



City of Alameda

Meeting Agenda

City Council

Tuesday, October 16, 2018

7:00 PM

City Hall, 2263 Santa Clara Avenue, Council
Chambers, 3rd Floor, Alameda CA 94501

REVISED on 10/8/2018 at 4:30 p.m. to correct the title of Item 6-D.

SPECIAL MEETING - CLOSED SESSION - 5:00 P.M.

- 1 **Roll Call - City Council**
- 2 **Public Comment on Closed Session Items - Anyone wishing to address the Council on closed session items may speak for 3 minutes per item**
- 3 **Adjournment to Closed Session to consider:**
 - 3-A [2018-6030](#) PUBLIC EMPLOYEE APPOINTMENT/HIRING
 [\(45 minutes\)](#) Pursuant to Government Code § 54957
 Title/description of positions to be filled: Acting/Interim City Attorney and City Attorney
 - 3-B [2018-6031](#) PUBLIC EMPLOYEE APPOINTMENT/HIRING
 [\(10 minutes\)](#) Pursuant to Government Code § 54957
 Title/description of positions to be filled: City Manager
 - 3-C [2018-6029](#) CONFERENCE WITH LABOR NEGOTIATORS (Government Code
 [\(20 minutes\)](#) section 54957.6)
 CITY NEGOTIATORS: David L. Rudat, Interim City Manager, Elizabeth D. Warmerdam, Assistant City Manager and Nancy Bronstein, Human Resources Director
 EMPLOYEE ORGANIZATIONS: International Brotherhood of Electrical Workers, Local 1245 (IBEW), Electric Utility Professional Association of Alameda (EUPA), Alameda City Employees Association (ACEA), Alameda Police Officers Association Non-Sworn Unit (PANS), and Alameda Management and Confidential Employees Association (MCEA)
 UNDER NEGOTIATION: Salaries and Terms of Employment
 - 3-D [2018-6074](#) CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Government
 [\(20 minutes\)](#) Code section 54956.8)
 PROPERTY: Northwest Territories, Alameda Point
 CITY NEGOTIATOR: David L. Rudat, Interim City Manager
 POTENTIAL TENANT: East Bay Regional Park District

ISSUE UNDER NEGOTIATION: Real Property Negotiations Price and Terms of Payment

- 4 **Announcement of Action Taken in Closed Session, if any**
- 5 **Adjournment - City Council**

SPECIAL CITY COUNCIL MEETING - 6:45 P.M.

Pledge of Allegiance

- | | | |
|-----|--|--|
| 1 | Roll Call - City Council | |
| 2 | Proclamations | |
| 2-A | <u>2018-5259</u>
<u>(5 minutes)</u> | Proclamation Declaring October, 2018 as Childhood Lead Poisoning Prevention Week and Code Enforcement Officer Appreciation Week. (City Manager 2110) |
| 2-B | <u>2018-6075</u>
<u>(5 minutes)</u> | Proclamation Declaring October 2018 as Filipino American History Month. (City Manager 2110) |
| 2-C | <u>2018-5261</u>
<u>(5 minutes)</u> | Proclamation Declaring October 16, 2018 as Friends of the Alameda Free Library Appreciation Week. (City Manager 2110) |
| 3 | Adjournment - City Council | |

REGULAR CITY COUNCIL MEETING - 7:00 P.M.

- 1 **Roll Call - City Council**
- 2 **Agenda Changes**
- 3 **Proclamations, Special Orders of the Day and Announcements - Limited to 15 minutes**
- 3-A [2018-5695](#) Proclamation Declaring October 2018 as Italian American History Month. (City Manager 2110)
[\(5 minutes\)](#)
- 4 **Oral Communications, Non-Agenda (Public Comment) - A limited number of speakers may address the Council regarding any matter not on the agenda; limited to 15 minutes; additional public comment addressed under Section 8**
- 5 **Consent Calendar - Items are routine and will be approved by one motion unless removal is requested by the Council or the public**
- 5-A [2018-6077](#) Minutes of the Special and Regular City Council Meetings Held on

September 18, 2018. (City Clerk)

5-B [2018-6078](#)

Bills for Ratification. (Finance)

Attachments: [Bills for Ratification](#)

5-C [2018-5975](#)

Recommendation to Receive a Report on the Continuation of the Art in City Hall Program. (City Manager 2110)

Attachments: [Exhibit 1 - 2019 Guidelines](#)

5-D [2018-5986](#)

Recommendation to Approve the Request for Qualifications (RFQ) to Reuse the Alameda Carnegie Building. (Economic Development 227)

Attachments: [Exhibit 1 - 2007 Master Plan Report](#)
 [Exhibit 2 - Draft RFQ](#)

5-E [2018-5984](#)

Recommendation to Award a Contract to Oregon Romtec Inc. in the Amount of \$970,613 for the Krusi Park Recreation Center Replacement Project. (Recreation and Park 280)

Attachments: [Exhibit 1 - Contract](#)

5-F [2018-5994](#)

Recommendation to Authorize the Interim City Manager to Execute a Second Amendment to the Agreement with Nute Engineering, to Extend the Term One Year and Increase Compensation in an Amount Not to Exceed \$394,390 for a Total Agreement Compensation Not to Exceed \$727,459 for Engineering Design Services for Cyclic Sewer Rehabilitation Project, Phase 16. (Public Works 602)

Attachments: [Exhibit 1 - Original Agreement](#)
 [Exhibit 2 - First Amendment](#)
 [Exhibit 3 - Second Amendment](#)

5-G [2018-5985](#)

Adoption of Resolution Amending the General Fund and the Capital Improvement Program Budget for Fiscal Year 2018-19 for the Jean Sweeney Open Space Park Project to Fund Immediate Possession of Four Remnant Parcels Totaling Approximately 2.8 Acres Owned by Union Pacific; and

Recommendation to Direct the City Attorney to Deposit the Sum of \$1,098,000 with the Condemnation Deposits Fund and Seek an Order for Prejudgment Possession of the Subject Property. (Recreation and Parks 310)

Attachments: [Exhibit 1 - Map of Remnant Parcels](#)
 [Resolution](#)

5-H [2018-5988](#)

Recommendation to Expand the Façade Grant Program Boundaries; and

Adoption of Resolution Amending the Fiscal Year 2018-19 Base Reuse Fund Budget to Appropriate \$50,000 for the Façade Grant Program. (Base Reuse 858)

Attachments: [Resolution](#)

- 5-I [2018-5992](#) Adoption of a Resolution Authorizing the Interim City Manager to Enter into a Joint Exercise of Powers Agreement (JPA) Establishing and Governing Operation of the Collection System Technical Advisory Committee, and a Defendant's Side Agreement to Facilitate the Environmental Protection Agency Sewer Consent Decree Compliance. (Public Works 602)

Attachments: [Exhibit 1 - 1979 JPA](#)
[Exhibit 2 - 1986 JPA](#)
[Exhibit 3 - New JPA](#)
[Exhibi 4 - Side Agreement](#)
[Resolution](#)

- 5-J [2018-5974](#) Adoption of Resolution Opposing Proposition 6 on the November 2018 Ballot, which would Repeal the Recent Gas Tax Increase and Eliminate \$15 Million in Transportation Funding for Alameda. (City Manager 2110)

Attachments: [Exhibit 1 - Impacts of Proposition 6](#)
[Resolution](#)

- 5-K [2018-6041](#) Adoption of Resolution Supporting Proposition 2 on the November 2018 Ballot, which would Authorize the State of California to Use Revenue from Previously Authorized Bonds to Fund Existing Housing Programs for Individuals with Mental Illness. (City Manager 2110)

Attachments: [Resolution](#)

- 5-L [2018-6073](#) Final Passage of Ordinance Amending the Alameda Municipal Code By Adding Article 4-60 (Minimum Wage) to Chapter IX (Regulations Concerning Trade and Commerce) Concerning A Citywide Minimum Wage to Raise Alameda's Minimum Wage to \$15.00 Per Hour by 2020.

6 Regular Agenda Items

- 6-A [2018-6009](#) Adoption of Resolutions Appointing Rona Rothenberg as a Member of the Planning Board and Reappointing Audrey Hyman as a Member of the Social Service Human Relations Board.
[\(5 minutes\)](#)

- 6-B [2018-5910](#) Presentation by Friends of the Alameda Animal Shelter (FAAS) -
[\(15 minutes\)](#) Annual Progress Report. (City Manager 2110)

Attachments: [Exhibit 1 - Annual Report](#)
[Exhibit 2 - 4th Quarter Report](#)
[Exhibit 3 - Mid-Year Report](#)
[Exhibit 4 - Leash Your Dog Flyer](#)
[Exhibit 5 - FAAS Staffing](#)
[Exhibit 6 - Agreement](#)

- 6-C** [2018-6038](#) Recommendation to Accept Informational Report on Activities,
[\(30 minutes\)](#) Quarterly Meetings and Issues Related to the Oakland International
Airport. (Community Development 481005)

Attachments: [Presentation](#)

- 6-D** [2018-6035](#) Introduction of Ordinance Authorizing the Interim City Manager to
[\(15 minutes\)](#) Execute Documents Necessary to Implement a Ten-Year Lease with
SpinLaunch Inc., a California Corporation, for Building 530, Located
at 120 West Oriskany Avenue at Alameda Point. (Base Reuse 819099)

Attachments: [Exhibit 1 - Premises](#)
[Exhibit 2 - Draft Form Lease](#)
[Ordinance](#)

- 6-E** [2018-6007](#) SUMMARY: Public Hearing to Facilitate a Tax-Exempt Bond Financing
[\(20 minutes\)](#) for Acquisition, Construction, Improvement, and Equipping of the Site
A Affordable Family and Senior Projects by Eden Housing

Public Hearing Under the Tax Equity and Fiscal Responsibility Act (TEFRA) to Consider Adoption of Resolution Approving the Issuance of Revenue Bonds by the California Municipal Finance Authority in an Aggregate Principal Amount Not to Exceed \$45,000,000 to Finance a 70-Unit Multifamily Rental Housing Facility for Low- and Very Low-Income Families for the Benefit of Eden Housing Inc., or a Limited Partnership to be Established by Eden Housing Inc. (or an Affiliate); and

Adoption of Resolution Approving the Issuance of Revenue Bonds by the California Municipal Finance Authority in an Aggregate Principal Amount Not to Exceed \$40,000,000 to Finance a 60-Unit Multifamily Rental Housing Facility for Low- and Very Low-Income Seniors for the Benefit of Eden Housing Inc., or a Limited Partnership to be Established by Eden Housing Inc. (or an Affiliate). These Revenue Bonds will provide for the financing of the Site A Affordable Family and Senior Projects. (Base Reuse 819099)

Attachments: [Exhibit 1 - Project Funding Sources](#)
[Resolution - Family Housing Site A](#)
[Resolution - Senior Housing Site A](#)

- 6-F** [2018-6032](#) Public Hearing to Consider Adoption of Resolution Calling a Special
[\(15 minutes\)](#) Election Regarding Alteration of the Rate and Method of Apportionment
of Special Taxes for Community Facilities District No. 17-1 (Alameda
Point Public Services District); and

Adoption of Resolution Amending the Fiscal Year 2018-19 Budget for
the Community Facilities District 17-1 Fund by Increasing Estimated
Revenue by \$174,051 and Increasing the Expenditure Budget by
\$35,000. (Base Reuse 819099)

Attachments: [Resolution - Special Election](#)
[Resolution - Budget](#)

- 6-G** [2018-6060](#) Adoption of Resolution Amending Master Fee Resolution No. 12191 to
[\(60 minutes\)](#) Revise Fees to Add New Cannabis Business Operator and Regulatory
Fees;

Public Hearing to Consider Introduction of Ordinance Amending the
Alameda Municipal Code by Amending Section 30-10 (Cannabis) to
(1) Add Cannabis Retail Businesses as Conditionally Permitted Uses in
the C-1, Neighborhood Business and C-M, Commercial-Manufacturing
Zoning Districts; (2) Add Two Delivery-Only Cannabis Retail
Businesses as a Conditionally Permitted Use in the C-M,
Commercial-Manufacturing Zoning District; (3) Amend Certain
Portions of the Zoning Code to Enable Cannabis Retail Businesses to
Dispense Non-Medicinal or "Adult Use" Cannabis; and (4) Amend
Certain Portions of the Zoning Code to Eliminate the Dispersion
Requirement for Delivery-Only Cannabis Businesses;

Introduction of Ordinance Amending the Alameda Municipal Code by
Amending Article XVI (Cannabis Businesses) of Chapter VI
(Businesses, Occupations and Industries) to (1) Eliminate the Cap on
Testing Laboratories; (2) Add Two Delivery-Only Dispensaries; (3)
Allow Adult Use; (4) Create a Two-Tier Buffer Zone from Sensitive
Uses for Dispensaries and Cultivation Businesses; and (5) Make Other
Clarifying Revisions; and

Recommendation to Confirm Continued Use of Request for Proposal
(RFP) Process to Administer Cannabis Retail Dispensary Business
Operators' Permit Selection Process. (Economic Development)

Attachments: [Exhibit 1 - Fee Study](#)
[Exhibit 2 - Map of Zones](#)
[Exhibit 3 - Letter](#)
[Resolution](#)
[Ordinance -Cannabis](#)
[Ordinance -Cannabis Businesses](#)

- 6-H** [2018-5990](#) Recommendation to Accept \$1,876,823 Grant from the Staffing for Adequate Fire and Emergency Response (SAFER) Program; and
[\(20 minutes\)](#)
- Adoption of Resolution Amending the Fiscal Year 2018-19 Fire Grants Fund Revenue and Expenditures Budget by \$3,043,494, Each, and the General Fund Expenditures Budget by \$1,166,671 to Allocate the Required Matching Funds per the Grant Requirement. (Fire 220)

Attachments: [Exhibit 1 - Award Package](#)
[Resolution](#)

- 7** **City Manager Communications - Communications from City Manager**
- 8** **Oral Communications, Non-Agenda (Public Comment) - Speakers may address the Council regarding any matter not on the agenda**
- 9** **Council Referrals - Matters placed on the agenda by a Councilmember may be acted upon or scheduled as a future agenda item**
- 10** **Council Communications - Councilmembers can address any matter not on the agenda, including reporting on conferences or meetings**
- 10-A** [2018-6076](#) Consideration of Mayor's Nomination for Appointment to the Library Board, Planning Board and Social Service Human Relations Board.
- 11** **Adjournment - City Council**

- Meeting Rules of Order are available at <https://alamedaca.gov/node/5822>
- Time frames listed for agenda items are only estimates. Discussions on each item could take more or less time. Anyone interested in speaking is encouraged to arrive early rather than relying on the estimates.
- Translators and sign language interpreters will be available on request. Please contact the City Clerk at 510-747-4800 or TDD number 510-522-7538 at least 72 hours prior to the meeting to request a translator or interpreter.
- Equipment for the hearing impaired is available for public use. For assistance, please contact the City Clerk at 510-747-4800 or TDD number 510-522-7538 either prior to, or at, the Council meeting.
- Accessible seating for persons with disabilities, including those using wheelchairs, is available.
- Minutes of the meeting available in enlarged print.
- Video tapes of the meeting are available upon request.
- Please contact the City Clerk at 510-747-4800 or TDD number 510-522-7538 at least 48 hours prior to the meeting to request agenda materials in an alternative format, or any other reasonable accommodation that may be necessary to participate in and enjoy the benefits of the meeting.
- This meeting will be broadcast live on the City's website www.alamedaca.gov/agendas.
- Documents related to this agenda are available for public inspection and copying at the Office of the City Clerk, 2263 Santa Clara Avenue, Room 380, during normal business hours.
- **KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE:** Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City of Alameda exist to conduct the citizen of Alameda's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.
- **FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE OPEN GOVERNMENT COMMISSION:** the address is 2263 Santa Clara Avenue, Room 380, Alameda, CA, 94501; phone number is 510-747-4800; fax number is 510-865-4048, e-mail address is lweisiger@alamedaca.gov and contact is Lara Weisiger, City Clerk.
- In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City accommodate these individuals.



