West County, in no event shall the total number of permits for all areas shown in Exhibit A (West County) exceed three. No more than two permits shall be issued in any one of the two areas shown in Exhibit A (West County). No more than one permit shall be issued in the other area shown in Exhibit A (West County).
 2. In the East County, in no event shall the total number of permits for all areas shown in Exhibit B (East County) exceed two. No permit shall be issued for a ~~dispensary~~retailer within five miles of another ~~dispensary~~retailer in the unincorporated area shown in

Exhibit B (East County) or within one mile of a permitted dispensaryretailer location in an incorporated city.

3. No permit shall be issued in any portion of the unincorporated area that is not within one of the areas delineated in Exhibit A or Exhibit B.

E. Notwithstanding subsection D of this section, each medical-cannabis dispensaryretailer shall comply with all zoning requirements in Title 17 of the Alameda County General Ordinance Code, the Alameda County General Plan, and any Specific Plan applicable to the location of the dispensaryretailer, including the requirement to obtain any conditional use permits, and shall also meet all of the following locational standards:

1. No dispensaryretailer may be closer than one thousand (1000) feet from any other dispensaryretailer.

2. No dispensaryretailer may be closer than one thousand (1000) feet from any school, any licensed child or day care facility, public park or playground, drug recovery facility or recreation center.

3. No dispensaryretailer shall be located in a residential zone or its equivalent.

F. The following facilities are exempt from the requirement of a permit:

1. A clinic that is licensed under Chapter 1 of Division 2 of the California Health and Safety Code.

2. A health care facility that is licensed under Chapter 2 of Division 2 of the California Health and Safety Code.

3. A residential care facility for persons with chronic life-threatening illness that is licensed under Chapter 3.01 of Division 2 of the California Health and Safety Code.

4. A residential care facility for the elderly that is licensed under Chapter 3.2 of Division 2 of the California Health and Safety Code.

5. A residential hospice or a home health agency that is licensed under Chapter 8 of Division 2 of the California Health and Safety Code.

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

6.108.035 – Cannabis-General cannabis delivery permit required-requirements and terms.

A. It shall be unlawful for any person, including a legally permitted medical cannabis dispensaryretailer, 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, If such a permit is granted, shall maintain the~~ owner, managing partner, corporate officer, and any person with primary responsibility for the operation of the medical-cannabis-delivery-retailer shall ensure the operation is maintained in conformity with the terms of this chapter and of the permit.

C. The fact that an applicant possesses other types of state or county permits or licenses shall not exempt the applicant from obtaining a delivery 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” dispensaryretailer holding a valid license or permit to dispense medicalfor the retail sale of cannabis issued by the State of California or by a California city, county, or city and county. by the local jurisdiction in which the retailer is located. Mobile dispensariesretailers that do not have a permanent physical dispensary location (a “brick and mortar” dispensary)retail location 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 dispensaryretailer 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 licenseretailer permit.

6.108.040 - Term of cannabis dispensary permits and renewals.

A. Each cannabis dispensaryretailer permit shall expire two years after the date of its issuance or upon the expiration date established by the director, whichever is earlier.

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

C. Any permit may be renewed by the director for successive two-year periods upon the submission of a renewal application by the permittee. ~~At the time of consideration of a renewal application, the county shall consider compliance with conditions in the prior term.~~

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

~~E. 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.~~

D. No person or facility that purports to have sold or delivered cannabis prior to the enactment of this chapter or without a permit shall be deemed to have been a legally established retailer or delivery operation under the provisions of this chapter, and such person or facility shall not be entitled to claim a legal nonconforming status.

6.108.050 – Cannabis dispensaryretailer permit application and renewal procedures.

A. When one or more cannabis dispensaryretailer permits authorized by Section 6.108.030 is available for award, the director will initiate a process to solicit applications for the

establishment of a dispensaryretailer within an area where a dispensaryretailer could be established based upon the provisions of Section 6.108.030.

- B. Each application for the establishment of a dispensaryretailer or renewal of an existing cannabis dispensaryretailer permit shall be filed with the director and the director shall be responsible for administering the application solicitation and renewal application processes as set forth in this chapter.
- C. The director shall adopt such forms 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, 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 dispensaryretailer on the date of the mailing of notice.
- ~~E. No person or facility that purports to have distributed or delivered cannabis 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.~~
- D. Any application for renewal shall be filed at least forty-five (45) days before expiration of the permit.
- E. Any application for renewal may be rejected if:
 - 1. The application is filed less than forty-five (45) days before its expiration.
 - 2. The permit is suspended or revoked at the time of the application; provided, however, that an application for renewal may be filed within ten days after the granting of a permittee's appeal of the suspension or revocation of a permit.
 - 3. The retailer authorized by the retailer permit has not been in regular operation in the four months prior to the renewal application.
 - 4. The retailer fails to conform to the criteria set forth in Section 6.108.100.

6.108.060 - Contents of cannabis dispensaryretailer permit application.

- A. In response to a solicitation for applications initiated by the director, each application for a cannabis dispensaryretailer permit shall set forth or incorporate by reference the following information and such other relevant information determined by the director to be reasonably required, all in a standard form adopted by the director:
 - 1. Address of the proposed cannabis dispensaryretailer and the name and address of the owner of the parcel(s) containing the premises.
 - 2. The full name, date of birth, social security number, present address and telephone number of the applicant.
 - 3. The address to which notice of action on the application is to be mailed.
 - 4. All residential addresses of the applicant for the five years immediately prior to the date of the application.

5. Written proof that the applicant is ~~eighteen (18)~~twenty-one (21) years of age or older (i.e., California driver's license, California identification card or birth certificate).
6. The height and weight and the color of eyes and hair of the applicant.
7. Photographs of the applicant for identification purposes to be taken by the sheriff.
8. The names and addresses of all businesses operated by and the employment history of the applicant for the five years immediately prior to the date of the application.
9. The address of any ~~dispensaries~~retailers 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 cannabis ~~dispensary~~retailer, 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~~retailer. Every person listed as owner, manager, supervisor or employee must submit fingerprints and other necessary information for a background check to the Alameda County Sheriff's Office, and be photographed for identification purposes. In addition, any new employees, independent contractors, other persons and/or volunteers regularly engaged in the proposed ~~medical~~ cannabis ~~dispensary~~retailer must submit their information to the sheriff's office within five days prior to their employment pursuant to Section 6.108.120(A)(11).
11. A security plan containing a detailed description of the proposed security arrangements for ensuring the safety of persons from theft and robbery and protection of the premises from theft and burglary. The security plan shall be ~~approved~~submitted for review 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 and floor plan, consisting of a sketch or diagram showing the interior and exterior configuration of the premises of the cannabis ~~dispensary~~retailer. The site plan shall show the entire portion of the premises used for retail activities including all buildings, accessory structures, storage, and parking areas, and a statement of the total floor area occupied by the ~~dispensary~~retailer. 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~~retailer 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, persons with an identification card or designated caregivers. The primary entrance shall be located and maintained clear of barriers, landscaping or similar obstructions so that it is clearly visible from public streets, sidewalks, or site driveways.
13. A description of external appearance of the ~~dispensary~~retailer, including a precise depiction of any signage, which shall not obstruct the entrance or windows of the ~~dispensary~~retailer. All signage shall comply with the County Zoning Ordinance.

