



## MEMORANDUM

July 14, 2016

TO: Board of Supervisors' Transportation/Planning Committee

FROM: Medical Cannabis Interdepartmental Work Group

SUBJECT: Medical Cannabis Regulation and Safety Act Ordinance and Process Update

### **BACKGROUND**

At your June 23, 2016 meeting, your Committee considered potential revisions to the County's existing medical cannabis dispensary ordinance (Chapter 6.108 of the County General Code) primarily pertaining to the number of dispensaries that would be allowed in the unincorporated area, the geographic areas and zoning districts in which dispensaries would be permitted, and the issuing of permits for medical cannabis delivery.

Your Committee provided the following direction to staff for revisions to specific ordinance provisions:

- Increase the number of dispensaries allowed in the unincorporated area from three to six, four in west county and two in east county.
- Allow dispensaries in the "A" (Agricultural) Zoning District as an agriculture-related use.
- Reduce the buffer required between dispensaries and sensitive receptors from 1,000 feet to 600 feet.
- Require selection of new dispensaries through a "Request for Proposals" (RFP) process and require each selected facility to obtain a Conditional Use Permit from the Planning Department before beginning operation.
- Allow an unlimited number of permits for the delivery of medical cannabis from permitted "brick-and-mortar" dispensaries to patients.
- Remove the twenty-pound limit on the amount of cannabis that can be stored at a dispensary.

Your Committee also directed staff to develop a medical cannabis cultivation pilot program that would allow existing dispensaries to operate medical cannabis cultivation sites. Alameda County has a permissive zoning code which means that only uses that are specifically listed as permitted or conditionally permitted are allowed. Medical cannabis cultivation is not currently listed as permitted or conditionally permitted in the code; therefore, amendments to the County Zoning Ordinance (Title 17 of the County General Code) will be necessary to implement the cultivation pilot.

The purpose of this memo is to present a revised schedule for the process required to adopt the ordinance amendments necessary to enact the proposed changes, and to outline additional resources that will be required to complete the process.

### **Castro Valley Municipal Advisory Council Meeting**

On June 20<sup>th</sup>, 2016, the Castro Valley Municipal Advisory Council heard a presentation by the Office of the County Counsel on the MCRSA and the current process underway to revise the existing county dispensary ordinance to make it consistent with the MCRSA. Several councilmembers expressed concern about a potential increase in the number of dispensaries in the unincorporated area, the potential siting of a dispensary in Castro Valley, and the apparent rapid timeline for the ordinance revision process. The councilmembers expressed an interest in reviewing the draft ordinance and requested that residents of the unincorporated area be given greater opportunity to provide input.

### **Unincorporated Services Committee**

On June 29, 2016, the Unincorporated Services Committee also heard a presentation on the MCRSA and the proposed amendments to the county ordinance. Many members of the public spoke in favor of increasing the number of medical cannabis dispensaries in the unincorporated area, noting the benefits it provides in the treatment of many illnesses and stressing the need to increase patient access. Others expressed concern regarding potential negative impacts of increasing the number of dispensaries in unincorporated communities and encouraged the Supervisors to slow down the process and provide them with more opportunity to review the ordinance and provide input.

## **DISCUSSION/SUMMARY**

### **Project Description**

The proposed changes to the dispensary requirements, including the addition of permitting for the delivery of medical cannabis, necessitate revisions to the existing dispensary ordinance in Title 6 of the General Code as well as amendments to the Zoning Ordinance in Title 17 of the General Code to allow medical cannabis dispensaries as a conditional use in combination with cultivation in the “A” (Agricultural) District.

Implementation of the cultivation pilot program requires revisions to Title 6 to establish requirements for the program, including provisions to limit the operators of cultivation sites to the operators of existing permitted dispensaries. Revision of the Zoning Ordinance is also required to allow the cultivation of medical cannabis as a conditional use in the “A” (Agricultural) District.

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.

**Proposed Schedule**

In order to provide fair opportunity for public input, to allow adequate time for consideration of the Zoning Ordinance amendments by the Planning Commission, to fully analyze the implications of allowing new uses in areas subject to the provisions of Measure D, and to accommodate the statutory timeline required for the CEQA process, staff recommends the revised project schedule outlined below. The proposed schedule includes public meetings throughout the County to reach all potentially affected communities and an environmental review process to fulfill CEQA requirements. If the analysis in the Initial Study finds that a more involved environmental review is needed, the schedule may have to be revised to allow more time for preparation and review of the environmental document.

<b>Medical Cannabis Ordinance Revision Public Meeting Schedule</b>	
July 22	CDA issues RFP for CEQA Consultant
July 26	Agricultural Advisory Committee Meeting
August 31	Deadline to submit Board packet for CEQA Consultant contract to CAO for September 13 <sup>th</sup> hearing
September - TBD	Transportation/Planning Committee Meeting – Present revised Title 6 & 17 amendments
September 12	CV MAC Land Use Meeting - Present revised Title 6 & 17 amendments
September 13	Board of Supervisors – Approve CEQA Consultant contract
September 15	San Lorenzo Village Homes Association Meeting - Present revised Title 6 & 17 amendments
September 19	First Planning Commission Meeting - Present revised Title 6 & 17 amendments
September 21	Sunol Citizens Advisory Committee Meeting - Present revised Title 6 & 17 amendments
September 28	Unincorporated Services Committee Meeting - Present revised Title 6 & 17 amendments
October 3	Circulate CEQA document for public review.
October 3	Transportation/Planning Committee Meeting – Update on progress
October 17	Second Planning Commission Meeting - PC to initiate zoning amendment by resolution and file written recommendations/report with BOS
October 24	End of 20 day CEQA review period (if shorter review period allowed)
October 25	Deadline to submit Board packet to CAO for November 8 <sup>th</sup> hearing
October 25	Ag Advisory Committee Meeting (or call special meeting in September)
October 26	Unincorporated Services Committee Meeting (if needed)
November 2	End of 30 day CEQA review period (if longer review period required)
November 7	Transportation/Planning Committee Meeting (if needed)
November 8	Board of Supervisors – First Reading Title 6 Board of Supervisors – Hearing on Title 17 Amendment
November 22	Board of Supervisors – Second Reading Title 6
November 23	Deadline to publish ordinance amending Title 17
December 7	Deadline to publish ordinance amending Title 6
December 8	New ordinance amending Title 17 becomes effective
December 23	New ordinance amending Title 6 becomes effective

## **Resources Needed to Complete and Implement the Proposed Ordinance Revisions**

### CEQA Consultant

Staff recommends contracting with an environmental consultant to facilitate completion of the environmental review in a timely manner. Preparation of an Initial Study will determine the type of CEQA document that will be required. The full cost of the environmental review will depend on the type of document determined to be appropriate. Staff is currently preparing a scope of work and RFP to initiate the contracting process as soon as possible.

### 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. The assessment can be done concurrently with the ordinance amendment process to avoid any delays in implementing the ordinance once it is adopted. Staff is in the process of developing a scope of work and budget to hire a consultant to conduct the assessment.