



## MEMORANDUM

September 2, 2016

TO: Board of Supervisors' Transportation/Planning Committee

FROM: Medical Cannabis Interdepartmental Work Group

SUBJECT: Draft Medical Cannabis Dispensary and Cultivation Ordinances

### **BACKGROUND**

Your Committee last heard an update on the proposed medical cannabis dispensary and cultivation ordinances at your July 18<sup>th</sup>, 2016 meeting. At that time, staff reviewed the direction your committee had provided thus far regarding provisions of the proposed ordinances, presented a tentative schedule for the process required to adopt the ordinances, and outlined additional resources that will be required to complete the process. Drafts of the medical cannabis dispensary and cultivation ordinances are attached.

### **DISCUSSION/SUMMARY**

#### **Dispensary Ordinance**

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

The following changes to the provisions of the existing dispensary ordinance are included in the draft ordinance:

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

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

### Potential Dispensary Locations

#### *West County*

The existing dispensary ordinance includes a map that overlays the boundaries of three areas onto the unincorporated communities of Ashland, Cherryland, Castro Valley, and San Lorenzo (see Map Option 1, Exhibit A - Medical Marijuana Dispensary Areas from County General Code Chapter 6.108 - Medical Marijuana Dispensaries attached). Area 1 includes San Lorenzo and a strip of Ashland that lies south of Interstate 238 and north of San Lorenzo Creek; Area 2 includes Cherryland and the remainder of Ashland; and Area 3 includes the Castro Valley urban area. The ordinance allows one dispensary in each of the three areas, for a maximum of three dispensaries. Currently, one dispensary is located in Area 1, on East Lewelling Boulevard in Ashland; and the other is located in Area 2, on Foothill Boulevard in Cherryland.

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

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

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

## *East County*

The proposed dispensary ordinance revisions would allow two dispensaries in the East County (see Map of Rural Unincorporated County Zoning Designations and Sensitive Receptors 600' Buffer, attached), where no dispensaries are permitted under the existing ordinance. Because almost all of the unincorporated area in the East County is zoned "A" (Agriculture) and subject to Measure D (Save Agriculture and Open Space Lands) which was adopted by County voters in 2000, the land uses allowed in this area are limited primarily to agriculture-related uses. Proposed revisions to Section 17.06.040 of the Zoning Ordinance would allow medical cannabis dispensaries as a conditional use in the "A" (Agriculture) Zoning District only where accessory to a cannabis cultivation operation.

### **Cultivation Ordinance**

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

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

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

### **California Environmental Quality Act**

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

### **Fee Assessment**

In order to set fees at an appropriate level to ensure that implementation of the medical cannabis ordinance will be revenue neutral and in compliance with the requirements of Proposition 26, it will be

necessary for the County to conduct a fee assessment to determine appropriate fee levels to cover staffing and other costs associated with application processing, and ongoing administration and enforcement. Staff is in the process of hiring a consultant to conduct the assessment.

### **Continuing Public Outreach**

At your July 18<sup>th</sup> meeting, staff reported on the outcome of presentations regarding the proposed ordinances to the Castro Valley Municipal Advisory Council on June 20<sup>th</sup> and to the Unincorporated Services Committee on June 29, 2016. At those meetings, speakers expressed concern regarding potential negative impacts of increasing the number of dispensaries in unincorporated communities and requested adequate opportunity to review the ordinances and provide input. Since your July meeting, staff has also met with the Agricultural Advisory Committee and the Livermore Valley Winegrowers Association Government Affairs Committee.

#### Agricultural Advisory Committee

On July 26<sup>th</sup>, the Agricultural Advisory Committee heard a presentation on proposed revisions to the existing county dispensary ordinance which would include allowing dispensaries in unincorporated east county; and to adopt an ordinance to implement a cultivation pilot program. Committee members were concerned that the presence of dispensaries and cultivation sites in rural areas would result in an increase in crime and that it would be difficult for the Sheriff's Office to respond to calls quickly in remote areas. Concerns were also raised about potential illegal diversion of water from creeks and potential difficulties with tracking cannabis crops to prevent diversion for illegal sales.

#### Livermore Valley Winegrowers Association Government Affairs Committee

On August 22<sup>nd</sup>, staff presented an overview of the proposed ordinances to the Livermore Valley Winegrowers Association Government Affairs Committee and requested input regarding whether cannabis dispensaries and/or cultivation sites would be appropriate in the South Livermore Valley Plan Area. Committee members stated that they would need to review the specific text of the proposed ordinances and would poll the association's membership before commenting.

### **Next Steps**

With the concurrence of your Committee, staff will make any revisions to the draft ordinances necessary to incorporate additional direction you provide; and will begin a series of public meetings to obtain public input on the draft ordinance language. The table below contains the proposed schedule to complete the ordinance approval process including public meetings throughout the County to reach all potentially affected communities.

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

<b>Medical Cannabis Ordinance Revision Public Meeting Schedule</b>	
September 12	Castro Valley Municipal Advisory Council Land Use Meeting
September 15	San Lorenzo Village Homes Association Meeting
September 19	First Planning Commission Meeting
September 21	Sunol Citizens Advisory Committee Meeting
September 28	Unincorporated Services Committee Meeting
October 3	Transportation/Planning Committee Meeting
October 17	Second Planning Commission Meeting
October 25	Agricultural Advisory Committee Meeting
October 26	Unincorporated Services Committee Meeting (if needed)
November 7	Transportation/Planning Committee Meeting (if needed)
November 8	Board of Supervisors
November 22	Board of Supervisors
December 23	New ordinances become effective

Attachments

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

Map Option 1: Exhibit A - Medical Marijuana Dispensary Areas from County General Code Chapter 6.108 - Medical Marijuana Dispensaries

Map Option 2: Urban Unincorporated County Zoning Designations and Sensitive Receptors 600 ft. Buffer (with boundaries of Unincorporated Communities of Ashland, Cherryland, San Lorenzo and Castro Valley)

Map - Rural Unincorporated County Zoning Designations and Sensitive Receptors 600' Buffer