



**ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT**

STAFF REPORT

TO Members of the Alameda County Planning Commission
HEARING DATE September 19, 2016
RE Draft Medical Cannabis Dispensary and Cultivation Ordinances

GENERAL INFORMATION

The Medical Cannabis Regulation and Safety Act (MCRSA) was signed into law in October of 2015. Earlier this year, the Board Transportation and Planning Committee initiated and has been providing direction for amendments to the County's existing dispensary ordinance (Chapter 6.108 of the County General Code) to align with the local licensing provisions of MCRSA. A group of industry advocates who met with Supervisor Miley proposed draft ordinance revisions; staff representing various county agencies have reviewed the proposed revisions and prepared draft revised ordinances to regulate medical cannabis dispensaries and cultivation sites in the unincorporated county. The draft ordinances are attached.

STAFF RECOMMENDATION

Staff requests that the Commission review the draft medical cannabis dispensary and cultivation ordinances, take public testimony, provide comments to staff, and continue this item to your October 17th meeting at which time you will be asked to consider a recommendation to the Board of Supervisors regarding adoption of the proposed ordinances.

STAFF ANALYSIS

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

The following changes to the provisions of the existing dispensary ordinance are included in the draft 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 has proposed the following two options:

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 Urban Area, 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.

Sheriff’s Office Concerns

The Sheriff’s Office, which is participating in the County’s Medical Cannabis Interdepartmental Work Group, opposes the following provisions of the proposed ordinance amendments:

- Any increase in the amount of dispensaries in the County
- Any cultivation in the County
- Any deliveries in the County
- Unlimited amount of cannabis at the dispensaries, and
- Any edibles sold at the dispensaries.

California Environmental Quality Act

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

Fee Study

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

Continuing Public Outreach

Board Transportation and Planning Committee

The Board Transportation and Planning Committee has discussed the development of the draft ordinances and provided direction to staff at six meetings, beginning in January of 2016. Most recently, the Committee reviewed the draft ordinance language at its September 7th meeting.

Castro Valley Municipal Advisory Council

On June 20th, the Castro Valley Municipal Advisory Council (MAC) heard a presentation by the Office of the County Counsel on the MCRSA and the 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.

On September 12th, the MAC will consider the draft ordinance language and may provide additional comments to staff regarding the provisions of the ordinances. Staff will report on the outcome of the September 12th meeting at your September 19th meeting.

Unincorporated Services Committee

On June 29th, the Unincorporated Services Committee 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 to provide them more opportunity to review the ordinance and have input.

Agricultural Advisory Committee

On July 26th, 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 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.

CONCLUSION

If your Commission concurs, staff will bring this item back to your October 17th meeting and request that you make a recommendation to the Board of Supervisors regarding adoption of the proposed ordinances. The table below contains the tentative 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.

Medical Cannabis Ordinance Revision Public Meeting Schedule	
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

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