14. A description of products to be sold ~~or dispensed~~ by the dispensaryretailer.
 15. ~~The~~ If the application proposes sale of cannabis for medicinal purposes, the mission statement of the dispensaryretailer with respect to meeting the ~~medical~~medicinal needs of patients in its area, as delineated by subsection D of Section 6.108.030.
 16. A description of the methods by which the applicant will mitigate any potentially adverse impacts, such as loitering, odors or noise, on surrounding property owners. The dispensaryretailer shall be designed to provide sufficient odor absorbing ventilation and exhaust systems to that any odor generated inside the dispensaryretailer 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 dispensaryretailer if it occupies only a portion of the building.
 17. Authorization for the county, its agents and employees to seek verification of the information contained in the application.
 18. Written certification that the applicant has reviewed and understands and accepts the standard conditions that are set forth in Section 6.108.120. Written certification that the applicant will comply with all county ordinances, including building, zoning and health codes, allow inspections to ensure conformance with such regulations, cooperate with County agencies' efforts to monitor the retailer's compliance with this applicable ordinances and with all conditions of permits issued pursuant to this Code, and pay any County fees assessed for monitoring permittee's compliance.
 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 dispensaryretailer will operate consistent with State and local law, including but not limited to: the minimum staffing levels for operation of the dispensaryretailer, policies and procedures for record keeping, specific details of the dispensary'sretailer's track and trace program, specific details of the dispensary'sretailer's product testing, specific details of the dispensary'sretailer's proposed odor absorbing ventilation and exhaust systems, and other relevant information regarding the operation of the proposed dispensaryretailer and including a copy of the dispensary'sretailer's labor peace agreement when the dispensaryretailer is required by California Business & Professions Code Section 26051.5 to enter into or abide by a labor peace agreement.
- B. The filing of an application shall be deemed complete upon the submission of an application in conformance with this section and payment of the application fees required by Section 6.108.080.
- C. It is unlawful to make any false statement or representation or to use or submit and false or fraudulent document in any application made pursuant to this chapter.

6.108.070 – Cannabis delivery 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~~retailer or such other person who shall be authorized by the licensed or permitted ~~medical cannabis dispensary~~retailer may apply for a delivery permit or for renewal of a delivery permit under this chapter ~~and, if, If such a permit is granted, shall maintain the owner, managing partner, corporate officer, and any person with primary responsibility for the operation of the medical cannabis retailer shall ensure the delivery operation operations are maintained~~ in conformity with the terms of this chapter and of the permit.
- B. Each application for a delivery permit or renewal of a cannabis delivery permit shall set forth or incorporate by reference the information ~~required for a dispensary permit in Section 6.108.060~~set forth below and such other information as the director may require in a standard form adopted by the director.
1. Address of the brick and mortar cannabis retailer from which deliveries are proposed to be made and the name and address of the owner(s) of the parcelot(s) containing the retail site.
 2. The full name, date of birth, social security number, present address and telephone number of the applicant.
 3. The address to which notice of action on the application is to be mailed.
 4. All residential addresses of the applicant for the five years immediately prior to the date of the application.
 5. Written proof that the applicant is twenty-one (21) years of age or older (i.e., California driver's license, California identification card or birth certificate).
 6. The height and weight and the color of eyes and hair of the applicant.
 7. Photographs of the applicant for identification purposes to be taken by the sheriff.
 8. The names and addresses of all businesses operated by and the employment history of the applicant for the five years immediately prior to the date of the application.
 9. The name and address of any retail or delivery operations 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 cannabis delivery operation, whether an employee, volunteer or contractor. The application shall also identify those persons, including telephone numbers (i.e., emergency contact), having management and supervisory responsibilities for the proposed retailer. Every person listed as owner, manager, supervisor or employee must submit fingerprints and other necessary information for a background check to the Alameda County Sheriff's Office, and be photographed for identification purposes. In addition, any new employees, independent contractors, other persons and/or volunteers regularly engaged in the proposed cannabis retailer must submit their information to the sheriff's office within five days prior to their employment pursuant to Section 6.108.120(A)(11).
 11. A security plan containing a detailed description of the proposed security arrangements for ensuring the safety of persons from theft and robbery and protection of the vehicle from theft and burglary. The security plan shall be submitted for review by the Sheriff.
 12. A description of products to be sold by delivery.

13. If the application proposes delivery of cannabis for medicinal purposes, the mission statement of the retailer with respect to meeting the medicinal needs of patients.
 16. A description of the methods by which the applicant will mitigate any potentially adverse impacts, such as safety, odors or noise, on surrounding property owners.
 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 6.108.125. Written certification that the applicant will comply with all county ordinances, including building, zoning and health codes, allow inspections to ensure conformance with such regulations, cooperate with County agencies' efforts to monitor the retailer's compliance with this applicable ordinances and with all conditions of permits issued pursuant to this Code, and pay any County fees assessed for monitoring permittee's compliance.
 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 retailer will operate consistent with State and local law, including but not limited to: the minimum staffing levels for operation of the delivery operation, policies and procedures for record keeping, specific details of the retailer's track and trace program.
- C. Any application for renewal shall be filed at least forty-five (45) days before expiration of the permit.
- D. Any application for renewal may be rejected if:
1. The application is filed less than forty-five (45) days before its expiration.
 2. The 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 retailer authorized by the retailer permit has not been in regular operation in the four months prior to the renewal application.
 4. The applicant fails to conform to the criteria set forth in Section 6.108.125.
- E. The filing of an application ~~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 6.108.080.
- F. It is unlawful to make any false statement or representation or to use or submit and false or fraudulent document in any application made pursuant to this chapter.