City of Alameda

Staff Report

File Number:2018-6060 (60 minutes)

City Council

Agenda Date: 10/16/2018

File Type: Regular Agenda Item

Agenda Number: 6-G

Adoption of Resolution Amending Master Fee Resolution No. 12191 to Revise Fees to Add New Cannabis Business Operator and Regulatory Fees;

Public Hearing to Consider Introduction of Ordinance Amending the Alameda Municipal Code by Amending Section 30-10 (Cannabis) to (1) Add Cannabis Retail Businesses as Conditionally Permitted Uses in the C-1, Neighborhood Business and C-M, Commercial-Manufacturing Zoning Districts; (2) Add Two Delivery-Only Cannabis Retail Businesses as a Conditionally Permitted Use in the C-M, Commercial-Manufacturing Zoning District; (3) Amend Certain Portions of the Zoning Code to Enable Cannabis Retail Businesses to Dispense Non-Medicinal or "Adult Use" Cannabis; and (4) Amend Certain Portions of the Zoning Code to Eliminate the Dispersion Requirement for Delivery-Only Cannabis Businesses;

Introduction of Ordinance Amending the Alameda Municipal Code by Amending Article XVI (Cannabis Businesses) of Chapter VI (Businesses, Occupations and Industries) to (1) Eliminate the Cap on Testing Laboratories; (2) Add Two Delivery-Only Dispensaries; (3) Allow Adult Use; (4) Create a Two-Tier Buffer Zone from Sensitive Uses for Dispensaries and Cultivation Businesses; and (5) Make Other Clarifying Revisions; and

Recommendation to Confirm Continued Use of Request for Proposal (RFP) Process to Administer Cannabis Retail Dispensary Business Operators' Permit Selection Process. (Economic Development)

To: Honorable Mayor and Members of the City Council

From: David L. Rudat, Interim City Manager

EXECUTIVE SUMMARY

In late 2017, Council directed staff to undertake a fee study to determine the cost of regulating cannabis business activities in the City. Accordingly, the City retained a consultant to assist with the preparation of a fee study.

On a parallel track, City staff has worked on potential amendments to the City's existing cannabis regulations. At its May 18, 2018 goal-setting work session, City Council directed staff to report to Council on a number of issues concerning these regulations. Staff prepared the requested analysis

Agenda Date: 10/16/2018

File Type: Regular Agenda Item

Agenda Number: 6-G

in a semi-annual report for Council consideration at its July 24, 2018 meeting. At that meeting, Council directed staff to prepare the required ordinances to amend the Zoning Code and the Cannabis Business Regulatory Ordinance.

Following the August recess, on September 24, 2018, Planning Board conducted a public hearing on the proposed Zoning Code amendments related to cannabis and offered its recommendations.

At this evening's meeting, the Council is to consider: (a) adding a new cannabis regulatory fee to the City's Master Fee Schedule, based on a fee study; (b) introducing an ordinance amending the Zoning Code, after a public hearing on the Planning Board's recommendations; and (c) introducing an ordinance amending the Cannabis Business Regulatory Ordinance, as described in this staff report.

BACKGROUND

In late 2017, the City Council directed staff to undertake a Cannabis Regulatory Fee Study to ensure that the cost of regulating cannabis business activity in the City is borne by the cannabis businesses.

During that time, the City Council also adopted two ordinances that covered all aspects of regulating the operations of cannabis businesses in Alameda. One ordinance regulates land use issues and requires a use permit for cannabis business activities (Zoning Ordinance). The other ordinance regulates cannabis business activity and requires an operator's permit for cannabis businesses (Regulatory Ordinance). These ordinances were effective on January 18, 2018.

Pursuant to the regulatory ordinance, the maximum number of permits to be issued by cannabis business category is capped. The Council approved a Request for Proposals (RFP) process (including an evaluation rubric and a review panel) to select the businesses in each category that would be eligible to move forward with applying for and obtaining the requisite approvals, with the exception of testing labs, which were permitted to apply for a permit on a first-come/first-served basis.

These categories include:

- One nursery cultivation (including distributor's) permit;
- Four manufacturing permits (including distributor's) permit; and
- Two medicinal retail dispensary permits (including delivery permits)

The first RFP was issued in April 2018. Five proposals were received for retail dispensaries. No proposals were received for any other uses. Three of the proposals for retail dispensaries were deemed non-responsive as they were all located within the 1,000-foot buffer zone for sensitive uses. Two proposals were evaluated by the review panel and one proposer was awarded the right to move forward with its application for an operator's permit. The proposer who was not selected appealed the panel's determination. A hearing officer issued an opinion denying the appeal on September 24,

Agenda Date: 10/16/2018

File Type: Regular Agenda Item

Agenda Number: 6-G

2018. The proposer who was selected is moving forward with its permit application.

At its May 18, 2018 goal-setting work session, the City Council directed staff to report on a number of issues related to the Regulatory Ordinance. Staff prepared the requested analysis in a semi-annual report for Council consideration at its July 24, 2018 meeting. At that meeting, Council directed staff to prepare the required ordinances to amend the Zoning Ordinance and the Regulatory Ordinance to:

- Eliminate the cap on the number of testing laboratories allowed in Alameda, but maintain the cap of two for dispensaries open to the public;
- Similar to testing laboratories, allow nursery cultivation and cannabis manufacturing businesses to apply for permits on a first-come/first-served basis;
- Maintain the buffer zone of 1,000 feet from public and private K-12 schools and reduce the buffer zone to 600 feet for all other sensitive uses for dispensaries and cultivation uses;
- Expand existing zoning to conditionally permit cannabis dispensaries in the C-1, Neighborhood Business and C-M, Commercial-Manufacturing zoning districts;
- Maintain the existing dispersion requirement for dispensaries, but not for delivery-only dispensaries;
- Confirm continued use of the RFP process, including the scoring rubric and review panel to allocate the limited right to apply for a cannabis business permit;
- Amend ordinance language to clarify that certain uses do not qualify as a “school,” including providing a definition for tutoring centers;
- Allow adult use (recreational) cannabis to be sold in Alameda;
- Clarify that off-island cannabis delivery businesses need only apply for a business license and pay applicable fees; and
- Recommend any clean-up amendments to the Regulatory Ordinance.

The requested fee study and ordinances have been prepared, and are before Council for its consideration and action.

DISCUSSION

Cannabis Regulatory Fee Study

In 2017, Council directed staff to undertake a fee study to determine full recovery of all costs associated with permitting and regulating cannabis businesses. The fee study is attached as Exhibit 1. These fees are legally limited to recovery of actual expenditures and cannot contribute to the General Fund. SCI Consulting Group was retained to perform the cannabis fee study which includes the required calculation and documentation of costs for permitting, regulating, monitoring, and enforcing cannabis related business activities.

The Cannabis Regulatory Fee Study was prepared in the midst of an emerging industry and

Agenda Date: 10/16/2018

File Type: Regular Agenda Item

Agenda Number: 6-G

regulatory framework for legalized cannabis in the State of California. After adoption, at a future date, it would be appropriate to review and update the fees identified in this fee study under the following circumstances:

- When the program under the Ordinances has been implemented for a period of time sufficient for the City to (a) have had an opportunity to review the actual costs incurred in processing permits and administering the Ordinances; and (b) have achieved some efficiencies in processing applications and undertaking monitoring and compliance;
- If the Ordinances are substantially amended such that the time and/or processes involved are substantially changed; or
- At the expiration of 10 years, which is the period over which the Fee Study proposes recovery of the City's Cannabis Business implementation costs.

The study calculated and documented cannabis costs to-date related to developing and implementing a cannabis business regulatory program in Alameda. The total cost to-date is \$222,411 which have been paid for by the General Fund. These fees are projected to be recovered over a 10-year period. If they are not recovered by that time, an updated fee study would determine how the remaining amount would be recovered. This cost recovery is in addition to the "going forward" costs of implementing the City's regulatory framework for cannabis business activity including the cost of conducting the RFP process for retail dispensaries, and processing the operators permit and annual renewal permits.

To implement the fees necessary to regulate the cannabis business industry in Alameda, staff is recommending that the Council adopt a resolution amending the Master Fee Schedule based on the Cannabis Regulatory Fee Study to ensure that the cannabis business regulatory program is revenue-neutral and provides for full cost recovery.

Zoning Code Amendments

At its July 24, 2018 meeting, City Council directed staff to amend the Zoning Code to:

Expand Zoning Districts where Retail Cannabis Dispensaries can be Conditionally Permitted

The City Council directed staff to amend the Zoning Code to expand the zoning districts where retail cannabis dispensaries can be conditionally permitted to include the C-1 Neighborhood Business and C-M Commercial Manufacturing districts (Exhibit 2 is a map of C-1 and C-M zones). The purpose of the C-1 district is to "serve residential areas with convenient shopping and service facilities." The C-1 districts are primarily located along the Lincoln Avenue and Central/Encinal Avenue at locations that once served as railroad stations. Today, these areas are populated with small businesses engaged in retail, food, and office businesses.

Agenda Date: 10/16/2018

File Type: Regular Agenda Item

Agenda Number: 6-G

The C-M, Commercial Manufacturing Zoning District, is intended for a broad variety of general commercial facilities and light manufacturing uses such as food distribution, research labs, and warehouses. The Harbor Bay Business Park, Wind River Campus, and Ballena Bay are the primary business locations zoned C-M. Two other locations zoned C-M include Stewart Court off of Constitution Avenue and the City block containing Fire Station 3 and the Emergency Operations Center on Grand Street. Permitting cannabis retail sales conditionally in the C-M District could be complementary to the general commercial facilities and light manufacturing uses permitted in that District.

As a conditionally permitted use in both the C-1 and C-M Districts, the City has the ability to consider and impose conditions on any aspect of the cannabis business to address potential negative impacts.

Conditionally Permit Delivery-Only Dispensaries (closed to the public) in the C-M Zone

Allowing delivery-only dispensaries as a conditionally permitted use in the C-M district would be consistent with the underlying intent for that zone. The nature of delivery-only dispensaries would be no different than other distribution or warehouse uses that already exist in those locations. With all cannabis businesses, the City has the ability to impose conditions of approval to address potential impacts through the use permit process.

At its July 24, 2018 meeting, Council requested that staff contact business park representatives to receive input on locating retail and delivery-only dispensaries in the C-M zone. Staff received the attached letter from Harbor Bay Business Park opposing the proposed zoning amendment (Exhibit 3).

Allow Retail and Delivery-Only Dispensaries to Sell Cannabis for Adult Use (recreational use)

At its July 24, 2018 meeting, Council considered lifting the ban on adult-use sales based on a number of factors, including the filing of valid notice of intent to circulate a citizen-initiated petition to legalize adult use cannabis. Although lifting the ban on the sale of adult use cannabis would not raise new concerns from a land use and zoning perspective, an amendment to the Zoning Code is required should the Council decide to allow sale for adult use, as the Code only allows the sale or delivery of medicinal cannabis. Accordingly, as requested by the Council, staff has prepared ordinance amendments to facilitate a discussion and comment on allowing the sale of adult use cannabis in Alameda.

On September 24, 2018, the Planning Board held a public hearing to consider the zoning changes described above. The Planning Board recommended that the City Council adopt an ordinance making those changes as well as several other changes including:

- Moving the one (1) mile dispersion requirement in the Zoning Ordinance to the Regulatory

Agenda Date: 10/16/2018

File Type: Regular Agenda Item

Agenda Number: 6-G

Ordinance;

- Requiring that delivery-only dispensaries meet the same parking requirements as manufacturing uses rather than retail uses; and
- Review the guidelines for distances used by the California Department of Alcohol Beverage Control (“ABC”) to determine if cannabis buffer zones should be consistent with ABC’s.¹

The ordinances as drafted include these changes recommended by the Planning Board. In addition, staff has further revised the draft ordinance based on the Planning Board’s discussion to include two definitions, one for Cannabis Retail and one for Cannabis Retail - Delivery Only, rather than a single definition. Two definitions are appropriate as these businesses are conditionally permitted in different zones, are subject to different parking requirements, etc.

Based on the Planning Board’s recommendation, staff recommends that the City Council introduce an ordinance amending the Zoning Code as described above.

Regulatory Ordinance Amendments

Staff has prepared a draft ordinance amending the Regulatory Ordinance based on Council direction received on July 24, 2018. The following is a summary of the key amendments to the Regulatory Ordinance.

Dispersion Requirement

As noted above, the Planning Board recommended that the dispersion requirement be removed from the Zoning Code and added to the Regulatory Ordinance. The Planning Board felt that the dispersion requirement was not a land use issue but a regulatory matter. The dispersion requirement prohibits retail dispensaries to be located within one mile of each other. Based on the Planning Board’s recommendation, the requirement was deleted from the Zoning Ordinance and added to the Regulatory Ordinance.

In addition, staff makes two recommendations. First, as is reflected in the draft amendments to the Regulatory Ordinance, amend the Ordinance to clarify that the dispersion requirement applies to retail dispensaries, but not to delivery-only dispensaries. Therefore, as drafted, the Ordinance would allow the proposed two delivery-only dispensaries to be located within one mile of each other.

Because these businesses would be closed to the public, staff believes that concerns about over-concentration would not be the same as if these businesses were open to the public. Second, given that the dispersion requirement for retail dispensaries would remain and the timing of when an operator’s permit is sought, staff recommends the regulation implementing the RFP process be amended to ensure that applicants demonstrate that they still meet the dispersion requirement. That way, applicants are aware of this issue during the LOI phase, rather the operator’s permit application

Agenda Date: 10/16/2018

File Type: Regular Agenda Item

Agenda Number: 6-G

phase.

