



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY

PLANNING DEPARTMENT

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October 31, 2017

Agenda Item #8 November 7, 2017

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

Dear Board Members:

**SUBJECT: INTRODUCTION AND FIRST READING OF PROPOSED AMENDMENT TO ALAMEDA COUNTY GENERAL CODE SECTION 6.106.030.B REGARDING THE NUMBER OF MEDICAL CANNABIS PERMITS AVAILABLE FOR SPECIFIC CULTIVATION TYPES**

**RECOMMENDATION:**

That the Board of Supervisors introduce and conduct the first reading of an amendment to Alameda County General Code Section 6.106.030.B regarding the number of medical cannabis permits available for specific cultivation types.

**BACKGROUND:**

The Board of Supervisors held the second readings of the Medical Cannabis Dispensary and Cultivation Ordinances at the September 12, 2017 Board Planning meeting, and the ordinances went into effect on October 12, 2017. The cultivation ordinance added Chapter 6.106 to Title 6 of the County General Code to establish requirements for a two-year medical cannabis cultivation pilot program which would allow for a maximum of six cultivation permits. Up to two permitted dispensaries in good standing are eligible for ministerial cultivation permits. Cultivators to receive permits for the remainder of the cultivation sites allowed by the ordinance will be selected through a RFP process.

**DISCUSSION/SUMMARY:**

Section 6.106.030.B. of the recently adopted cultivation ordinance currently states:

The county shall have in effect no more than six cannabis cultivation permits throughout the duration of the pilot program, to be selected pursuant to Sections 6.106.050 through 6.106.110 herein. A maximum of two permits will be available for indoor cannabis cultivation operations. A maximum of four permits will be available for mixed-light cannabis cultivation operations.

At the September 12<sup>th</sup> Board Planning Meeting, Supervisor Haggerty proposed revisions to this section of the ordinance to remove the restriction on the number of permits available for each of the two cultivation types allowed.

Staff concurs that the allocation of a specific number of permits for particular types of structures and lighting is unnecessary, and removing this language will allow flexibility for the selection of the best quality cultivation applications to receive permits, regardless of the cultivation method to be used. In addition to the deletion of the references to a specific number of permits for each lighting type, staff recommends that a sentence be added to the ordinance section to clarify that only indoor (solely using artificial light) or mixed-light (using both artificial and natural light) cultivation would be allowed; and outdoor cultivation would still be prohibited.

### **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 20-day public review period which ended on March 27, 2017. Subsequently, the IS/MND was revised to include analysis of later ordinance revisions. The IS/MND was adopted by your Board on July 11, 2017 (both the NOIA and IS/MND can be accessed on the County website at: <http://www.acgov.org/cda/planning/landuseprojects/medical-cannabis.htm>). Staff has concluded that the proposed ordinance amendment is within the scope of the Negative Declaration that was approved by the Board; therefore, no additional environmental analysis is required.

### **CONCLUSION:**

Staff recommends that your Board adopt the proposed amendment to the medical cannabis cultivation ordinance. The full text of the cultivation ordinance, as adopted on September 12, 2017, can be found on the County website at: <http://www.acgov.org/cda/planning/landuseprojects/medical-cannabis.htm>.

Very truly yours,



Chris Bazar, Director  
Community Development Agency

### Attachment

- An Ordinance Amending Section 6.106.030 of the Alameda County General Ordinance Code Regarding the Cultivation of Medical Cannabis in the Unincorporated Area of the County of Alameda

ORDINANCE NO. 2017-\_\_\_\_\_

AN ORDINANCE AMENDING SECTION 6.106.030 OF THE ALAMEDA COUNTY  
GENERAL ORDINANCE CODE REGARDING 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. On September 12, 2017, the County of Alameda adopted an ordinance adding Chapter 6.106 to the Alameda County General Ordinance Code ("Cultivation Ordinance") to implement a pilot program for the cultivation of medical cannabis in the unincorporated area of the County; and
2. The Cultivation Ordinance allows up to six cannabis cultivation sites, with a maximum of two permits for indoor operations and a maximum of four permits for mixed-light cannabis cultivation operations; and
3. In order to allow flexibility for a variety of operations types during the pilot program, the caps originally established for each type of cultivation operation should be removed; and
4. This ordinance amends the Cultivation Ordinance by removing the caps originally established for each type of cultivation operation; and
5. 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
6. 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:

Subsection B of Section 6.106.030 of the Alameda County General Ordinance Code is hereby revised to read as follows:

The county shall have in effect no more than six cannabis cultivation permits throughout the duration of the pilot program, to be selected pursuant to sections 6.106.050 through 6.106.110 herein. The permits shall be issued for indoor cannabis cultivation or mixed-light cannabis cultivation only.

The remainder of Chapter 6.106, including all other portions of Section 6.106.030, remain unchanged.

**SECTION 3**

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

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

AYES:

NOES:

EXCUSED:

\_\_\_\_\_  
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