6.108.080 - Fees.

- A. Every application or renewal of a dispensaryretailer 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 dispensaryretailer 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 dispensariesretailers and delivery operations.

6.108.090 - Initial review of application.

- A. The director shall commence review of any application immediately upon its filing ~~and. For retailer permit applications, the director~~ shall complete such initial review within the time period established in the solicitation process for dispensaryretailer permits, but in no event shall the initial review exceed one hundred and twenty (120) days, ~~or forty-five (45) days for delivery permits.~~ For delivery permit applications, delivery permit renewal applications, and dispensaryretailer renewal applications, the director shall complete such initial review within forty-five (45) days. In conducting this review, the following county agencies shall comment on specific portions of the application:
 1. The sheriff shall be responsible for verifying factual information in the application, including names, addresses and other information on the applicant operator and its employees of the proposed dispensaryretailer or delivery operation.
 2. The sheriff shall comment upon the adequacy of security measures that are described in the application, and, for retailer applications, the security plan, the floor plan, and other relevant aspects of the application.
 3. ~~The~~ 3. For retail applications, the community development agency shall comment upon the proposed location's compliance with the requirements of subsections D and E of Section 6.108.030, the general responsiveness to the solicitation process in Section 6.108.050, and conditions that are needed to mitigate adverse impacts on surrounding uses.
 4. ~~The~~ 4. If the proposed operation will sell cannabis for consumption by medicinal consumers, the health care services agency shall comment upon the services to be provided and the mission statement set forth in the application.
 5. ~~The~~ 5. If the proposed operation will include the sale of edibles, the department of environmental health shall comment upon the application's compliance with the requirements of Section 6.108.190.
- B. Within twenty (20) business days after the filing of an application, the director shall reject any application and so notify the applicant, if the application has been improperly completed or if it is incomplete. The applicant may amend and refile the application within ten days after such rejection.
- C. At the conclusion of the initial review, the director shall notify the applicant of the results of the initial review of the application.

6.108.100 - Action upon completion of initial review.

- A. Upon completion of the initial review, the director shall reject any permit application that meets any of the following criteria:
 1. The proposed dispensaryretailer 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 dispensaryretailer at the proposed location is prohibited by any state or local law or regulation.
 4. Any person who is listed on the application pursuant to subsection (A)(10) of Section 6.108.060 or pursuant to Section 6.108.070 has been convicted of a felony within the past three (3) years. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
 5. The applicant or the operator listed in the application is less than ~~eighteen (18)~~twenty-one (21) years of age.
 6. The health care services agency has determined, for an operation that will sell cannabis for consumption by medicinal consumers, that the application ~~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.
- B. Any retailer application that is not rejected upon completion of the initial review shall be deemed an eligible application and submitted to the final selection phase of the solicitation process described in Section 6.108.110.
- C. Any delivery application that is not rejected upon completion of the initial review shall be deemed an eligible application and submitted to the final phase of the permit process described in Section 6.108.115.

6.108.110 - Final selection of ~~medical cannabis~~ dispensariesretailers.

- A. The final selection phase of the solicitation process shall be comprised of selection of which eligible applications shall be submitted for final selection and the establishment of operating conditions of any permits issued under this chapter. The final selection process shall not exceed one hundred and twenty (120) days in the absence of an appeal.
- B. The final selection process for dispensariesretailers 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~~ dispensariesretailers 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 dispensariesretailers for such area, the eligible applications to be submitted for final selection shall be designated by a competitive evaluation process in which applicants are scored and ranked with the director recommending issuance of a permit to the highest ranked, eligible and responsible applicants in each geographic area where dispensaryretailer permits are available, provided they meet the spacing requirements set forth in Section 6.108.030(D) and (E). The director may establish a minimum required score or other mechanism to disqualify or reject applications determined to be irresponsible.
- C. The director ~~shall~~may establish operating conditions, in addition to the standard conditions contained in Section 6.108.120 for ~~dispensaries and in Section 6.108.125 for delivery operations~~, for each eligible, responsible application that has been submitted for final review. The operating conditions shall be limited to those that are necessary to carry out the

purposes of this chapter and to mitigate specific and foreseeable adverse impacts on properties in the vicinity.

- D. At the conclusion of the final selection, the director shall give notice to the dispensaryretailer permit applicant of the operating conditions that would attach to the permit. Within ten days after notice, the applicant shall either:
1. Certify acceptance of the operating conditions and the standard conditions of the permit, and pay all required fees and the permit shall thereupon issue immediately.
 2. If the applicant refuses or fails to certify agreement with any operating condition or standard condition or to pay required fees, the application shall be denied. The applicant may appeal any condition within ten days after notice of the conditions. Upon either the failure to file a timely appeal or the rejection of the appeal, the application shall be deemed denied.
- E. The operating conditions established by the director shall include the requirement for each eligibleselected applicant to obtain (1) any required state permits or licenses for the retail operation of a dispensary and delivery operation, if applicable, and (2) all land use entitlements required to operate a dispensaryretail operation. No retailer permit shall be effective until these conditions of approval are satisfied.
- F. In the event that an additional permit becomes available subsequent to the scoring and ranking of applications pursuant to subsections (A) and (B) above, the director may issue a permit to the next highest ranked applicant by following the procedures in subsections (C) through (E), above, provided the applicant meets the spacing requirements set forth in Section 6.108.030(D) and (E).

6.108.115 - Final permit phase for cannabis delivery operators.

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

6.108.120 - Standard conditions for ~~medical cannabis~~ dispensariesretailers.

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

1. It shall be a violation of this chapter for a dispensaryretailer to deliver, distribute, provide or allow to be provided cannabis to any person except those persons who are 21 years of age or older or who are primary caregivers, qualified patients or persons with an identification card, as defined by California Health and Safety Code section 11362.7. All dispensingretail sales that ~~do~~ not comply with the provisions of Sections 26000, *et seq.*, of the Business and Professions Code applicable to medicalretail operations, associated state regulations and the terms of the permit and this chapter is prohibited. It shall be the responsibility of the permittee to ensure that a good faith effort be made to verify the validity of any proof of age, identification card and written recommendation provided to the dispensaryretailer.
2. Each dispensaryretailer shall maintain records of persons who have received cannabis from the dispensaryretailer. These records shall ~~set forth only the identification card~~include a retailer-assigned customer 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~~shall not identify such documentation that authorizes such distribution under this chapter. persons by full name.
3. No dispensaryretailer shall be open for business between the hours of 12:00 a.m. and 9:00 a.m. or between the hours of 9:00 p.m. and 11:59 p.m. on any day. No activities that are undertaken in the operation of the dispensaryretailer shall be conducted outside the interior premises of the dispensaryretailer.
4. Unless and until a local permit and state license allowing nursery or cultivation uses (e.g., Type 12 – Microbusiness) has been issued for the dispensaryretailer location, cannabis may not be grown or cultivated on the premises. However, the dispensaryretailer may sell clones and may provide such water, heat, and light as may be necessary to maintain the clones prior to sale, provided that such activities are incidental and subordinate to the primary dispensaryretailer operation.