Although this item relates to the buffer zones in the Regulatory Ordinance, which is not within the Planning Board's purview, staff is nonetheless communicating this recommendation at the Board's request. Accordingly, staff has no recommendation as to this item.

Two-Tier Buffer Zone

The draft ordinance retains the 1,000-foot buffer zone from public and private K-12 schools and reduces the buffer zone to 600 feet for other sensitive uses including, youth centers and tutoring centers, for retail dispensaries and nursery cultivation. The draft Regulatory Ordinance also provides that, for retail dispensaries, which are subject to the RFP process, the buffer zone will be established based on existing sensitive uses prior to the time of submittal of the Letter of Intent, or at the time of application, in the case of businesses that apply on a first-come-first-served basis. This change will ensure that businesses can proceed with the process and expend resources and funding without the risk that a sensitive use subsequently move in within the applicable buffer zone and then displace the cannabis business, rendering its proposed location ineligible.

The original Regulatory Ordinance included a definition of schools and youth centers, which are primarily recreational in nature, but did not provide a definition for uses that has an academic focus. As such, academic uses were construed as schools as a matter of application. For example, academic after-school programs and tutoring facilities fell within the plain meaning of a "school". Moreover, the Ordinance did not address the applicable buffer for academic uses, as an ancillary use, within buildings that were not intended for such use (e.g., private homes, churches, etc.). Therefore, staff is recommending two changes. First, an amendment clarifies that ancillary academic uses are not a "school" for purposes of the buffer, therefore the 600-foot radius would apply. Second, the following definition for tutoring centers has been added:

"Tutoring Center" means any enterprise, whether or not for profit, that operates in a commercial building or structure the principal use of which is to offer instruction of any kind to support academic instruction of K-12 students."

The buffer zone of 600 feet from sensitive uses remains the same for all other cannabis business activities.

Remove Cap on Testing Labs

One of the earliest changes to the Regulatory Ordinance proposed by Council was to remove the cap on testing labs and that change is provided for in the draft ordinance. In addition, based on direction given, an implementing regulation was issued that allows nursery cultivation and manufacturing uses to apply for an operator's permit on a first-come, first-served basis, similar to testing labs. As a result, testing labs, nursery cultivation and manufacturing businesses can all apply for an operator's permit

Agenda Date: 10/16/2018

File Type: Regular Agenda Item

Agenda Number: 6-G

without going through a RFP process. To date, no applications have been received for any of these business uses.

Allow for Delivery-Only Dispensaries

On July 24, 2018, Council directed staff to expand the categories of permitted cannabis businesses to include up to two delivery-only dispensaries. These brick and mortar businesses would be regulated similar to retail cannabis dispensaries with two major features: (a) they would be closed to the public, and (b) would only be permitted in the C-M zone. To obtain the right to apply for an operator's permit, a prospective business would compete through a RFP process.

The direction to allow up to two delivery-only dispensaries was informed by an interest in providing more options to consumers. There are consumers who may be unable to purchase cannabis products in a retail setting, given the declining nature of their health, the inconvenience due to other obligations, e.g., work or health appointments hours, etc., or want to support an Alameda-based business rather than patronize an off-island delivery business. For businesses, a delivery-only business may be a model that offers a lower barrier to entry into a growing industry in the State. Based on an industry rule of thumb that the market can support one dispensary for every 15,000 people, there is likely market capacity for up to two delivery-only dispensaries in addition to the previously approved two retail dispensaries. The ordinance as drafted allows for two delivery-only dispensaries.

Adult Use of Cannabis

As was reported at the July 24, 2018 meeting, a valid notice of intent to circulate a petition to legalize adult use cannabis was submitted to the City Clerk's office on May 21, 2018. The petitioners have six months to gather signatures. If enough valid signatures are collected the Council can direct preparation of a report to evaluate the impacts of the petition and adopt an ordinance or place the measure on the ballot.

Given the anticipated high level of support for such an initiative (68% of Alameda voters supported the State ballot initiative to allow recreational use and sale of cannabis products) and the costs associated with conducting an election, should enough valid signatures be collected to put an adult use measure on the ballot, a majority of Council members expressed a willingness to allow the sale of cannabis products for adult use.

As noted above, both the draft Zoning Ordinance and Regulatory Ordinance allow for the sale of cannabis products for adult use. These ordinances already provide for the nursery cultivation and manufacturing of cannabis products for adult use.

Additional Clean-Up Amendments

Agenda Date: 10/16/2018

File Type: Regular Agenda Item

Agenda Number: 6-G

Additional ordinance clean-up amendments are proposed to (1) "Permit Applications" section, which requires the applicant to provide a deed if the applicant will own the property; (2) "Cannabis Business Owner," "Review of Applications; Appeal of Denials and Suspensions," and "Labor Peace Agreement" language to comport with the State law; and, (3) reflect City department realignments.

Other substantive amendments include:

- False Statements/Representations. It shall be unlawful to make false statements in an application;
- Withdrawal of Application. Application withdrawals must be requested in writing and approved by the City. The City shall have continuing jurisdiction to deny a license even if it is withdrawn;
- Permit-Specific Conditions. Conditions specific to delivery-only businesses were added and authority to adopt by regulation other specific conditions for all permit types to expeditiously protect the public's health, safety, and welfare and
- Implementing Regulations. The Planning, Building, and Transportation Department's authority to adopt implementing regulations was expanded to encompass all cannabis ordinances, not only the Regulatory Ordinance.

Staff recommends that the Council review the draft ordinance amending the Regulatory Ordinance and make any changes necessary to accurately reflect direction given to date. Based on direction given, the Council could introduce the draft ordinance or direct staff to make additional changes and return to Council.

Request for Proposals Process

Based on direction from the July 24, 2018 Council meeting, staff is prepared to issue a second RFP, modeled after the initial RFP process, for the remaining opportunity for one retail dispensary and the new opportunity for up to two delivery-only dispensaries, with minor modifications:

- Proposers submitting a Letter of Intent for a retail dispensary location in the C-1, Neighborhood Business district would be required, at minimum, to use a third-party outside mailing service to notify neighbors located within 300 feet of its proposed retail dispensary location to provide feedback.
- The feedback would be used to inform the score for the following rubric categories:
 - Has the proposer described what methods and means it will take to ensure that the

Agenda Date: 10/16/2018

File Type: Regular Agenda Item

Agenda Number: 6-G

business is integrated into the community? (5 points)

- Has the proposer adequately described its overall approach to operational safety as it relates to employees, customers, businesses, and the community? (5 points)
- Incorporate any changes needed as a result of adopting the Regulatory Ordinance amending Article XVI.

A request was made at the July 24, 2018 Council meeting to exempt Proposers that submitted Letters of Intent for locations that would qualify with the reduced buffer zones from paying an additional fee when re-submitting. Staff recommends applying the fee previously received for businesses that resubmit the same proposed dispensary location, provided that the form of the supporting Real Estate document is relatively the same (e.g., extension of term only). Those qualified Proposers who advance to the Proposal preparation phase would pay that required fee.

FINANCIAL IMPACT

There is no financial impact to the General Fund by introducing ordinances to amend the Zoning Code and Article XVI of the Municipal Code as described above. However, to date, the General Fund has been funding the staff work on this effort. Adopting a resolution amending the Master Fee Schedule to add Cannabis Business Regulatory Fees, based on the Fee Study attached as Exhibit 1, will ensure that the cost of staff work related to regulating cannabis business activities will be repaid and future work will be borne solely by cannabis businesses. Cost recovery is determined on a per permit or per proposal cost and includes \$5,300 per proposal to complete the RFP process, \$7,600 to process an application for an operator permit, and \$2,300 to conduct the annual renewal process.

MUNICIPAL CODE/POLICY DOCUMENT CROSS REFERENCE

This report and its recommended actions have been prepared in conformance with the Alameda Municipal Code.

ENVIRONMENTAL REVIEW

California Environmental Quality Act ("CEQA") review is not required for this action pursuant to Business and Professions Code section 26055(h) as the City of Alameda requires discretionary review and approval of subsequent applications to engage in commercial cannabis activity. As a separate and independent basis, this action is exempt from CEQA pursuant to section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that this action may have a significant effect on the environment.

RECOMMENDATION

It is recommended that the City Council:

City Council

Agenda Date: 10/16/2018

File Type: Regular Agenda Item

Agenda Number: 6-G

Adopt a Resolution Amending Master Fee Resolution No. 12191 to Add Cannabis Business Regulatory Fees

Hold a Public Hearing to Consider Planning Board's Recommendations Concerning Introduction of Ordinance Amending the Alameda Municipal Code Section 30-10 (Cannabis) to (1) Add Cannabis Retail Businesses as Conditionally Permitted Uses in the C-1, Neighborhood Business and C-M, Commercial-Manufacturing Zoning Districts; (2) Add Delivery-Only Cannabis Retail Businesses as a Conditionally Permitted Use in the C-M, Commercial-Manufacturing Zoning District; (3) Amend Certain Portions of the Zoning Code to Enable Cannabis Retail Businesses to Dispense Non-medicinal or "Adult Use" Cannabis; and (4) Any Other Necessary Amendments, including Amending Certain Portions of the Zoning Code to Eliminate the Dispersion Requirement for Delivery-Only Cannabis Businesses

Introduce an Ordinance Amending Article XVI (Cannabis Businesses) of the Alameda Municipal Code to (1) Eliminate the Cap on Testing Laboratories; (2) Add Two Delivery-Only Dispensaries; (3) Allow Adult Use; (4) Create a Two-Tier Buffer Zone from Sensitive Uses for Dispensaries and Cultivation Businesses; and (5) Make Other Clean-Up Revisions

Confirm Continued Use of RFP Process to Administer Cannabis Retail Dispensary Business Operators' Permit Selection Process

Respectfully submitted,
Debbie Potter, Base Reuse and Economic Development Director

By,
Lois Butler, Economic Development Manager

Financial Impact section reviewed,
Elena Adair, Finance Director

Exhibits:

1. Fee Study
2. Map of Zones
3. Letter



CITY OF ALAMEDA

CANNABIS BUSINESS OPERATOR PERMIT AND REGULATORY FEE STUDY

OCTOBER 2018

PREPARED FOR:

**CITY OF ALAMEDA
CITY COUNCIL**

PREPARED BY:



SCI Consulting Group
4745 MANGELS BOULEVARD
FAIRFIELD, CALIFORNIA 94534
PHONE 707.430.4300
FAX 707.430.4319
www.sci-cg.com

(THIS PAGE INTENTIONALLY LEFT BLANK)

CITY OF ALAMEDA

CITY COUNCIL

Trish Herrera Spencer, Mayor

Malia Vella, Vice Mayor

Marilyn Ezzy Ashcraft, Member

Frank Matarrese, Member

Jim Oddie, Member

INTERIM CITY MANAGER

David Rudat

BASE REUSE AND ECONOMIC DEVELOPMENT DIRECTOR

Debbie Potter

CITY ATTORNEY

Janet C. Kern

POLICE CHIEF

Paul Roller

FINANCE DIRECTOR

Elena Adair

ACKNOWLEDGMENTS

This Commercial Cannabis Regulatory Fee Study was prepared by SCI Consulting Group ("SCI") for the City of Alameda ("City"). The work was performed under the general direction of Lois Butler, Economic Development Manager in the Base Reuse and Economic Development Department.

We would like to acknowledge special efforts made by the following individuals and departments for this project:

Debbie Potter, Base Reuse and Economic Development Department
Allen Tai, Planning and Building Department
Sergeant David Pascoe, Alameda Police Department
Edwin Gato, Finance Department
Carrie Dole, Finance Department
John Le, City Attorney's Office

TABLE OF CONTENTS

SUMMARY	1
INTRODUCTION.....	1
LEGAL FRAMEWORK	2
METHODOLOGY AND APPROACH	3
SUMMARY OF GENERAL FINDINGS.....	4
SUMMARY OF RECOMMENDATIONS.....	4
CANNABIS BUSINESS OPERATOR PERMIT APPLICATION FEES.....	6
CANNABIS BUSINESS OPERATOR PERMIT LOI REVIEW FEE	6
CANNABIS BUSINESS OPERATOR PERMIT RFP PROPOSAL REVIEW FEE	6
CANNABIS BUSINESS OPERATOR PERMIT RFP DECISION APPEAL FEE	7
CANNABIS BUSINESS OPERATOR PERMIT APPLICATION FEE	7
CANNABIS BUSINESS OPERATOR PERMIT RENEWAL FEE	7
CANNABIS BUSINESS REGULATORY PROGRAM FEE	13
OTHER FEES	23
GENERALLY APPLICABLE FEES	23
CANNABIS SPECIFIC FEES.....	23
REVIEW AND UPDATE OF FEES.....	24

TABLE OF FIGURES

FIGURE 1 – SUMMARY OF PROPOSED CANNABIS BUSINESS OPERATOR APPLICATION AND PERMIT FEES.....	5
FIGURE 2 – SUMMARY OF CANNABIS BUSINESS REGULATORY PROGRAM FEES.....	5
FIGURE 3 – CANNABIS BUSINESS OPERATOR PERMIT LOI REVIEW FEE	8
FIGURE 4 – CANNABIS BUSINESS OPERATOR PERMIT RFP PROPOSAL REVIEW	9
FIGURE 5 - CANNABIS BUSINESS OPERATOR PERMIT RFP DECISION APPEAL FEE	10
FIGURE 6 – BUSINESS OPERATOR PERMIT APPLICATION FEE	11
FIGURE 7 – CANNABIS BUSINESS OPERATOR PERMIT RENEWAL FEE	12
FIGURE 8 – ALLOCATION OF CANNABIS BUSINESS DEVELOPMENT AND IMPLEMENTATION COSTS	14
FIGURE 9 – ANNUAL REGULATORY PROGRAM FEE: RETAIL	15
FIGURE 10 – ANNUAL REGULATORY PROGRAM FEE: NURSERY CULTIVATION.....	16
FIGURE 11 – ANNUAL REGULATORY PROGRAM FEE: TESTING	17
FIGURE 12 - ANNUAL REGULATORY PROGRAM FEE: MANUFACTURING – VOLATILE.....	18
FIGURE 13 – ANNUAL REGULATORY PROGRAM FEE: MANUFACTURING – NON-VOLATILE	19
FIGURE 14 – ANNUAL REGULATORY PROGRAM FEE: DELIVERY-ONLY DISPENSARY.....	20
FIGURE 15 – ANNUAL REGULATORY PROGRAM FEE: DISTRIBUTION	21
FIGURE 16 – ANNUAL REGULATORY PROGRAM FEE: DELIVERY (<i>W/RETAIL ONLY</i>).....	22

SUMMARY

INTRODUCTION

The Medical Cannabis Regulation and Safety Act ("MCRSA") was signed into law in October of 2015. MCRSA was composed of three bills: AB 266 which established a dual-licensing structure requiring a state license and a local license or permit, AB 243 which established a regulatory and licensing structure for cultivation sites under the Department of Food and Agriculture, and SB 643 which established criteria for licensing of medical cannabis businesses, regulated physicians, and recognized local authority to levy taxes and fees.

On November 8, 2016, the voters of the State of California approved Proposition 64, 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.

On June 27, 2017, Senate Bill 94, the "Medicinal and Adult-Use Cannabis Regulation and Safety Act" ("MAUCRSA") repealed and replaced MCRSA. MAUCRSA consolidates the medical MCRSA and adult use (Proposition 64) cannabis statutes.

In November 2017, the City of Alameda ("City") adopted Ordinance No. 3201 ("regulatory ordinance"), a new regulatory framework to permit and regulate the retail sale, manufacturing, testing, nursery cultivation, distribution and delivery of commercial cannabis within the City. It requires a Cannabis Business Operators Permit (CBOP) for the following cannabis commercial operations:

- Two medicinal retail dispensary permits (including delivery permits)
- Four manufacturing permits (including distributor's) permit
- One nursery cultivation permit
- Two testing laboratory permits

The City subsequently adopted Ordinance No. 3206, a zoning ordinance, in December 2017, to amend to the Alameda Municipal Code repealing the prohibition on cannabis activities and identifying the zones for commercial cannabis business locations. The City is contemplating several amendments to both the regulator and zoning ordinances including adding two delivery-only dispensaries, and the anticipated costs incurred for this activity is expected to be similar to other commercial cannabis activities (e.g., medicinal retail dispensary). Therefore, this fee study analyzes the costs of administering a program that includes regulating delivery-only dispensaries.¹

¹ The revised regulatory ordinance for two delivery-only dispensaries is expected to be on the City Council October 16, 2018, agenda.

The purpose of this Cannabis Regulatory Fee Study ("Fee Study") is to establish the legal and policy basis for imposing regulatory fees ("fees") for permitting and regulating the operational aspects of commercial cannabis activities in the City. The fees will be used to reimburse the City departments for reasonable direct and indirect labor costs and contracted services attributable to reviewing and acting upon the applications and verifying and enforcing compliance with the regulatory ordinance.

LEGAL FRAMEWORK

In order to impose such fees, this Fee Study will present findings to meet the substantive requirements of Proposition 26, which are as follows:

1. Demonstrate that the levy, charge, or other exaction is not a tax; and
2. The amount is not more than necessary to cover the reasonable cost of the governmental activity; and
3. The manner in which those costs are allocated to a payor bears a fair or reasonable relationship to the payor's burden on, or benefits received from, the governmental activity.

Additionally, recent case law has provided further clarification of these substantive requirements, which are as follows:

- Costs need not be "finely calibrated to the precise benefit each individual fee payor might derive."²
- The payor's burden or benefit from the program is not measured on an individual basis. Rather, it is measured collectively, considering all fee payors.³
- Demonstrating that the amount collected is no more than is necessary to cover the reasonable costs of the program is satisfied by estimating the approximate cost of the activity and demonstrating that this cost is equal to or greater than the fee revenue to be received.⁴
- Reasonable costs associated with the creation of the regulatory program may be recovered by a regulatory fee.⁵

² Griffith v. County of Santa Cruz (2012)

³ Griffith v. County of Santa Cruz (2012); Newhall County Water District v. Castaic Lake Water Agency (2016)

⁴ Griffith v. County of Santa Cruz (2012)

⁵ League of California Cities Propositions 26 and 218 Implementation Guide, May 2017, pp. 70-71.

METHODOLOGY AND APPROACH

The total annual cost of the implementation of the City's commercial cannabis activities and enforcement of the regulatory ordinance by the City was used to determine the City's commercial cannabis business regulatory fees. These costs are then allocated to the payor in a way that demonstrates that the costs bear a fair or reasonable relationship to the payor's burden on or benefits from the program.

The City went through a deliberative process to establish a reasonable expenditure plan to use in setting the fees. An interdepartmental working group of City staff worked together to develop the regulatory and zoning ordinances and review the proposed fees. The working group was comprised of representatives from the Base Reuse and Economic Development Department, including the Planning and Building Divisions, the City Manager's Office, the City Attorney's Office, the Police Department and the Finance Department.

For each of the regulatory fees established by this Fee Study, the City evaluated the regulatory ordinance and identified specific tasks and activities associated with permitting and enforcement of the regulations. Each City department then determined the specific hours and personnel needed by their department to complete their tasks and activities. The estimated labor hours for each activity were then multiplied by each relevant department's current hourly labor rate for each position completing the task. The hourly labor rates include various salary and benefits, departmental support, supervision, and other administration overhead and similar indirect costs.

The type of costs included in the fees includes labor costs, contracted services, supplies, inter-department charges, and other incidental costs. Detailed supporting analysis tables served as the mechanism to determine specific fee rates and estimated hours, as summarized in this Fee Study. These time estimates and level of effort were then reviewed and evaluated by other City staff, and SCI Consulting Group for their reasonableness.

Where a deposit-based fee is proposed, a fee deposit is required for an initial allotment of estimated staff time and any additional research, review and/or approval that exceeds the estimate, is subject to an hourly fee once actual staff hours incurred are known and will be billed at once those costs are determined. The deposits are calculated based on each department's hourly rates as of the date of this fee study, but the actual costs will be calculated and charged at the rates that apply on the date the work is conducted. Each department's rates are typically updated annually in accordance with usual fee adoption processes. If the actual time is less than the estimate, the deposit is subject to a partial refund. Deposit-based fees are commonly used by the Base Reuse and Economic Development Department and Planning and Building Division in its existing fee structure.

Where a flat fee is proposed, the time estimate remains constant for each application or appeal and the fees are based on each department's hourly rates as of the date of this fee study. Flat fees are used in those instances where the City is reasonably certain of the time necessary for the task or activity.

In order to ensure that the fees bear a fair or reasonable relationship to the payor's burden on or benefits from the regulatory program, this Fee Study proposes the use of deposit-based fees for application and permit activities and flat fees for regulatory (annual monitoring and compliance) fees.

SUMMARY OF GENERAL FINDINGS

The following general findings from the Fee Study are presented:

1. The City's proposed cannabis regulatory fees are not taxes, but regulatory fees proposed to recover costs associated with the regulatory ordinance, which created a new regulatory framework to permit and regulate retail sales, manufacturing, nursery cultivation, and testing laboratories of cannabis in the City of Alameda.
2. The City went through a deliberative process to establish reasonable costs for permitting and enforcement of the new regulations.
3. The fee amounts determined by this Fee Study do not exceed the reasonable cost of permitting and enforcement of the new regulations.
4. The fees bear a fair or reasonable relationship to the payor's burden on or benefits from the regulatory program.

SUMMARY OF RECOMMENDATIONS

Based on the findings presented in this Fee Study, it is recommended that the City consider adopting the fees shown in Figure 1 (Application and Permit Fees) and Figure 2 (Annual Regulatory Fees), including:

1. Deposit-based hourly fees (additional detail in Figures 3 - 7). For deposit-based fees, it is recommended that the City adopt deposit-based fees proposed by this Fee Study and to charge the applicant for the actual work performed at the applicable hourly rate in effect for the department; and
2. Flat fees (additional detail in Figures 9 – 16).

FIGURE 1 – SUMMARY OF PROPOSED CANNABIS BUSINESS OPERATOR APPLICATION AND PERMIT FEES

Fee Description	Fee ¹	Unit	Figure
Cannabis Business Operator Permit: LOI Review Fee	\$900	flat fee	3
Cannabis Business Operator Permit: RFP Proposal Fee	\$4,400	flat fee	4
Cannabis Business Operator Permit: RFP Decision Appeal Fee	\$6,600	deposit-based	5
Cannabis Business Operator Permit: Application Fee	\$7,600	deposit-based	6
Cannabis Business Operator Permit: Renewal Fee	\$2,300	deposit-based	7

Notes:

¹ Proposed fees are rounded down to the nearest hundred dollars.**FIGURE 2 – SUMMARY OF CANNABIS BUSINESS REGULATORY PROGRAM FEES**

Fee Description	Fee ¹	Unit	Figure
Retail Dispensary	\$7,400	per permit annually	9
Nusery Cultivation	\$4,500	per permit annually	10
Testing Laboratory	\$4,500	per permit annually	11
Manufacturing: Volatile	\$8,500	per permit annually	12
Manufacturing: Non-Volatile	\$7,700	per permit annually	13
Delivery-Only Dispensary	\$6,000	per permit annually	14
Distribution (in conjunction with Cultivation or Manufacturing only)	\$4,400	per permit annually	15
Delivery (in conjunction with Retail only)	\$3,700	per permit annually	16

Notes:

¹ Proposed fees are rounded down to the nearest hundred dollars.

CANNABIS BUSINESS OPERATOR PERMIT APPLICATION FEES

The City of Alameda has adopted a Request for Proposals (“RFP”) process to invite potential retail and delivery-only dispensary businesses to submit their applications for the establishment of Commercial Cannabis Operator Permit (“CBOP”). Nursery cultivation, testing laboratories, and manufacturing cannabis businesses are on a first-come, first-serve basis.

The RFP process requires: (1) submission of a Letter of Intent (“LOI”), (2) review of the LOI for minimum requirements, (3) submission and review of proposals based on a scoring rubric and evaluation criteria, including an oral interview, (4) issuance of a conditional award letter, and (5) maintenance of a waiting list of the balance of qualified proposers.

The following fees will be collected at different stages of the application process for:

- Cannabis Business Operator Permit LOI Review Fee
- Cannabis Business Operator Permit RFP Proposal Review Fee
- Cannabis Business Operator Permit RFP Decision Appeal Fee *(if Applicant appeals)*
- Cannabis Business Operator Permit Application Fee
- Cannabis Business Operator Permit Renewal Fee

Effective December 2018, the Planning and Building Division will take over oversight of the CBOP process. The Fully Burdened Hourly Rate, beginning with the LOI Review Fee in Figure 3, has been adjusted by use of a blended rate to account for the transition from Economic Development Manager to Planning Services Manager.

CANNABIS BUSINESS OPERATOR PERMIT LOI REVIEW FEE

The proposed pre-application review fee is a flat fee of \$900 upon submittal of the LOI portion of the RFP process. The flat fee recovers the cost to review the LOI, evidence of secured location for the cannabis business, a statement confirming the business location is outside of the buffer zone and confirm payment of the filing fee. This includes detailed review by interdepartmental working group from various City departments.

CANNABIS BUSINESS OPERATOR PERMIT RFP PROPOSAL REVIEW FEE

All proposers with qualifying LOIs are invited to submit a proposal in response to the RFP. The proposals are then evaluated by a selection panel which includes a modified ‘blind scoring’ of the proposals and oral interviews.

The most qualified proposal(s) based on the scoring rubric and oral interviews will be issued the conditional award letter. Minimum score requirements must be met in order to qualify to receive a conditional award letter.

The proposed flat fee for the competitive selection process is \$4,400 per eligible proposal. The Proposal fee covers the City's costs to review the proposal, draft correspondence, communicate with applicants and organize the City Selection Panel, which reviews the information provided by City staff and ranks and scores all eligible applications based on evaluation rubric and oral interview provided for in the RFP.

CANNABIS BUSINESS OPERATOR PERMIT RFP DECISION APPEAL FEE

An applicant aggrieved by an administrative decision made during the RFP process may appeal that decision. The appeals fee includes the cost to process the appeal and bring it before a Hearing Officer at a hearing. The appeals process would be subject to the hourly billing rates of each relevant department with an initial deposit of \$6,600 as shown in Figure 5. The decision of the Hearing Officer shall be final.

CANNABIS BUSINESS OPERATOR PERMIT APPLICATION FEE

The proposed application deposit-based fee is \$7,600. Retail and delivery-only dispensaries must receive a conditional award letter to complete an application. Application review for nursery cultivation, testing laboratories, and manufacturing cannabis businesses are on a first-come, first-serve basis.

The application deposit-based fee recovers the cost to review the components of the application such as ownership, site plans, security plans, and ventilation plans. It also includes review of Live Scan documents, evidence of approval of a Conditional-Use Permit, evidence of secured location for the cannabis business, communicate with applicants and confirm payment of the filing fee. This includes detailed review by an interdepartmental working group from various City departments.

CANNABIS BUSINESS OPERATOR PERMIT RENEWAL FEE

The CPOB is valid for one (1) year from the date of issuance. The Permit Renewal is subject to the laws and regulations effective at the time of renewal. The proposed fee for renewing the annual permit is \$2,300.

FIGURE 3 – CANNABIS BUSINESS OPERATOR PERMIT LOI REVIEW FEE

Department / Office	Position	Fully Burdened Hourly Rate	Billable Hours	Estimated Labor Costs
		<i>Calc</i>	<i>a</i>	<i>b</i>
				<i>a*b=c</i>
Base Reuse and Economic Development, and Planning and Building	Director	\$145	0.50	\$72.50
Base Reuse and Economic Development, and Planning and Building	Economic Development Manager/ Planning Services Manager	\$106	5.50	\$583.00
Planning and Building	Planner II	\$71	1.50	\$106.50
City Attorney's Office	Assistant City Attorney	\$121	1.50	\$181.50
Finance	Accounting Technician	\$50	0.25	\$12.50
Total Labor Costs				\$956.00
Contracted Services, Supplies, and Other Expenses				\$0.00
Cost Recovery %:				100%
Proposed Flat Fee per application¹				\$900.00

Notes:

¹Proposed fees are rounded down to the nearest hundred dollars.

FIGURE 4 – CANNABIS BUSINESS OPERATOR PERMIT RFP PROPOSAL REVIEW

Department / Office	Position	Fully Burdened Hourly Rate	Billable Hours	Estimated Labor Costs	
		<i>Calc</i>	<i>a</i>	<i>b</i>	<i>a*b=c</i>
Base Reuse and Economic Development, and Planning and Building	Director	\$145	1.00	\$145.00	
Base Reuse and Economic Development, and Planning and Building	Economic Development Manager/ Planning Services Manager	\$106	14.00	\$1,484.00	
City Attorney's Office	Assistant City Attorney	\$121	2.00	\$242.00	
Finance	Accounting Technician	\$50	1.00	\$50.00	
Selection Panel					
Real Estate/Property Management	Base Reuse and Economic Development	\$129	4.00	\$516.00	
Finance	Financial Services Manager	\$123	4.00	\$492.00	
Recreation and Park	Manager, Mastic Senior Center	\$150	4.00	\$600.00	
Planning Division	Alameda Contract/PT Planner	\$111	4.00	\$444.00	
Public Works	Public Works Director	\$102	4.00	\$408.00	
Total Labor Costs				\$4,381.00	
Contracted Services, Supplies, and Other Expenses				\$100.00	
Cost Recovery %:				100%	
Proposed Flat Fee per application ¹				\$4,400.00	

FIGURE 5 - CANNABIS BUSINESS OPERATOR PERMIT RFP DECISION APPEAL FEE

Department / Office	Position	Fully Burdened Hourly Rate	Billable Hours	Estimated Labor Costs
		<i>Calc</i>	<i>a</i>	<i>b</i>
			<i>a*b=c</i>	
Base Reuse and Economic Development, and Planning and Building	Director	\$145	1.00	\$145.00
Base Reuse and Economic Development, and Planning and Building	Economic Development Manager/ Planning Services Manager	\$106	10.00	\$1,060.00
City Attorney's Office	Assistant City Attorney	\$121	15.00	\$1,815.00
City Attorney's Office	Paralegal	\$66	5.00	\$330.00
Contracted Services	Hearing Officer	\$300	10.00	\$3,000.00
Total Labor Costs				\$6,350.00
Contracted Services, Supplies, and Other Expenses				\$300.00
Cost Recovery %:				100%
Proposed Deposit-based Fee per application¹				\$6,600.00

Notes:

¹Proposed fees are rounded down to the nearest hundred dollars.