A dispensaryretailer shall actively regulate and monitor its purchasing limits, such that no qualified patient, person with an identification card or primary caregiver is permitted to purchase in excess of eight ounces of cannabis in any calendar month.
5. No cannabis shall be smoked, ingested or otherwise consumed on the premises of a dispensaryretailer.
6. A cannabis dispensaryretailer shall ensure that its products are in tamper-evident packages and labeled as required by California Business and Professions Code Section 26120, regulations established by the Bureau, and requirements of the California Department of Food and Agriculture and by stating the name of the dispensaryretailer and the weight of cannabis. Any edible cannabis product must be contained in a package that is labeled to indicate the ingredients, including the amount of cannabis contained in the package, identify the product, state who is responsible for the product, and such other information as may be required by state or local law.
7. ~~Medical cannabis~~Cannabis may be provided by a dispensaryretailer in an edible form, provided that the edibles meet all applicable state and county requirements, including but not limited to the provisions in Section 6.108.190.
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 and the dispensary shall not provide medical cannabis to any person under the age of eighteen (18), unless that person is a~~

~~qualified patient, primary caregiver, or person with an identification card as defined by California Health and Safety Code section 11362.7.~~

8. A retailer that sells adult-use cannabis or cannabis products shall not allow any person under 21 years of age on its premises, employ or retain persons under 21 years of age, or sell cannabis or cannabis products unless the person to whom the cannabis or cannabis product is to be sold first presents documentation which reasonably appears to be a valid government-issued identification card showing that the person is 21 years of age or older.

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

9. The entrance to a dispensaryretailer shall be posted with a notice that states the restrictions on the presence of persons under the age of ~~eighteen (21 and/or 18)~~, as applicable, and that smoking, ingesting or consuming cannabis on the premises is prohibited. In addition, each dispensaryretailer shall conspicuously display the permit.
10. No dispensaryretailer may hold a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, nor may it include a business that sells alcoholic beverages on the same premises. No alcohol may be stored, sold, dispensed or used on the same premises.
11. Each permittee shall maintain a current registry of persons, including, but not limited to, employees, contractors and volunteers, who are regularly engaged in the operation of the dispensaryretailer. The registry shall be provided to the director at any time upon request. The registry shall include the name, current residential address, telephone number, date of birth and the height, weight and color of eyes and hair of each such person. In addition, any new employees, independent contractors, other persons and/or volunteers to be regularly engaged in the operation of the proposed medical cannabis dispensaryretailer must submit their information to the sheriff's office within five days prior to their employment or engagement.
12. No person who has been convicted of a felony within the past three years may be actively engaged in the operation of any dispensaryretailer. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
13. A dispensaryretailer shall provide adequate security on the premises, including lighting and alarms, to ensure the safety of persons and to protect the premises from theft.
14. The permittee shall provide the director with the name, telephone number and facsimile number of a community relations contact to whom one can provide notice of problems associated with the dispensaryretailer. The permittee shall make a good faith effort to resolve problems without the need for intervention by the county.
15. A dispensaryretailer shall provide litter removal services twice each day of operation on and in front of the premises and, if necessary, on public sidewalks within one hundred (100) feet of the premises.

16. A dispensaryretailer shall comply with all county ordinances, including building, zoning and health codes, and shall allow inspections to ensure conformance with such regulations. A retailer shall cooperate with County agencies' efforts to monitor the retailer's compliance with this applicable ordinances and with all conditions of permits issued pursuant to this Code. The County may assess fees for monitoring permittee's compliance.
17. A dispensaryretailer shall not be delinquent in the payment of fees required by this chapter.
18. All activities of the dispensaryretailer must take place within the interior of the building
19. A dispensaryretailer must have appropriate restroom facilities that will accommodate both male and female customers.
- ~~20. Once the Bureau begins issuing licenses to testing laboratories, a dispensary~~20. A retailer shall ensure that a representative sample of its cannabis and cannabis products have been submitted for analytical testing at a licensed testing laboratory, as defined in Business and Professions Code section 26001(as), before the cannabis and cannabis products are delivered to the dispensaryretailer.
21. A dispensaryretailer shall package all cannabis flowers sold on its premises in child resistant packaging.
22. A dispensaryretailer shall implement a track and trace program with a unique identifier for every product, both for inventory stored in a safe and inventory packaged for sale. A dispensaryretailer shall implement a track and trace program that shall be in compliance with Section 26067, 26068 and 26069 of the California Business and Professions Code and all applicable regulations, ~~once that program is established and becomes operational.~~
23. A dispensaryretailer 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 dispensaryretailer shall (a) enter into any agreement with or employ a physician for the purpose of evaluating patients for the issuance of a medicalmedicinal cannabis recommendation or identification card; (b) allow a physician to locate on the dispensaryretailer premises at any time for the purpose of issuing a medicalmedicinal cannabis recommendation or identification card; (c) give or offer to give any form of remuneration to a physician if the physician or his or her immediate family have a financial interest (as that term is defined in California Business and Professions Code section 650.01) in the dispensaryretailer; and (d) not distribute any form of advertising for physician recommendations for medicalmedicinal cannabis in California unless the advertisement bears the notice to consumers contained in California Business and Professions Code section 2525.5.
25. ~~Each dispensary~~A retailer 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 [dispensaryretailer](#) and without notice, the director, acting in conjunction with other appropriate county officials, may enter the premises for the purpose of observing compliance of the [dispensaryretailer](#) with the conditions of its permit.
- E. Release of the county from liability. The owner and permittee of each [dispensaryretailer](#) 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 [dispensaryretailer](#) 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 [dispensaryretailer](#) 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 [dispensaryretailer](#) 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 [distributionsale](#), delivery and/or on- or off-site use of cannabis provided at the [dispensaryretailer](#) or delivered by the delivery operator in a form satisfactory to the director.