FIGURE 6 – BUSINESS OPERATOR PERMIT APPLICATION FEE

Department / Office	Position	Fully Burdened Hourly Rate	Billable Hours	Estimated Labor Costs	
		<i>Calc</i>	<i>a</i>	<i>b</i>	<i>a*b=c</i>
Base Reuse and Economic Development, and Planning and Building	Director	\$145	2.00	\$290.00	
Base Reuse and Economic Development, and Planning and Building	Economic Development Manager/ Planning Services Manager	\$106	24.00	\$2,544.00	
Police Department	Police Chief	\$223	1.00	\$223.00	
Police Department	Police Captain	\$226	4.00	\$904.00	
Police Department	Police Sergeant	\$166	10.00	\$1,660.00	
City Attorney's Office	Assistant City Attorney	\$121	3.00	\$363.00	
City Attorney's Office	Paralegal	\$66	1.00	\$66.00	
Finance	Accounting Technician	\$50	2.00	\$100.00	
Total Labor Costs				\$6,150.00	
Contracted Services, Supplies, and Other Expenses				\$1,500.00	
Cost Recovery %:				100%	
Proposed Deposit-based Fee per application ¹				\$7,600.00	

Notes:

¹Proposed fees are rounded down to the nearest hundred dollars.

FIGURE 7 – CANNABIS BUSINESS OPERATOR PERMIT RENEWAL FEE

Department / Office	Position	Fully Burdened Hourly Rate	Billable Hours	Estimated Labor Costs	
		<i>Calc</i>	<i>a</i>	<i>b</i>	<i>a*b=c</i>
Base Reuse and Economic Development, and Planning and Building	Director	\$145	1.00	\$145.00	
Base Reuse and Economic Development, and Planning and Building	Economic Development Manager/ Planning Services Manager	\$106	4.00	\$424.00	
Police Department	Police Chief	\$223	1.00	\$223.00	
Police Department	Police Captain	\$226	2.00	\$452.00	
Police Department	Police Sergeant	\$166	4.00	\$664.00	
City Attorney's Office	Assistant City Attorney	\$121	2.00	\$242.00	
Finance	Accounting Technician	\$50	1.00	\$50.00	
Total Labor Costs				\$2,200.00	
Contracted Services, Supplies, and Other Expenses				\$100.00	
Cost Recovery %:				100%	
Proposed Fee per application ¹				\$2,300.00	

Notes:

¹Proposed fees are rounded down to the nearest hundred dollars.

CANNABIS BUSINESS REGULATORY PROGRAM FEE

This section shows the determination of the Cannabis Business Annual Regulatory Program Fee (“Regulatory Program Fee”) for full cost recovery for the annual monitoring and compliance of each type of commercial cannabis business in the City, as described in the regulatory ordinance and supporting City documents. The monitoring and compliance tasks include reviewing document retention practices, facility operations requirements, product inspections, and video monitoring.

Additionally, the proportional cost of the City’s implementation of its commercial cannabis policy, including development of regulatory policy and ordinances, application process, etc. has been modeled to be recovered over a 10-year period and has been adjusted to reflect the relative burden of the implementation of each type of commercial activity.

Figure 8 details each involved City department’s costs associated with developing the regulatory ordinance and the RFP implementation regulations. This includes fees from Base Reuse and Economic Development Department, which led and coordinated the development and implementation of the City’s commercial cannabis policies, with staff from various City Departments. The total cost of hourly time spent by each of these departments during the development of the Ordinances is combined, divided between the maximum number of permits that can be issued pursuant to the Ordinances and allocated as a cost item in the Annual Regulatory Program Fee. The cost recovery for these program development costs is proposed to be recovered over a period of 10 years.

Figures 9 through 16 detail the direct and indirect labor costs attributable to the administration of the monitoring and compliance and enforcement of the regulatory ordinance. The labor costs are segmented by the task/activity and level of effort provided by specific City staff. The hours for each activity were determined by Department staff by diagraming the tasks involved with the activity and the estimated level of effort. These time estimates, and level of effort were then reviewed and evaluated by other City staff and SCI Consulting Group for their reasonableness.

Each year, the permit holder will be required to pay the following:

- the CPOB renewal fee; and
- the annual Regulatory Program Fee.

For example, each retail location is responsible for \$9,700 in annual fees (CBOP renewal fee of \$2,300, and an annual Regulatory Program Fee of \$7,400, as seen in Figures 7 and 9, respectively.)

FIGURE 8 – ALLOCATION OF CANNABIS BUSINESS DEVELOPMENT AND IMPLEMENTATION COSTS

Department / Office	Total Cost
Base Reuse and Economic Development, and Planning and Building Departments	\$73,421.00
City Attorney's Office	\$25,205.00
City Clerk's Office	\$630.00
City Manager's Office	\$3,627.00
Finance Department	\$1,772.00
Police Department	\$34,856.00
Contracted Services, Supplies, and Other Expenses	\$82,900.00
Total Cost¹	\$222,411.00
Total Cost Recovery Per Year (10 Years)	\$22,241.10
Number of Permits	11
Annual Cost Recovery per Permit	\$2,021.92
Typical Cost Recovery per Inspection (based on 2 per	\$1,011.00

Notes:

¹The Total Cost is based on the time spent by personnel based on hourly costs provided by the City as well as the cost of contracting with professions to provide services.

²Proposed fees are rounded down to the nearest hundred dollars.

FIGURE 9 – ANNUAL REGULATORY PROGRAM FEE: RETAIL

General Tasks/Activities	Director	Economic Development Manager/ Planning Services Manager	Police Sergeant	Labor Hours	Labor Costs	Contract Services, Supplies and Other Expenses	Total Cost
<i>Fully Burdened Hourly Rate</i>	<i>\$145</i>	<i>\$106</i>	<i>\$166</i>				
Inspection, Monitoring, Compliance	0.00	0.00	0.00	0.00	\$0.00	\$1,957.50	\$1,957.50
Oversight and Reporting	2.00	3.00	1.00	6.00	\$774.00	\$0.00	\$774.00
Proportional Implementation Costs	-	-	-	-	-	-	\$1,011.00
Total per Inspection	2.00	3.00	1.00	6.00	\$774.00	\$1,957.50	\$3,742.50
Cost Recovery %:					100%		
Proposed Annual Inspections:					2		
Proposed Annual Fee: ¹					\$7,400	per permit annually	
Permits Allowed:					2	permits	
Estimated Annual Cost Recovery to City:					\$14,800		

Notes:

¹Proposed fees are rounded down to the nearest hundred dollars.

FIGURE 10 – ANNUAL REGULATORY PROGRAM FEE: NURSERY CULTIVATION

General Tasks/Activities	Director	Economic Development Manager/ Planning Services Manager	Police Sergeant	Labor Hours	Labor Cost	Contract Services, Supplies and Other Expenses	Total Cost
<i>Fully Burdened Hourly Rate</i>	<i>\$145</i>	<i>\$106</i>	<i>\$166</i>				
Inspection, Monitoring, Compliance	0.00	0.00	0.00	0.00	\$0.00	\$806.00	\$806.00
Oversight and Reporting	0.75	1.50	1.00	3.25	\$433.75	\$0.00	\$433.75
Proportional Implementation Costs	-	-	-	-	-	-	\$1,011.00
Total per Inspection	0.75	1.50	1.00	3.25	\$433.75	\$806.00	\$2,250.75
Cost Recovery %:					100%		
Proposed Annual Inspections:					2		
Proposed Annual Fee: ¹					\$4,500	per permit annually	
Permits Allowed:					1	permits	
Estimated Annual Cost Recovery to City:					\$4,500		

Notes:

¹Proposed fees are rounded down to the nearest hundred dollars.

FIGURE 11 – ANNUAL REGULATORY PROGRAM FEE: TESTING

General Tasks/Activities	Director	Economic Development Manager/ Planning Services Manager	Police Sergeant	Labor Hours	Labor Costs	Contract Services, Supplies and Other Expenses	Total Cost
<i>Fully Burdened Hourly Rate</i>	<i>\$145</i>	<i>\$106</i>	<i>\$166</i>				
Inspection, Monitoring, Compliance	0.00	0.00	0.00	0.00	\$0.00	\$846.00	\$846.00
Oversight and Reporting	0.75	1.50	1.00	3.25	\$433.75	\$0.00	\$433.75
Proportional Implementation Costs	-	-	-	-	-	-	\$1,011.00
Total per Inspection	0.75	1.50	1.00	3.25	\$433.75	\$846.00	\$2,290.75
Cost Recovery %:					100%		
Proposed Annual Inspections:					2		
Proposed Annual Fee:					\$4,500	per permit annually	
Permits Allowed:					2	permits	
Estimated Annual Cost Recovery to City:					\$9,000		

Notes:

¹Proposed fees are rounded down to the nearest hundred dollars.

FIGURE 12 - ANNUAL REGULATORY PROGRAM FEE: MANUFACTURING – VOLATILE

General Tasks/Activities	Director	Economic Development Manager/ Planning Services Manager	Police Sergeant	Labor Hours	Labor Costs	Contract Services, Supplies and Other Expenses	Total Cost
<i>Fully Burdened Hourly Rate</i>	<i>\$145</i>	<i>\$106</i>	<i>\$166</i>				
Inspection, Monitoring, Compliance	0.00	0.00	0.00	0.00	\$0.00	\$2,492.00	\$2,492.00
Oversight and Reporting	2.00	3.00	1.00	6.00	\$774.00	\$0.00	\$774.00
Proportional Implementation Costs	-	-	-	-	-	-	\$1,011.00
Total per Inspection	2.00	3.00	1.00	6.00	\$774.00	\$2,492.00	\$4,277.00
Cost Recovery %:					100%		
Proposed Annual Inspections:					2		
Proposed Annual Fee: ¹					\$8,500	per permit annually	
Permits Allowed:					2	permits	
Estimated Annual Cost Recovery to City:					\$17,000		

Notes:

¹Proposed fees are rounded down to the nearest hundred dollars.

FIGURE 13 – ANNUAL REGULATORY PROGRAM FEE: MANUFACTURING – NON-VOLATILE

General Tasks/Activities	Director	Economic Development Manager/ Planning Services Manager	Police Sergeant	Labor Hours	Labor Costs	Contract Services, Supplies and Other Expenses	Total Cost
<i>Fully Burdened Hourly Rate</i>	<i>\$145</i>	<i>\$106</i>	<i>\$166</i>				
Inspection, Monitoring, Compliance	0.00	0.00	0.00	0.00	\$0.00	\$2,092.00	\$2,092.00
Oversight and Reporting	2.00	3.00	1.00	6.00	\$774.00	\$0.00	\$774.00
Proportional Implementation Costs	-	-	-	-	-	-	\$1,011.00
Total per Inspection	2.00	3.00	1.00	6.00	\$774.00	\$2,092.00	\$3,877.00
Cost Recovery %: 100%							
Proposed Annual Inspections: 2							
Proposed Annual Fee: ¹ \$7,700 per permit annually							
Permits Allowed: 2 permits							
Estimated Annual Cost Recovery to City: \$15,400							

Notes:

¹Proposed fees are rounded down to the nearest hundred dollars.

FIGURE 14 – ANNUAL REGULATORY PROGRAM FEE: DELIVERY-ONLY DISPENSARY

General Tasks/Activities	Director	Economic Development Manager/ Planning Services Manager	Police Sergeant	Labor Hours	Labor Costs	Contract Services, Supplies and Other Expenses	Total Cost
<i>Fully Burdened Hourly Rate</i>	<i>\$145</i>	<i>\$106</i>	<i>\$166</i>				
Inspection, Monitoring, Compliance	0.00	0.00	0.00	0.00	\$0.00	\$1,494.50	\$1,494.50
Oversight and Reporting	1.00	2.00	1.00	4.00	\$523.00	\$0.00	\$523.00
Proportional Implementation Costs	-	-	-	-	-	-	\$1,011.00
Total per Inspection	1.00	2.00	1.00	4.00	\$523.00	\$1,494.50	\$3,028.50
Cost Recovery %:					100%		
Proposed Annual Inspections:					2		
Proposed Annual Fee: ¹					\$6,000	per permit annually	
Permits Allowed:					2	permits	
Estimated Annual Cost Recovery to City:					\$12,000		

Notes:

¹Proposed fees are rounded down to the nearest hundred dollars.

FIGURE 15 – ANNUAL REGULATORY PROGRAM FEE: DISTRIBUTION

General Tasks/Activities	Director	Economic Development Manager/ Planning Services Manager	Police Sergeant	Labor Hours	Labor Costs	Contract Services, Supplies and Other Expenses	Total Cost
<i>Fully Burdened Hourly Rate</i>	<i>\$145</i>	<i>\$106</i>	<i>\$166</i>				
Inspection, Monitoring, Compliance	0.00	0.00	0.00	0.00	\$0.00	\$903.00	\$903.00
Oversight and Reporting	0.25	1.00	1.00	2.25	\$308.25	\$0.00	\$308.25
Proportional Implementation Costs	-	-	-	-	-	-	\$1,011.00
Total per Inspection	0.25	1.00	1.00	2.25	\$308.25	\$903.00	\$2,222.25
Cost Recovery %:					100%		
Proposed Annual Inspections:					2		
Proposed Annual Fee: ¹					\$4,400	per permit annually	
Permits Allowed:					4	permits	
Estimated Annual Cost Recovery to City:					\$17,600		

Notes:

¹Proposed fees are rounded down to the nearest hundred dollars.

FIGURE 16 – ANNUAL REGULATORY PROGRAM FEE: DELIVERY (w/RETAIL ONLY)

General Tasks/Activities	Director	Economic Development Manager/ Planning Services Manager	Police Sergeant	Labor Hours	Labor Costs	Contract Services, Supplies and Other Expenses	Total Cost
<i>Fully Burdened Hourly Rate</i>	<i>\$145</i>	<i>\$106</i>	<i>\$166</i>				
Inspection, Monitoring, Compliance	0.00	0.00	0.00	0.00	\$0.00	\$351.50	\$351.50
Oversight and Reporting	0.25	3.00	1.00	4.25	\$520.25	\$0.00	\$520.25
Proportional Implementation Costs	-	-	-	-	-	-	\$1,011.00
Total per Inspection	0.25	3.00	1.00	4.25	\$520.25	\$351.50	\$1,882.75
Cost Recovery %:					100%		
Proposed Annual Inspections:					2		
Proposed Annual Fee: ¹					\$3,700	per permit annually	
Permits Allowed:					2	permits	
Estimated Annual Cost Recovery to City:					\$7,400		

Notes:

¹Proposed fees are rounded down to the nearest hundred dollars.

OTHER FEES

In addition to the fees outlined in this Fee Study, there are other fees that permit holders will be required to pay if / when they are incurred. These other fees fall into two categories:

- Fees that apply in relation to cannabis operations that are generally applicable to all businesses in the City of Alameda; and
- Fees that may be developed in relation to cannabis operations, but which are outside the scope of this Fee Study such as State of California fees.

Permit holders will be informed of these fees in the usual course of applications and communications with the involved City departments or other applicable entities.

GENERALLY APPLICABLE FEES

Existing fees that apply to cannabis operations include, for example, business license, conditional use permit and, building permit application fees. These fees which generally apply to all Alameda businesses, including cannabis operations. For example, an operator's permit is subject to approval of a conditional use permit. Although the cost of the conditional use permit is not included in this Fee Study, the fees still apply to the cannabis business applicant.

CANNABIS SPECIFIC FEES

The City may develop and apply additional fees specific to commercial cannabis operations through the relevant departments' usual processes, but which are outside the scope of this Fee Study. Such fees are outside the scope of this study because although they are related to cannabis operations, they are not directly associated with the implementation of the regulatory ordinance and RPF process.

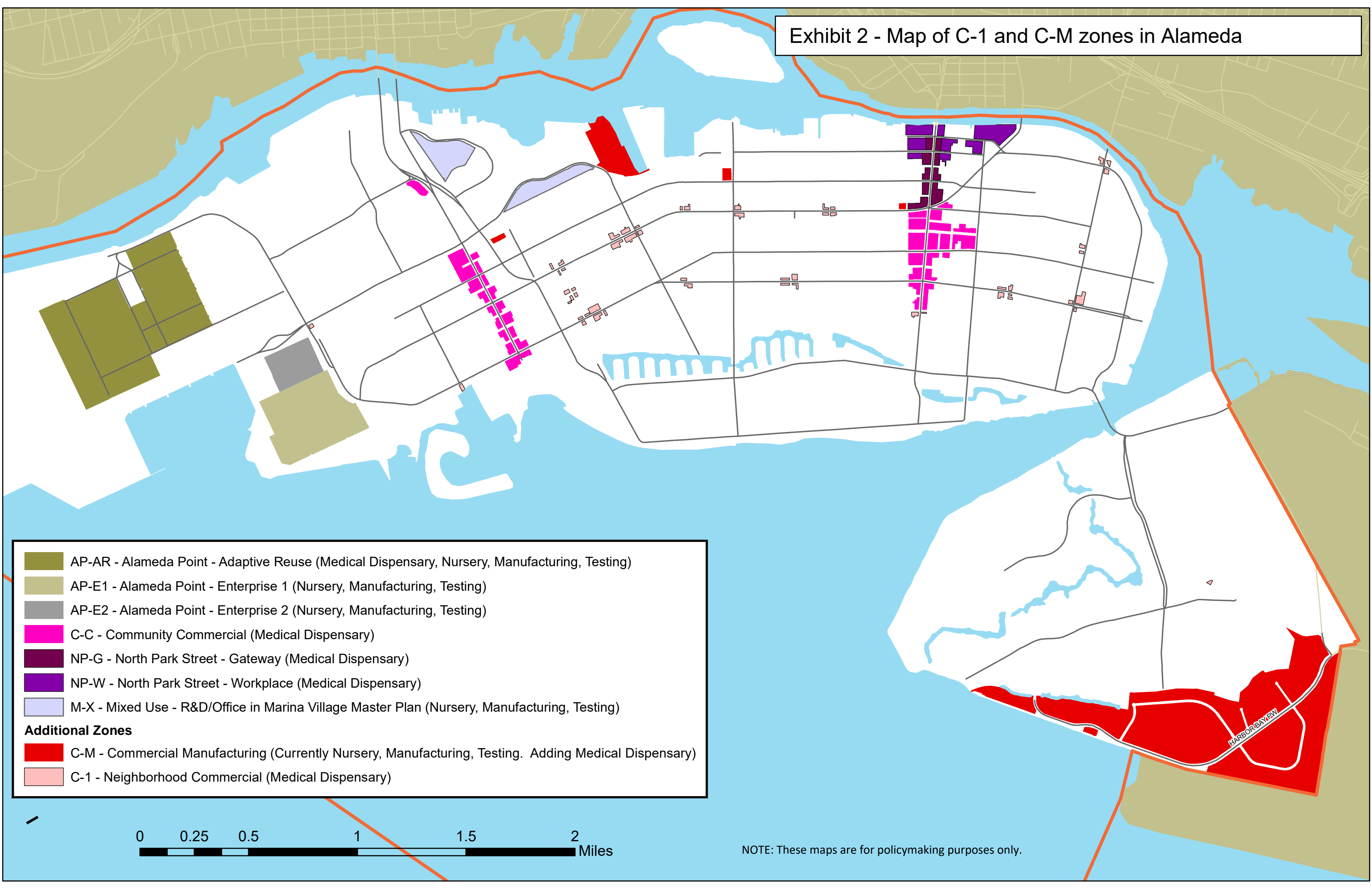
REVIEW AND UPDATE OF FEES

This Fee Study has been prepared in the context of an emerging industry and regulatory framework for legalized cannabis in the State of California. It may be appropriate for the City to review and update the fees identified in this Fee Study:

- When the program under the Ordinances has been implemented for a period of time sufficient for the City to have had an opportunity to review the actual costs incurred in processing permits and administering the and to have achieved some efficiencies in processing applications and undertaking monitoring and compliance;
- If the Ordinances are substantially amended such that the time and/or processes involved are substantially changed; or
- At the expiration of 10 years, which is the period over which the Fee Study proposes recovery of the City's Cannabis Business implementation costs.

(THIS PAGE INTENTIONALLY LEFT BLANK)

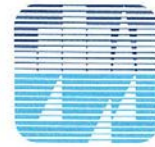
Exhibit 2 - Map of C-1 and C-M zones in Alameda



- AP-AR - Alameda Point - Adaptive Reuse (Medical Dispensary, Nursery, Manufacturing, Testing)
- AP-E1 - Alameda Point - Enterprise 1 (Nursery, Manufacturing, Testing)
- AP-E2 - Alameda Point - Enterprise 2 (Nursery, Manufacturing, Testing)
- C-C - Community Commercial (Medical Dispensary)
- NP-G - North Park Street - Gateway (Medical Dispensary)
- NP-W - North Park Street - Workplace (Medical Dispensary)
- M-X - Mixed Use - R&D/Office in Marina Village Master Plan (Nursery, Manufacturing, Testing)
- Additional Zones**
- C-M - Commercial Manufacturing (Currently Nursery, Manufacturing, Testing. Adding Medical Dispensary)
- C-1 - Neighborhood Commercial (Medical Dispensary)

0 0.25 0.5 1 1.5 2 Miles

NOTE: These maps are for policymaking purposes only.



September 17, 2018

Honorable Members of the City of Alameda Planning Board
City of Alameda Community Development Department
City Hall, 2263 Santa Clara Avenue, Room 190
Alameda, California 94501-4477

**RE: Planning Board Meeting of September 24, 2018, Agenda Item 7-A
Consideration of Cannabis Business Zoning Text Amendments
Recommendations of the Harbor Bay Business Park Association**

Dear Planning Board Members:

At the Annual Meeting of the members of the Harbor Bay Business Park Association held on August 21, 2018, the members were informed that the City of Alameda was considering a policy that would allow the expansion of cannabis related uses to include retail dispensaries in the C-M Commercial-Manufacturing Zoning Districts of the City, including the Harbor Bay Business Park which is zoned C-M-PD, and that the City's Economic Development Manager has asked for feedback from the Harbor Bay Business Park property and business owners on this proposed policy and changes to the City's Zoning Code. In the meeting, a number of the property owners in the Harbor Bay Business Park expressed that they strongly preferred not to have such uses allowed to operate in the Business Park and that cannabis dispensaries and similar retail operations would not be compatible with the existing businesses and institutions in the Harbor Bay Business Park and could bring on security problems. There were no expressions of support for a City policy that would change the City's Zoning Code to allow cannabis dispensaries or similar retail facilities in the Harbor Bay Business Park.

After the Annual Meeting of the members, the Board of Directors of the Harbor Bay Business Park Association authorized and directed its President Joseph Ernst to send letters to the City on behalf of the Harbor Bay Business Park Association expressing the concerns of the Association's members about allowing cannabis dispensary operations and facilities in the Harbor Bay Business Park and recommending that the Planning Board and the City Council not approve any Zoning Text Amendments that would allow cannabis dispensaries to locate and operate within the Harbor Bay Business Park.

The Harbor Bay Business Park Association strongly recommends that the Planning Board vote against any recommendation that the City Council approve Zoning Text Amendments that would allow cannabis dispensaries to locate and operate within the C-M-PD zoned Harbor Bay Business Park.

Sincerely,

JOSEPH ERNST
President of the Harbor Bay Business Park Association



Dear City Council Members and City Staff:

Thank you for your hard work in creating the new cannabis ordinance! We, the West Alameda Business Association (WABA), see the economic potential of cannabis businesses not only for the West End but for the entire City of Alameda.

At the most recent planning board meeting held on September 24th, Community Development Director, Debbie Potter, presented data which indicated that a City could support 1 dispensary for every 15,000 residents. With the recent approval of Mix-Use Developments such as Site-A and Encinal Terminals, the population is expected to grow by the thousands. As the ordinance reads today, the City of Alameda is allowing only 2 retail dispensaries. We see this as an issue due to the current population of 79,000~ residents (and growing) here on island not including the additional residents as a result of approved Developments. We'd like to encourage the City Council to increase the number of retail dispensary permits to 4 total. This would allow for at least 1 more dispensary here on the West End which we believe will better serve the community and provide a positive impact on the Economic Development of Webster Business District.

With this increase in the number of dispensaries, we see the 1-mile dispersion as an issue especially with 1 location already approved here on Webster St. Given the limited amount of retail spaces available, the 1-mile dispersion would essentially block out the entire Webster Business District from potential dispensary operators. We encourage the City to follow the Planning Board's recommendation of removing the 1-mile dispersion as it is not conducive to creating opportunities in this emerging industry.

Lastly, WABA fully supports adding Adult-Use in to the ordinance. Maintaining the medicinal-only language in the ordinance will only limit the number of residence that will be able to enter into a retail dispensary. We understand neighboring cities such as: Oakland and Berkeley have adopted adult-use and we would like to give our operators a fighting chance to compete in such a competitive market.

We appreciate your consideration and cooperation.

Linda Asbury, Executive Director

West Alameda Business Association
Linda@westalamedabusiness.com
510.523.5955

Harbor Bay Business Park Owners Association

c/o GS Management
5674 Sonoma Drive
Pleasanton, CA 94566

October 15, 2018

Honorable Mayor and Members of the Alameda City Council
Attn: City Clerk, Alameda City Hall, 2263 Santa Clara Avenue
Alameda, California 94501-4477

**RE: City Council Meeting of October 16, 2018, Agenda Item 6-G
File 2018-6060: Proposed Regulations for Cannabis Retail Businesses
Recommendations of the Harbor Bay Business Park Association**

Dear Mayor and City Council Members:

At the Annual Meeting of the members of the Harbor Bay Business Park Association held on August 21, 2018, the members were informed that the City of Alameda was considering policies that would allow the expansion of Cannabis-related uses in the City to include cannabis retail businesses and dispensaries in the C-M Commercial-Manufacturing Zoning Districts of the City, including in the Harbor Bay Business Park which is zoned C-M-PD, and that the City's Economic Development Manager has asked for feedback from the Harbor Bay Business Park property and business owners on this proposed policy and changes to the City's Zoning Code. In the meeting, many property owners in the Harbor Bay Business Park expressed that they strongly preferred not to have such uses allowed to operate in the Business Park and that cannabis retail operations and dispensaries would not be compatible with the existing businesses and institutions in the Harbor Bay Business Park and could bring on security problems. On September 17, 2018, the Harbor Bay Business Park Association sent a letter to the Alameda Planning Board urging the Planning Board to recommend against Zoning Text Amendments that would allow cannabis dispensaries to locate and operate within the CM-PD zoned Harbor Bay Business Park. A copy of that letter was included in your packet for the October 16, 2018 Meeting.

After reviewing the Staff Report, the Fee Study, the Map of Zones, and the draft Resolution and Ordinances for Agenda Item 6-G on the Council's October 16, 2018 Meeting Agenda, the Board of Directors of the Harbor Bay Business Park Association authorized and directed its President Joseph Ernst to send this follow-up letter to the City on behalf of the Harbor Bay Business Park Association expressing the concerns of the Association's members about allowing cannabis retail businesses or dispensaries in the Harbor Bay Business Park.

The Harbor Bay Business Park Association acknowledges that the City is pursuing legitimate policy objectives in making the City's Municipal Code and Zoning Code comply with State laws that regulate cannabis businesses and in structuring new regulatory fees to cover the anticipated costs the City will incur in processing applications for permits and approvals of proposed cannabis business operations. However, our Association that represents the property owners and businesses in the Harbor Bay Business Park is very concerned that cannabis retail businesses and dispensaries are incompatible with the business operations currently in the Business Park --- offices, research and development, advanced manufacturing, life science laboratories, schools, day care centers, churches, institutions, and

hotels ---- and the plans for development of the remaining vacant parcels as part of a high quality community of businesses. The draft Ordinance amending the Municipal Code for Cannabis Businesses recognizes that commercial cannabis business operations may well adversely impact nearby businesses with offensive odors, trespassing, theft, violent encounters over attempted stealing of plants, fire hazards, increased crime in and about dispensaries, robberies, nuisance problems, and other negative impacts on nearby businesses. We do not have commercial retail outlets in the Harbor Bay Business Park, and our Association is strongly opposed to the City enacting regulations that would permit the retail distribution, transportation or sale of medical and recreational cannabis in the Harbor Bay Business Park.

The Harbor Bay Business Park Association strongly recommends that the City Council in its voting on this matter not approve “Adding Medical Dispensary” on the Zoning Map for the C-M Zone of the Harbor Bay Business Park, and also make specific exceptions for the Harbor Bay Business Park in the draft Resolution and Ordinances amending the Alameda Municipal Code and certain portions of the Zoning Ordinance to conditionally permit cannabis retail businesses in the C-M Commercial-Manufacturing Zoning Districts.