6.108.125 - Standard conditions for cannabis delivery operations.

- A. Throughout the term of the [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~~ [is unlawful](#) to deliver, distribute, provide or allow to be provided cannabis to any person except those persons who are [21 years of age or older or who are](#) primary caregivers, qualified patients or persons with an identification card, as defined by California Health and Safety Code section 11362.7. All deliveries that do not comply with provisions of Sections 26000, et seq., of the Business and Professions Code applicable to [medical](#) operations, associated state regulations, 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 [proof of age](#), identification card or the written recommendation from a licensed physician provided to the delivery operator.
 2. All employees of a delivery operator delivering [medical](#) cannabis or [medical](#) cannabis products shall carry a copy of the ~~dispensary'sretailer's~~ current [dispensaryretailer](#) license or permit and the ~~dispensary'sretailer'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, if any.
4. The qualified patient, person with an identification card or primary caregiver requesting the delivery shall maintain a copy of the delivery request and shall make it available, upon request, to the director or law enforcement officers.
5. No deliveries shall be made between the hours of 12:00 a.m. and 9:00 a.m. or between the hours of 9:00 p.m. and 11:59 p.m. on any day.
6. ~~Not is unlawful to employ a~~ person who is less than ~~eighteen (18)~~21 years of age ~~may be employed or otherwise engaged to~~ engage in the delivery of ~~medical~~ cannabis.
7. It shall be unlawful for any delivery operation to provide medical cannabis to any person under the age of ~~eighteen (18)~~ unless that person is a qualified patient or a primary caregiver with a valid identification card in accordance with California Health and Safety Code section 11362.7 or has a verifiable written recommendation from a licensed physician for medical cannabis.
8. Each permittee shall maintain a current registry of persons, including, but not limited to, employees, contractors and volunteers; who are regularly engaged in delivery operations. The registry shall be provided to the director at any time upon request. The registry shall include the name, current residential address, telephone number, date of birth and the height, weight and color of eyes and hair of each such person. Every person listed as owner, manager, supervisor or employee must submit fingerprints and other necessary information for a background check to the Alameda County sheriff's office, and be photographed for identification purposes. In addition, any new employees, independent contractors, other persons and/or volunteers to be regularly engaged in the delivery operation must submit their information to the sheriff's office within five days prior to their employment.
9. ~~Not is unlawful to employ a~~ person who has been convicted of a felony within the past three years ~~may be actively engaged to~~ engage in ~~the delivery operations of~~ cannabis. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
10. Delivery vehicles shall not include signage or markings that identify the vehicle as a cannabis delivery vehicle.
11. Delivery operators shall provide adequate security for their delivery personnel and vehicles, to ensure the safety of persons and to protect the vehicle operators from theft.
12. The delivery permit holder will satisfy the release of liability and county indemnification requirements in subdivision E and F of Section 6.108.120.
13. A retailer shall cooperate with County agencies' efforts to monitor the retailer's compliance with this applicable ordinances and with all conditions of permits issued pursuant to this Code. The County may assess fees for monitoring permittee's compliance.

6.108.130 - Appeal from administrative determinations.

- ~~A. An 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 director 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.~~
- A. An applicant aggrieved by the decisions described in Sections 6.108.110, 6.108.115, or 6.108.160 may appeal that decision to the board of supervisors within ten (10) days following the date of issuance of that decision by filing with the clerk of the board of supervisors or the director a notice of appeal specifying the grounds for such appeal. Filing such notice shall stay all proceedings in furtherance of the decision appealed from, including the proceedings related to the applications or permits of other applicants potentially affected by the board of supervisors' decision on the appeal. The director is designated as an agent of the clerk of the board for purposes of receiving a notice of appeal.
- B. The board of supervisors shall give written notice of the time and place for hearing any appeal filed pursuant this section. Such notice shall be given to the applicant and to the ~~community development agency 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 and may make such findings and decisions as are not inconsistent with state law and county ordinances. The board of supervisors may also remand the decision to the director for reconsideration of his or her decision in light of new information not previously presented to the director. If no motion relative to the order appealed attains a majority vote of the board of supervisors within thirty (30) days from the date of the hearing by said board thereon, said order of the director shall stand sustained and be final.
- D. For any appeals concerning a decision described in Section 6.108.110 the board of supervisors' review shall be limited to determining whether CDA materially erred in conducting the selection process with respect to following the RFP, County ordinances or state law. The board of supervisors shall not re-judge the proposals, alter the scoring

or ranking of the proposals, or consider new evidence concerning the merits of the proposed cultivation operation.

- E. Any appeal that is not timely filed or otherwise fails to comply with Paragraph A of this Section will be deemed ineffective by the Director and the administrative determination that is being appealed will become final.

~~6.108.140 – Administrative review of appeal.~~

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

~~6.108.150 – Hearing by the board of supervisors.~~

~~A. Within ninety (90) 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.~~

6.108.160 - Suspension and revocation.

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

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

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

2. ~~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 Section 6.108.140. Notice of vicinity of its delivery activities.

- B. ~~The director shall provide the hearing permittee with written notice of the suspension or revocation that shall contain a brief statement of describe~~ 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~~ The permittee subject to reduce or remove the problems that caused the proposed ~~the~~ revocation or suspension of the permit.
- D. ~~Within ten days after conclusion of the hearing of the appeal by the administrative panel, the director shall give notice of the decision of the panel.~~
- C. E. ~~Any appellant~~ may appeal the determination of the ~~administrative panel~~ director to the board of supervisors within ten days after the date of the notice of the decision of the ~~administrative panel~~ director. The board of supervisors shall act upon the appeal in accordance with Section 6.108.150.

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 dispensaryretailer permit by submitting an application that complies with Section 6.108.060. The director shall verify information in the application and shall approve the transfer unless it fails to comply with the 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 6.108.070. 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.

6.108.180 - Prohibited operations.

The permittee ~~and or his or her agents shall at all times comply with Section 11326.5 of seq. efnot cultivate or manufacture cannabis on~~ 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 delivery of medical~~ premises. A retailer shall not deliver cannabis off the site of the dispensaryretailer premises unless the dispensaryretailer holds a valid delivery permit.

6.108.190 – Sale, Distribution and Dispensing Delivery of Edibles.