Sincerely,



JOSEPH ERNST
President of the Harbor Bay Business Park Association

LARA WEISIGER

From: Alan Teague <alan@alameda.morphdog.com>
Sent: Sunday, October 14, 2018 9:28 AM
To: Trish Spencer; Malia Vella; Frank Matarrese; Jim Oddie; Marilyn Ezzy Ashcraft
Cc: City Clerk
Subject: Item 6-G Clarification of Definition for Cultivation

Mayor, Vice Mayor and Council Members,

As you will be amending the Regulatory Ordinance, please take this opportunity to correct one definition in this ordinance:

6.59-3 Definitions

j. "Cultivation" means the production of clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of Cannabis to mature plants. It shall not include any activity involving the planting, growing, harvesting, drying, curing, grading, trimming, or processing of Cannabis, which is prohibited.

To match what is in the existing Zoning Code:

30-10.1 Commercial Cannabis Uses

c. Permitted uses

4. Cannabis cultivation means the production of clones, immature plants, seeds, and agricultural products used specifically for the propagation and cultivation of cannabis to mature plants. Except as provided for in the preceding sentence, cannabis cultivation shall not include any activity involving the planting, growing, harvesting, drying, curing, grading, trimming, or processing of cannabis, which is prohibited.

Recommended change to Regulatory Ordinance:

Amend 6.59-3 Definitions as follows:

j. "Cultivation" means the production of clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of Cannabis to mature plants. **Except as provided for in the preceding sentence, cannabis cultivation** ~~It~~ shall not include any activity involving the planting, growing, harvesting, drying, curing, grading, trimming, or processing of Cannabis, which is prohibited.

Thank you for working on this very important issue,

Alan Teague
Alameda Resident



Cannabis

CITY COUNCIL MEETING


OCTOBER 16, 2018

Cannabis Fee Study, and Regulatory and Land Use Ordinance Changes

- ▶ Background: At City Council's July 24, 2018 Meeting, Council directed staff to return as soon as possible with a number of changes to the zoning and regulatory ordinances.



Cannabis Fee Study



The Study was
prepared by SCI
Consulting Group

Cannabis Fee Study

- ▶ Establishes cannabis business regulatory permit fees for:
 - ▶ Letter of Intent – flat fee
 - ▶ Request for Proposals – flat fee
 - ▶ Application – deposit-based fee
 - ▶ Annual Renewal – deposit-based fee
 - ▶ Annual Regulatory Program fee – deposit-based fee



Cannabis Fee Study

- ▶ Annual Regulatory Program fees include a cost recovery fee that is applied to the cost incurred to-date
- ▶ Costs-to-date are \$222,411
- ▶ Repayment is over 10 years



Zoning Code Amendments

- 
- ▶ C-1 Neighborhood Business
 - ▶ C-M Commercial Manufacturing

Zoning Code Amendments

City Council directed staff to:

- ▶ Expand the cannabis zoning districts to include:
 - ▶ C-1 (Neighborhood Business)
 - ▶ C-M (Commercial Manufacturing)
- ▶ Contact C-M business district owners for feedback



Zoning Code Amendments

- ▶ Planning Board recommended adoption of the ordinance expanding cannabis zoning to the C-M and C-1 districts

Zoning Code Amendments

- ▶ Planning Board recommended the following:
 - ▶ Remove the one mile dispersion requirement from the land use ordinance (Included in draft ordinance)
 - ▶ Require delivery-only dispensaries to meet manufacturing parking requirements rather than retail
 - ▶ Consider using California Department of Alcohol Beverage Control ("ABC") buffer zones

Regulatory Ordinance





Regulatory Ordinance

- ▶ Dispersion requirement has been added to draft regulatory ordinance
- ▶ Dispersion requirement would not apply to delivery-only dispensaries

Regulatory Ordinance

- ▶ Maintain the buffer zone of 1,000 feet from public and private K-12 schools for dispensaries and cultivation uses and reduce the buffer zone to 600 feet for all other sensitive uses

Regulatory Ordinance

- ▶ Amend ordinance language to clarify that certain uses do not qualify as a “school,” including providing a definition for tutoring centers
- ▶ “ ‘Tutoring Center’ means any enterprise, whether or not for profit, that operates in a commercial building or structure the principal use of which is to offer instruction of any kind to support academic instruction of K-12 students.”

Regulatory Ordinance

- ▶ Eliminate the cap on the number of testing laboratories allowed, but maintain the cap for retail dispensaries
- ▶ Add two (2) delivery-only dispensaries
- ▶ Allow adult use (recreational) cannabis to be sold in Alameda

Regulatory Ordinance

- ▶ Add clean-up amendments to the Regulatory Ordinance
 - ▶ False Statements/Representations
 - ▶ Withdrawal of Application
 - ▶ Permit-Specific Conditions
 - ▶ Implementing Regulations
 - ▶ Revise Definition of Cultivation

Request for Proposals





Request for Proposals

- ▶ Confirm continued use of the RFP process, including the following changes:
- ▶ Proposers would need to notify neighbors in the C-1 district within 300 feet of the proposed establishment



Request for Proposals

- ▶ The feedback would be used to inform the score for the following rubric categories
 - ▶ Has the proposer described what methods and means it will take to ensure that the business is integrated into the community? (5 points)
 - ▶ Has the proposer adequately described its overall approach to operational safety as it relates to employees, customers, businesses, and the community? (5 points)



Request for Proposals

- ▶ Incorporate any changes needed as a result of adopting the Regulatory Ordinance
- ▶ Proposers submitting a LOI for the same location could qualify for a fee credit

Recommendations

- Adopt a resolution amending Master Fee Resolution
- Hold a public hearing to consider amending the Alameda Municipal Code Section 30-10 (Cannabis)
- Introduce an ordinance amending Article XVI (Cannabis Businesses)
- Confirm Continued Use of RFP Process

❖ Fee Study – Approve resolution to amend the Master Fee Schedule to include Cannabis

❖ Hold a public hearing to consider introducing an ordinance to amend the AMC Section 30-10 (Cannabis) to:

❖ Add cannabis retail businesses as conditionally permitted uses in the C-1, and C-M zoning districts

❖ Add delivery-only cannabis retail businesses as a conditionally permitted use in the C-M zoning district

❖ Amend certain portions of the zoning code to enable cannabis retail businesses to dispense non-medicinal or “Adult Use” cannabis



❖ Introduce an ordinance amending Article XVI (Cannabis Businesses) of AMC to:

❖ Eliminate the cap on testing laboratories


❖ Add two delivery-only dispensaries

❖ Allow adult Use

❖ Create a Two-Tier Buffer Zone from Sensitive Uses for
Dispensaries and Cultivation Businesses

❖ Make Other Clean-Up Revisions



- 
- ❖ Confirm continued use of RFP process
 - ❖ Proposers would need to notify neighbors in the C-1 district within 300 feet of the proposed establishment
 - ❖ The feedback would be used to inform the score for two existing rubric categories
 - ❖ Incorporate any changes as a result of amendments to the zoning and cannabis business regulatory ordinances
 - ❖ Provide a credit to Proposers submitting the same location as the first RFP

CITY OF ALAMEDA ORDINANCE NO. _____

New Series

AMENDING THE ALAMEDA MUNICIPAL CODE BY AMENDING ARTICLE XVI (CANNABIS BUSINESSES) OF CHAPTER VI (BUSINESSES, OCCUPATIONS, AND INDUSTRIES)

WHEREAS, this Ordinance is adopted pursuant to the City's police powers, afforded by the state constitution and state law, and as recognized by the Adult Use of Marijuana Act (AUMA) and Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) to protect the health, safety, and welfare of the public.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ALAMEDA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1: Article XVI, CANNABIS BUSINESSES, of Chapter VI (BUSINESSES, OCCUPATIONS, AND INDUSTRIES) of the Alameda Municipal Code is hereby amended to read as follows:

ARTICLE XVI – CANNABIS BUSINESSES

6-59.1 – Findings.

In enacting this section, the City Council finds as follows:

- a. The Federal Controlled Substances Act (21 U.S.C. Section 841 et seq.) makes it unlawful to manufacture, distribute, dispense or possess cannabis, and accordingly, cannabis activities are illegal under federal law.
- b. In 2013, Deputy Attorney General James Cole issued a memorandum updating previous guidance on all federal enforcement activity relating to cannabis in light of state ballot initiatives that decriminalized the substance under state law; specifically, the guidance instructed all federal prosecutors to review each matter on a case-by-case basis to consider, on the one hand, whether such state-enacted laws threaten certain federal enforcement priorities or interests relating to cannabis articulated therein (e.g., preventing distribution of cannabis to minors), and on the other hand, whether a state has enacted and implemented a strong and effective regulatory and enforcement system and has demonstrated the willingness to enforce its laws and regulations, which may allay the threat to those federal enforcement priorities or interests.
- c. In 2014, Congress first passed legislation (Rohrabacher-Farr Amendment) to defund enforcement of the Federal Controlled Substances Act in states where such enforcement activities would prevent states from implementing their own state laws that authorize the use, distribution, possession or cultivation of medical cannabis.

- d. The voters of the State of California approved Proposition 215 (codified as Health and Safety Code Section 11362.5 et seq., “The Compassionate Use Act of 1996”); the intent of Proposition 215 was to enable persons who are in need of cannabis for medical purposes to obtain and use it without fear of State criminal prosecution.
- e. On October 9, 2015, Governor Jerry Brown approved a series of bills commonly referred to as the Medical Marijuana Regulation and Safety Act (“MCRSA”), effective on January 1, 2016, which establishes a comprehensive State licensing and regulatory framework for the cultivation, manufacture, transportation, storage, distribution, and sale of medical cannabis, also known as marijuana; and which recognizes the authority of local jurisdictions to either impose additional restrictions or prohibit certain activities related to the cultivation, manufacture, transportation, storage, distribution, delivery, and sale of medical cannabis.
- f. The voters of the State of California approved Proposition 64, known as the “Control, Regulate and Tax Adult Use of Marijuana Act” (“AUMA”), which establishes a comprehensive State licensing and regulatory framework for the cultivation, manufacture, transportation, storage, testing, distribution, delivery, and sale of recreational cannabis, also known as marijuana; and which recognizes the authority of local jurisdictions to either impose additional restrictions or prohibit certain activities related to the cultivation, manufacture, transportation, storage, testing, distribution, delivery, and sale of recreational cannabis.
- g. On June 27, 2017, Governor Jerry Brown signed Senate Bill 94 (Medicinal and Adult-Use Cannabis Regulation and Safety Act, or “MAUCRSA”), which repealed MMRSA and merged many of its provisions into AUMA to form a single comprehensive regulatory system with the express purpose of preventing cannabis access to minors, protecting public safety, public health, and the environment, maintaining local control while providing for a single regulatory-licensing structure for medicinal and adult-use cannabis where compliance with local requirements can be demonstrated.
- h. MAUCRSA preserves local control by specifically authorizing local jurisdictions to adopt and enforce local ordinances to regulate cannabis businesses such as requiring a local license, permit, or other authorization to engage in commercial cannabis activity within the local jurisdiction, in addition to adopting and enforcing local ordinances governing zoning, land use, fire, and building, business licensure, second-hand smoke, and even enacting a complete prohibition on the establishment or operation of one or more types of business licenses issued by the State.
- i. Under MAUCRSA, as early as January 1, 2018, the State of California (currently, the California Bureau of Cannabis Control) will issue licenses for businesses to engage in cultivation, manufacturing, testing, distribution, and retail sale of cannabis and cannabis products.
- j. The City Council of the City of Alameda has recognized, and continues to recognize, the potential adverse impacts on the health, safety, and welfare of its residents and businesses from secondary effects associated with Commercial Cannabis Activity,

which may include offensive odors, trespassing, theft, violent encounters between cultivators and persons attempting to steal plants, fire hazards, increased crime in and about the dispensary, robberies of customers, negative impacts on nearby businesses, nuisance problems, and increased DUI incidents.

- k. MAUCRSA sets forth a comprehensive regulatory framework for Cannabis and Cannabis Products from seed to ingestion by a consumer, which includes uniform health and safety standards designed to implement quality control, a labeling and a track-and-trace program, and other consumer protections, which mitigates against some of the potential adverse impacts identified by the City Council in the past.
- l. An effective regulatory system governing Cannabis in the City of Alameda, as provided in this and other chapters, will address potential adverse impacts to the public health, welfare, and safety, thereby allowing Commercial Cannabis Activity and other use of Cannabis and Cannabis Products consistent with federal law as applicable to the State of California and State law.
- m. After studying various alternatives for the regulation of Cannabis Businesses, considering input from residents and stakeholders, and holding several public meetings the City Council of the City of Alameda finds and determines that there is a need to adopt health, safety, and welfare regulations to avoid or mitigate any adverse impacts on the community which may arise from permitting and regulating Commercial Cannabis Activity within the City of Alameda.

6-59.2 – Purpose and Intent.

It is the purpose and intent of this Article for the City Council to:

- a. Exercise its police powers derived from Section 7 of Article XI of the California Constitution and state law to promote the health, safety, and general welfare of the residents and businesses of the City of Alameda by regulating Cannabis within the City's jurisdictional limits, unless preempted by federal or state law.
- b. Establish a local permitting system that complements the strong and effective regulatory system adopted by the State legislature under MAUCRSA by imposing additional local controls, while addressing certain federal enforcement priorities, in a manner that does not create a positive conflict with federal law under the Controlled Substances Act (21 U.S.C. § 903).

6-59.3 – Definitions.

As used in this section, the following definitions shall apply:

- a. "AUMA" refers to the California state law entitled "Control, Regulate and Tax Adult Use of Marijuana Act of 2016", also known as Proposition 64, and any regulations promulgated thereunder.

- b. "Cannabis" means any and 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 the purpose of this Section, "Cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.
- c. "Cannabis Business" means a business or enterprise, whether for profit or not, engaged in Commercial Cannabis Activity.
- d. "Cannabis Business Owner" means any of the following:
 - 1. Each person with an aggregate ownership interest of 20 percent or more in a person, as defined herein, who applies for a Permit or is a Cannabis Business Permittee, unless the interest is solely a security interest, lien, or encumbrance. When an entity (not a natural person) has an aggregate ownership interest of 20 percent or more, then the chief executive officer and/or members of the board of directors of each entity shall be considered owners.
 - 2. The chief executive officer of a person, as defined herein, who applies for a Permit or is a Cannabis Business Permittee.
 - 3. A member of the board of directors of a nonprofit of a person, as defined herein, who applies for a Permit or is a Cannabis Business Permittee.
 - 4. The trustee(s) and all persons that have control of the trust and/or a person, as defined herein, who applies for a Permit or is a Cannabis Business Permittee that is held in trust.
 - 5. Any person, as defined herein, who assumes responsibility for the Permit.
 - 6. Each person who participates in the direction, control, or management of person, as defined herein, who applies for a Permit or is a Cannabis Business Permittee. Such an individual includes any of the following:
 - i. A general partner of a partnership.
 - ii. A non-member manager or managing member of a limited liability company.
 - iii. An officer or director of a corporation.