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

- A. Preparation of Edibles.
 - 1. A facility, such as a commercial kitchen, that proposes to prepare, store, sell, dispense, and/or distribute edibles must comply with the relevant provisions of all state and local

laws regarding the preparation, distribution, labeling and sale of food. No food production will be allowed in the same facility to avoid the unintentional contamination of food with cannabis. Facilities shall be constructed, permitted, operated and inspected in accordance with the applicable building code and applicable food safety requirements by the Alameda County Department of Environmental Health.

2. Individuals involved in the production or distribution of edibles shall thoroughly wash their hands before commencing production and before handling the finished product. Gloves must be worn when packaging edibles.
3. To reduce the likelihood of foodborne disease transmission, individuals who are suffering from symptoms associated with acute gastrointestinal illness or are known to be infected with a communicable disease that is transmissible through foodstuffs are prohibited from preparing edibles until they are free of that illness or disease, or are incapable of transmitting the illness or disease through foodstuffs. Individuals who have sores or cuts on their hands must use gloves when preparing and handling edibles.
4. Producers of edibles must be state certified food handlers. The valid certificate must be onsite at the facility where the edible is produced and made available during inspections.
5. Hand-washing facilities shall be adequate and convenient and be furnished with 100F hot running water. Hand washing facilities shall be located in the facility in edible preparation areas and where good sanitary practices require employees to wash their hands and provide effective hand-cleaning (liquid soap) and disposable paper towel or suitable drying devices.

B. Packaging and Labeling of Edibles. Edibles shall be labeled and packaged in accordance with Section 26120 of the California Business and Professions Code and all applicable regulations and as provided in this subdivision.

1. All edibles shall be individually wrapped at the original point of preparation. Labeling shall be distinctly and clearly legible on the front of the package and must include: (a) a warning if nuts or other known allergens are used in the manufacturing of the edibles; (b) a warning that the item 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 manufacture date and source; (d) a statement that the contents are not a food product; and (e) information indicating any caloric impact on the consumer. The package label must have a warning clearly legible emphasizing that the product is to be kept away from children.
2. Labels of edibles that are not tested for contaminants (baked goods) shall include a statement that the cannabis used in the product was tested for contaminants.
3. Packaging of edibles shall be opaque (non see-through), and may not make it appear as if the edible is a food product. Packaging that makes the product attractive to children or imitates candy is prohibited.
4. Packaging of edibles shall be tamper proof and child resistant.

C. Edible Product Log. Producers of edibles that are tested for contaminants shall maintain a written or computerized log documenting:

1. The source of the cannabis used in each batch of product;
2. The contaminant testing date; and

3. The testing laboratory that analyzed the sample of the ~~medical~~ cannabis product.

6.108.200 - Misdemeanor ~~violation~~violations.

Any person violating any of the provisions of this chapter ~~or of a permit issued pursuant to this chapter,~~ is guilty of a misdemeanor. Each person is guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter or the permit is committed, continued or allowed in conjunction with the ~~dispensaryretailer~~ or delivery operation and is punishable accordingly. For purposes of this section, each and every day of violation includes each day on which a failure to comply with this chapter or any conditions of a permit issued pursuant to this chapter continues.

No proof of knowledge, intent, or other mental state is required to establish a violation.

6.108.210 - Civil ~~injunction~~.Remedies

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

6.108.2220- Severability.

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

6.108.230 - 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.

~~Chapter 6.108 of the Alameda County General Ordinance Code is hereby further amended as follows:~~

~~Delete Exhibit A, including the list of Assessor parcel numbers for each area, and insert the revised Exhibits~~

Exhibit A attached ~~to~~hereto, is incorporated into this Ordinance.

~~Delete Exhibit B and insert the revised Exhibit B attached~~ to hereto, is incorporated into this Ordinance.

SECTION 3

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

Adopted by the Board of Supervisors of the County of Alameda, State of California, on the ____ day of _____, ~~2017~~2018, by the following called vote:

AYES:

NOES:

EXCUSED:

WILMA CHAN
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: _____
Heather Littlejohn
Deputy County Counsel

ORDINANCE NO. ~~2017~~2018-_____

AN ORDINANCE AMENDING TITLE 17 OF THE ALAMEDA COUNTY GENERAL ORDINANCE CODE TO ~~IMPLEMENT A PILOT PROGRAM AUTHORIZING AND REGULATING THE CULTIVATION OF MEDICAL CONDITIONALLY PERMIT CANNABIS IN RETAILERS IN SPECIFIED DISTRICTS WITHIN~~ THE UNINCORPORATED AREA OF THE COUNTY OF ALAMEDA

SECTION 1

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

- ~~1.~~ In 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code section 11362.5 and titled the "Compassionate Use Act of 1996"); and
- ~~1.~~ 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); which affirmed~~ 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
- ~~6-5.~~ In 2015, Assembly Bill 243, Assembly Bill 266, and Senate Bill 643 ~~and Senate Bill 837~~ were enacted and subsequently revised by Assembly Bill 21 in 2016 (codified in part as California Business and Professions Code sections 19300, *et seq.* and titled the "Medical Cannabis Marijuana Regulation and Safety Act"). These bills also amended provisions of the Medical Marijuana Program Act related to the cultivation of medical cannabis; and
- ~~The~~
- ~~6.~~ In 2016, Senate Bill 837 was enacted to change all references to medical marijuana or marijuana to medical cannabis or cannabis, including changing the name of the Medical Marijuana Regulation and Safety Act to the Medical Cannabis Regulation and Safety Act (MCRSA); and
7. MCRSA established a comprehensive framework to license and regulate commercial medical cannabis cultivation, manufacturing, distribution, transportation, sales, and testing; and

8. On November 8, 2016, the voters of the State of California approved Proposition 64 (codified, in part, as California Business and Professions Code sections 26000 *et seq.* and titled the "Control, Regulate and Tax Adult Use of Marijuana Act"), which decriminalized the adult use of cannabis for non-medical purposes and established a regulatory scheme at the state level; and
9. On June 27, 2017, Senate Bill 94 (codified, in part, as California Business and Professions Code sections 26000 *et seq.* and titled the "Medicinal and Adult-Use Cannabis Regulation and Safety Act", or, "MAUCRSA") repealed and replaced MCRSA. MAUCRSA consolidates the medical and non-medical cannabis statutes (MCRSA and Proposition 64).
- ~~10. 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 Assembly Bill 21 on February 3, 2016; and~~
- ~~11. 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 Alameda County General Ordinance Code was repealed on February 3, 2016.~~
- ~~12.10. Pursuant to California Business and Professions Code section 26200, nothing in the Medicinal and Adult-Use Cannabis Regulation and Safety Act MAUCRSA shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local permit or licensing requirements; and~~
11. On September 12, 2017, the County adopted ordinances regulating medical cannabis cultivation and retail operations (or, "dispensaries"), including amendments to Title 17 to allow medical cannabis dispensaries as a conditional use in certain commercial districts and in the agricultural district; and
- ~~13.12. This Ordinance is enacted, consistent with the Compassionate Use Act of 1996, the Medical Marijuana Program Act, and the Medicinal and Adult-Use Cannabis Regulation and Safety Act, MAUCRSA to protect the public health, safety, and welfare of residents of the County of Alameda in relation to the cultivation of medical retail sale and delivery of cannabis; and~~
- ~~14. 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~~
- ~~15. 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~~
- ~~16. 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~~

- ~~17. Absent appropriate regulation, the cultivation of medical cannabis in the unincorporated area of the County poses a potential threat to public peace, health, and safety; and~~
- ~~18. The County 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~~
- 13. 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 retailers as a land use; and**
14. Concurrent with this ordinance, the County is considering amending Chapter 6.106 of the General Ordinance Code and amending the Zoning Ordinance to conditionally permit and regulate cultivation of cannabis for both medicinal and adult-use in Agricultural district of the unincorporated County; and
15. Concurrent with this ordinance, the County is considering amending Chapter 6.108 of the General Ordinance Code which regulates cannabis retailers, including allowing retailers to sell cannabis to both medicinal and adult-use customers; and
16. Allowing approved medical cannabis retail sites to sell adult-use cannabis will streamline the County's regulation of cannabis businesses; and
17. Allowing a single retailer to sell cannabis and cannabis products for both medicinal and adult-use will have limited if any impact on other County residents and businesses because the retail operation will not be materially impacted by the designation of the customer as either a medicinal or adult-use customer; and
- ~~19-18. The Board of Supervisors has determined that, with appropriate conditions, cannabis retailers may be appropriately located in certain commercial districts; and~~
- ~~20-19. 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~~
- 24-20. 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**
- 22-21. 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

- ~~23. Pursuant to the Medicinal and Adult Use 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~~
- ~~24. 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~~
- ~~25. 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~~
- ~~26. 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 take any other actions within its power to protect the health, safety and welfare of County residents.~~
- ~~27. This Ordinance regulates the cultivation of medical cannabis in the unincorporated areas of the County and does not address the cultivation of cannabis for non-medical use under Proposition 64, MAUCRSA or otherwise;~~

22. The Board of Supervisors has determined that, with appropriate conditions, a cannabis retailer may be an appropriate conditionally permitted use in the agricultural district and outside of the urban growth boundary established by Measure D as an “agriculture enhancing commercial use” and a “visitor-serving commercial use” that is economically related to and supports the area’s cannabis cultivation; and

23. The Board of Supervisors acknowledges that regulation of cannabis activities is an evolving field at the state level, as evidenced by the recent passage of Proposition 64, adoption of MAUCRSA, and release of emergency regulations by various state licensing agencies. As a result, the field of local regulation is also expected to continue to evolve over the next several years including possible further revisions to the County ordinances, policies and performance standards; and

~~28-24.~~ Nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. ~~sections~~§§ 801, *et seq.* or to license any activity that is prohibited under said Act except as mandated by ~~state~~State law; and

~~29-25.~~ 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 cultivation of cannabis for non-medical purposes;~~ (3) exempt cultivation, retailer or delivery operations from compliance with zoning and land use permitting regulations pursuant to other titles in this code, or, (43) allow any activity relating to the manufacturing 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 Ordinance Code is hereby amended to add the following ~~definitions~~definition, inserted in alphabetical order into the existing text of the section:

~~"Cannabis" shall have the same definition as in Business and Professions Code section 26001(f), which defines "cannabis" as all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For purposes of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the California Health and Safety Code.~~

~~"Cannabis Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming, including any associated storage, of 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 11018.5 of the Health and Safety Code.~~

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

Section 17.52.585 ~~is hereby added to~~04.010 of the Alameda County General Ordinance Code and shall read as follows:~~is hereby amended to delete the term and the entirety of the definition for~~
"Medical Cannabis Dispensary."

~~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; and~~
- ~~9. The areas of the site to be actively used for Cannabis Cultivation activities are set back as follows:
 - ~~a. At least fifty (50) feet from any property line shared with an adjacent property with different ownership, unless waived in writing by the adjacent owner;~~
 - ~~b. At least three hundred (300) feet from any residence on an adjacent property with different ownership, unless waived in writing by the adjacent owner; and~~
 - ~~c. At least one thousand (1000) feet from any school for pre-K to 12th grade students, licensed child or day care facility, public park or playground, drug or alcohol recovery facility or public recreation center.~~~~

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

Section 17.54.130

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

Delete Paragraph R, "Medical cannabis dispensary."

Insert as Paragraph R: "Cannabis retailer, subject to and in compliance with Chapter 6.108 of this code."

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

Delete Paragraph W, "Medical cannabis dispensary."

Insert as Paragraph W: "Cannabis retailer, subject to and in compliance with Chapter 6.108 of this code."

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

~~Delete the final sentence, "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 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."~~

~~Insert as the final sentence, "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".~~

Delete Paragraph Q, "Medical cannabis dispensary."

Insert as Paragraph Q: "Cannabis retailer, subject to and in compliance with Chapter 6.108 of this code."

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~~2018, by the following called vote:

AYES:

NOES:

EXCUSED:

WILMA CHAN

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: _____
Heather Littlejohn
Deputy County Counsel

ORDINANCE NO. ~~2017~~2018- _____

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

SECTION 1

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

1. In 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code section 11362.5 and titled the "Compassionate Use Act of 1996"); and
2. The intent of Proposition 215 was to enable persons who are in need of cannabis for medical purposes to be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances; and
3. In 2004, Senate Bill 420 was enacted (codified as California Health and Safety Code section 11362.7 *et seq.* and titled the "Medical Marijuana Program Act") to clarify the scope of the Compassionate Use Act of 1996. ~~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), which affirmed~~ that counties ~~can~~could 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~~
- 6-5. ~~In 2015,~~ Assembly Bill 243, Assembly Bill 266, and Senate Bill 643 ~~and Senate Bill 837~~ were enacted in 2015 and subsequently revised by Assembly Bill 21 and Senate Bill 837 in 2016 (codified, in part, as California Business and Professions Code sections 19300, *et seq.* and titled the "Medical Cannabis Regulation and Safety Act"). ~~.)~~ (MCRSA). These bills also amended provisions of the Medical Marijuana Program Act related to the cultivation of medical cannabis; and

~~7.6.~~ ~~The Medical Cannabis Regulation and Safety Act~~MCRSA established a comprehensive framework to license and regulate commercial medical cannabis cultivation, manufacturing, distribution, transportation, sales, and testing; and

~~8.7.~~ On November 8, 2016, the voters of the State of California approved Proposition 64 (codified, in part, as California Business and Professions Code sections 26000 *et seq.* and titled the "Control, Regulate and Tax Adult Use of Marijuana Act"), which decriminalized the adult use of cannabis for non-medical purposes and established a regulatory scheme at the state level; and

~~9.8.~~ On June 27, 2017, Senate Bill 94 (codified, in part, as California Business and Professions Code sections 26000 *et seq.* and titled the "Medicinal and Adult-Use Cannabis Regulation and Safety Act", or, "MAUCRSA") repealed and replaced MCRSA. MAUCRSA consolidates the medical and non-medical cannabis statutes (MCRSA and Proposition 64).

~~10.~~ ~~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 Assembly Bill 21 on February 3, 2016; and~~

~~11.~~ ~~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 Alameda County General Ordinance Code was repealed on February 3, 2016.~~

~~12.9.~~ Pursuant to California Business and Professions Code section 26200, nothing in ~~the Medicinal and Adult Use Cannabis Regulation and Safety Act~~MAUCRSA shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local permit or licensing requirements; and

10. The County adopted ordinances authorizing and regulating medical cannabis cultivation operations on September 12, 2017; and

~~13.11.~~ This Ordinance is enacted, consistent with the Compassionate Use Act of 1996, the Medical Marijuana Program Act, and ~~the Medicinal and Adult Use Cannabis Regulation and Safety Act~~MAUCRSA to protect the public health, safety, and welfare of residents of the County of Alameda in relation to the cultivation of ~~medical~~ cannabis; and

~~14.12.~~ 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

~~15. 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~~

~~16.13. The cultivation of medical cannabis in appropriate locations will help ensure that medical cannabis~~locally-produced cannabis cultivated pursuant to local and state regulatory schemes~~ will be available to ~~the patients in need of~~ other businesses within the supply chain while preserving the character, health and safety of the surrounding area; and~~

~~17.14. Absent appropriate regulation, the cultivation of medical cannabis in the unincorporated area of the County poses a potential threat to public peace, health, and safety; and~~

~~18. The County 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~~

~~19.15. 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~~

~~20.16. 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~~

~~21.17. 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~~

~~22.18. 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~~

- ~~23-19.~~ Pursuant to ~~the Medicinal and Adult-Use Cannabis Regulation and Safety Act~~ MAUCRSA, the California Department of Food and Agriculture ~~is responsible for promulgating~~ has promulgated regulations governing commercial cannabis cultivation and has begun issuing commercial cultivation licenses, ~~which are anticipated to become effective in or around the year 2018;~~ and
- ~~24.~~ 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 On September 12, 2017, the County adopted a zoning ordinance amendment conditionally permitting medical cannabis cultivation sites to implement the County's pilot program for cannabis cultivation; and
- ~~25.~~ Allowing a single cultivation program would be permitted to cultivate medical site to produce cannabis through the duration of the pilot program only and would that may eventually be sold to both medicinal and adult-use retail customers will have no right to continue cultivation beyond the expiration of the pilot program or the expiration or revocation of the permit; and
- ~~26.~~ 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 take limited if any impact on other actions within its power to protect the health, safety and welfare of County residents.
- ~~27-21.~~ This Ordinance regulates and businesses because the cultivation of medical cannabis in the unincorporated areas of the County and does operation will not address the cultivation of cannabis for non-medical use under Proposition 64, MAUCRSA or otherwise; be materially impacted by the designation of the eventual retail customer as either medicinal or adult-use; and
- ~~28-22.~~ Nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. sections 801, *et seq.* or to license any activity that is prohibited under said Act except as mandated by state law; and
- ~~29-23.~~ Nothing in this Ordinance shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) allow the cultivation of cannabis for non-medical purposes; (3) exempt cultivation operations from compliance with zoning and land use regulations and health and safety 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 Ordinance Code is hereby amended ~~to add the following definitions, inserted in alphabetical order into the existing text of the sections as follows:~~

~~"Cannabis" shall have the same definition as in Business and Professions Code section 26001(f), which defines "cannabis" as all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For purposes of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the California Health and Safety Code.~~

The definition of "Cannabis Cultivation" is revised to read:

"Cannabis Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming, including any associated storage, of ~~Medical Cannabis~~Cannabis, including cannabis for medicinal use and/or adult-use in accordance with the Medicinal and Adult-Use Cannabis Regulation and Safety Act.

~~"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 11018.5 of the Health and Safety Code.~~

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

Add "Cannabis Cultivation, subject to and in compliance with Chapter 6.106 of this code and Section 17.52.585 of this title." as paragraph S at the end of the list of conditional uses.

Delete the "." (period) following the penultimate conditional use listed and replace with ";" (semicolon).

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

17.52.585 Conditional Use—~~Pilot Program for~~Cannabis 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. pursuant to Section 17.06.040(S).~~
- 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 17.06.040(S), 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; and
9. The areas of the site to be actively used for Cannabis Cultivation activities are set back as follows:
 - a. At least fifty (50) feet from any property line shared with an adjacent property with different ownership, unless waived in writing by the adjacent owner;
 - b. At least three hundred (300) feet from any residence on an adjacent property with different ownership, unless waived in writing by the adjacent owner; and
 - c. At least one thousand (1000) feet from any school for pre-K to 12th grade students, licensed child or day care facility, public park or playground, drug or alcohol recovery facility or public recreation center.
- D. The Planning Director may establish additional performance standards and standard conditions providing detailed guidance for applicants and permittees. Permittees shall be required to comply with the performance standards and any conditions of approval applicable to a permit issued pursuant to this chapter.

~~Section 17.54.130 of the Alameda County General Ordinance Code regarding conditional uses is hereby amended as follows:~~

~~Delete the final sentence, "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 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."~~

~~Insert as the final sentence, "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~~2018~~, by the following called vote:

AYES:

NOES:

EXCUSED:

WILMA CHAN
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: _____
Heather Littlejohn
Deputy County Counsel