- e. "Cannabis Product" means Cannabis that has undergone a process whereby the Cannabis has been transformed into a concentrate, or any Cannabis-containing product that may be specified by regulation of The Department, as set forth below, including, but not limited to, concentrated Cannabis, or an edible, topical, or other Cannabis-containing product.
- f. "Chief of Police" shall mean the Chief of Police of the City of Alameda Police Department or the Chief's designee.
- g. "Commercial Cannabis Activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, research and development, delivery, sale, or provision of Cannabis or Cannabis products for commercial purposes, whether for profit or not.
- h. "Concentrated cannabis" means the separated resin, whether crude or purified, obtained from Cannabis.
- i. "Customer" means a natural person 21 years of age or over or a natural person 18 years of age or older who possesses a physician's recommendation or other authorization permitted by State law.
- j. "Cultivation" means the production of clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of Cannabis to mature plants. It shall not include any activity involving the planting, growing, harvesting, drying, curing, grading, trimming, or processing of Cannabis, which is prohibited.
- k. "Day care center" means any licensed child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school-age child care centers.
- l. "Delivery" means the commercial transfer of Cannabis or Cannabis Products, for profit or not, to a Customer by any means. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer that enables Customers to arrange for or facilitate the commercial transfer by a licensed retailer of Cannabis or Cannabis Products. Delivery, however, shall not include commercial transfer of Cannabis or Cannabis Products, for profit or not, by means of a Self-Service Display, which is strictly prohibited.
- m. "Department" shall mean the Director of the Planning, Building and Transportation Department of the City of Alameda (or successor agency, department, or division), or his or her designee.
- n. "Dispensary/Delivery-Only" shall mean "Dispensary/Retailer" except that the requisite licensed premises which is the physical location from which deliveries are made is not open to the public.

- o. "Dispensary/Retailer" means any person who offers for sale, or gives away samples of, Cannabis, Cannabis Products, or paraphernalia related to the use or ingestion of Cannabis or Cannabis Products, either individually or in any combination for retail sale, including an establishment that delivers Cannabis or Cannabis Products, as part of selling or giving samples away. A dispensary/retailer shall have a licensed premises which is a physical location from which Commercial Cannabis Activities are conducted. Dispensing or retailing shall not include commercial transfer of Cannabis or Cannabis Products, for profit or not, by means of a Self-Service Display, which is strictly prohibited.
- p. "Distribution" means the procurement, sale, and transport of Cannabis or Cannabis Products between entities licensed pursuant to the Medicinal and Adult-Use of Cannabis Regulation and Safety Act and any subsequent State of California legislation or regulation regarding the same.
- q. "Edible cannabis product" means 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 Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.
- r. "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of manufactured Cannabis, or Cannabis Products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis at a fixed location that packages or repackages Cannabis or Cannabis Products or labels or relabels its container, that holds a valid State license pursuant to the Medicinal and Adult-Use of Cannabis Regulation and Safety Act.
- s. "MAUCRSA" refers to the California state law entitled the Medicinal and Adult-Use Cannabis Regulation and Safety Act and the regulations promulgated by thereunder.
- t. "Medicinal cannabis" or "medicinal cannabis product" means Cannabis or a Cannabis Product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician's recommendation or other authorization permitted by State law.
- u. "MMRSA" refers to the California state law entitled Medicinal Marijuana Regulation and Safety Act and regulations promulgated thereunder, approved by the Legislature and signed by Governor Jerry Brown in 2016.
- v. "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, propagation and cultivation of Cannabis.

- w. "Permit" refers to any one of the regulatory permits described in subsection c of section 6-59.4 of this Article that affords the Permittee the privilege of conducting the activity allowed under the regulatory permit.
- x. "Permittee" refers to any person who has been issued, is named on, or operates under a Permit, regardless of whether or not the Permit has been voluntarily surrendered or relinquished.
- y. "Person" shall mean and include a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, limited liability company, business, estate, trust, business trust, receiver, syndicate, organization, or any other group or combination acting as a unit, or the manager, lessee, agent, servant, officer or employee of any of them.
- z. "Primary caregiver" shall have the same meaning as set forth in section 11362.5 of the California Health and Safety Code, as that section now appears, or may hereafter be amended or renumbered.
- aa. "Qualified patient" shall have the same meaning as a patient that uses or ingests medicinal Cannabis as that term is defined in section 11362.7 of the California Health and Safety Code and who is entitled to the protections of California Health and Safety Code section 11362.5.
- bb. "Self-Service Display" means the open display or storage of Cannabis or Cannabis Products in a manner that is physically accessible in any way to the general public without the assistance of the retailer or employee of the retailer involving a direct person-to-person transfer between the purchaser and the retailer or employee of the retailer. A vending machine is a form of Self-Service Display.
- cc. "Tutoring Center" means any enterprise, whether or not for profit, that operates in a commercial building or structure the principal use of which is to offer instruction of any kind to support academic instruction of K-12 students.
- dd. "Youth Centers" means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities. Youth Centers shall also mean any facility determined by the Alameda Recreation and Parks Department to be a recreation center in a City park.

6-59.4 Permit Requirement; Exemptions from Permit Requirement

- a. Permit Required. It is unlawful for any person to operate a Cannabis Business within the City without first being issued the required permits, including without limitation, a regulatory permit under this Article and a use permit under Chapter XXX (Development Regulations) of the Alameda Municipal Code. The Permit shall not be issued until a use permit is first obtained. The Permit issued under this Article is

specific to the location where the Cannabis Business is permitted to operate, is a conditional privilege to conduct activities set forth in the Permit, and shall not run with the land. Multiple operating locations for the same Cannabis Business will require separate Permits. No permit shall be issued for commercial transfer, for profit or not, of Cannabis or Cannabis Products by means of a Self-Service Display, which is strictly prohibited. Temporary permits for any purpose, including for the sale of Cannabis or Cannabis Products at festivals or fairs, shall not be issued.

b. Number of Cannabis Business Permits Allowed. Only the following Permit types shall be capped as set forth below:

1. No more than two (2) Dispensary/Retailer Permit(s) and two (2) "Delivery-Only" Dispensary/Retailer Permit(s) for Cannabis or Cannabis Product may be issued at any given time, subject to the applicable permit types, dispersion requirement, and zoning restrictions.
2. No more than four (4) Manufacturer Permit(s), subject to the applicable permit types and the zoning restrictions, may be issued at any given time.
3. No more than one (1) Cultivation Permit, subject to the applicable permit types and the zoning restrictions, may be issued at any given time.
4. The City Council may, by resolution, direct the City Manager to establish or modify any of the foregoing limits on the number of permit types that may be issued within the City. Furthermore, a process for allocating the limited number of permits for Commercial Cannabis Activity may be implemented by regulation.

c. Permit Types. Any person may apply for any of the following:

1. Cultivation Permit 7: A Cultivation Permit 7 is required for all activities for which State law requires a "Type 4" (or "nursery") for cultivation of Cannabis solely by a nursery.
2. Manufacturer Permit 1: A Manufacturer Permit 1 is required for all activities for which State law requires a "Type 6," or similar license, for the manufacture of Cannabis Products using nonvolatile or no solvents.
3. Manufacturer Permit 2: A Manufacturer Permit 2 is required for all activities for which State law requires a "Type 7," or similar license, for the manufacture of Cannabis Products using volatile solvents.
4. Testing Laboratory Permit: A Testing Laboratory Permit is required for all activities for which State law requires a "Type 8," or similar license, for the testing of Cannabis or Cannabis Products as a condition of sale pursuant to a State-issued license.

5. Dispensary/Retailer: A Dispensary/Retailer Permit is required for all activities for which State law requires a "Type 10," or similar license, for the sale of Cannabis or Cannabis Products.
 6. Dispensary/Delivery-Only Permit: A Dispensary/Delivery-Only Permit is required for all activities for which State law requires a "Type 10," or similar license, for the sale of Cannabis or Cannabis Products, but which occurs at a location that is not open to the public.
 7. Distributor Permit: A Distributor Permit is required for all activities for which State law requires a "Type 11," or similar license, for the distribution of Cannabis or Cannabis Products. A Distributor Permit shall only be issued to a person holding or obtaining a Manufacturing Permit or Cultivation Permit 7 under this Article.
 8. Delivery Permit: No local permit is required for the delivery of Cannabis by Cannabis Businesses located outside of the City to any Customer located within the City, provided that such businesses obtain a business license, pay applicable fees and taxes, and comply with State and local law.
- d. Determination of Permit Type. As the State develops additional licenses for Commercial Cannabis Activities, the Department has the discretion to issue any of the above-referenced permits to the extent the additional license or sub-license activities are similar to that of any of the permits provided for in this Article.
 - e. Permitted Land Use. No permit shall be issued if the Commercial Cannabis Activity is not a permitted land use in the City, as set forth in Section 30-10 (Cannabis) of Chapter XXX of the Alameda Municipal Code. If not expressly provided for therein or in this Article, then the use is banned.
 - f. Exemptions from the Permit Requirement. The following activities are allowed and do not require a Permit under this Article, provided the activity does not constitute Commercial Cannabis Activity and complies with applicable laws:
 1. Possessing, processing, transporting, purchasing, obtaining or giving away to persons 21 years of age or older without any compensation whatsoever, not more than 28.5 grams of Cannabis not in the form of concentrated Cannabis.
 2. Possessing, processing, transporting, purchasing, obtaining or giving away to persons 21 years of age or older without any compensation whatsoever, not more than the limit on Cannabis in the form of concentrated Cannabis under State law, including amounts of Cannabis or concentrated Cannabis contained in Cannabis Products.
 3. Possessing, planting, cultivating, harvesting, drying or processing of not more than six living Cannabis plants, provided such activity complies with the Alameda Municipal Code, pursuant to section 30-10.2 (PERSONAL CULTIVATION OF CANNABIS), and is not used in any Commercial Cannabis Activity, which would require a Permit.

4. The smoking of Cannabis and Cannabis Products, provided smoking complies with state law and any local ordinance, including sections 24-11 (SMOKING PROHIBITIONS IN PLACES OF EMPLOYMENT AND UNENCLOSED PUBLIC PLACES) and 24-12 (SMOKING PROHIBITIONS IN HOUSING) of Chapter XXIV (PUBLIC HEALTH) of the Alameda Municipal Code.
 5. The ingestion of Cannabis or Cannabis Products in compliance with applicable law.
 6. Primary caregiver, who is not subject to licensing requirements of the MAUCRSA, engaged in the delivery of Cannabis or Cannabis Product to a Qualified Patient.
- g. Excepted as provided herein, all other Commercial Cannabis Activities are prohibited.

6-59.5 Permit Applications.

All applications, including renewal or amended applications, must be completed in full, including the payment of all applicable fees, which shall be set by the Council by resolution. Incompleteness may be grounds for denial as set forth in section 6-59.6 of this Article. The form and content of the application for (renewal of) a Permit as required by this Article shall be specified by the Department, in consultation with the Chief of Police, and shall include the following minimum information, as applicable to the Permit type:

a. Proposed Property.

1. The address and Assessor's Parcel Number(s) of the location for the proposed Commercial Cannabis Activity; and the name and contact information for the property owner(s) where the proposed Commercial Cannabis Activity will be located.
2. A site plan with fully dimensioned interior and exterior floor plans. For dispensary/retailer Permittees, the site plan must show that there are separate rooms or partitioned areas within the property for the receipt of supplies and for the distribution of Cannabis to recreational users, qualified patients, and/or primary caregivers.
3. Exterior photographs of the entrance(s), exit(s), street frontage(s), parking, front, rear and side(s) of the property.
4. Photographs depicting the entire existing interior of buildings on the property.
5. If the property is being rented or leased or is being purchased under contract, a fully-executed copy of such lease or contract.

6. If the site is being rented or leased, written proof in a form approved by the Department that the property owner, and landlord if applicable, were given notice that the property will be used as a Cannabis Business, and that the property owner, and landlord if applicable, agree(s) to said operations. If the Cannabis Business is to be a subtenant, then "landlord" shall mean the primary tenant. If the applicant is the owner of the real property, then the applicant shall provide a copy of the title or deed to the real property to the Department. If the real property is owned in trust, the written proof noted above shall be provided by the person that holds equitable title to the real property.
7. Once a Permit is issued, any material or substantial physical modification of the licensed or permitted premises shall require a City-approved amendment to the Permit as set forth in section 6-59.9 of this Article.
- b. Ownership and Management. An explanation of the legal form of business ownership, for example, sole proprietor, partnership, California Corporation, etc., and any reasonably requested documentation to validate such legal form of business.
- c. Background Investigation of Owners. Each Applicant shall identify every Cannabis Business Owner (at least one person shall be identified per Permit) and shall submit the following for each Cannabis Business Owner:
 1. The name, address, telephone number, title, and primary responsibility(ies).
 2. A fully legible copy of one valid government-issued form of identification, such as a driver's license.
 3. A summary of criminal history (e.g., "LiveScan") not more than 2 weeks prior to the date of the application for the purpose of obtaining information as to the existence and content of a record of state or federal convictions and arrests to be considered as set forth in this Article.
 4. Any new Cannabis Business Owner must submit the foregoing information to the Chief of Police five (5) days prior to their employment or becoming a Cannabis Business Owner.
 5. The Chief of Police shall have the discretion to require any information necessary to conduct a thorough criminal history or financial investigation (or any additional or supplemental background investigation that is criminal history or financial in nature), including the foregoing, from any Cannabis Business Owner for the purpose of preventing a threat to public health, safety, and welfare or otherwise to protect the interests set forth below in section 6-59.6 of this Article.
- d. Information Regarding Cannabis Business/Applicant.
 1. Written confirmation as to whether the Cannabis Business, or a business engaged in Commercial Cannabis Activity with one or more owners or key

employees in common with the applicant, previously operated in the City or any other city, county, or state under a similar license/permit, and whether the business applicant ever had such a license/permit revoked or suspended and the reason(s) therefore.

2. The name and address of the Cannabis Business' current Agent for Service of Process. Cannabis Business Permittee has a continuing duty to update this information. Sending notices and other documents to the Agent for Service of Process on file with the City, even if outdated, shall not render such service defective.
- e. State License Type and Compliance. A description of the specific state Cannabis License(s) that the applicant either has applied for, obtained, or plans to obtain. The applicant shall describe how it will meet the state licensing requirements, and provide supporting documentation as required by the Department.
 - f. Other Local Licenses. A description of the specific Cannabis license or permits that the applicant either has applied for, obtained, or plans to obtain from other local jurisdictions.
 - g. Seller's Permit. A copy of a valid seller's permit from the California Board of Equalization, Department of Tax and Fee Administration, or successor agency.
 - h. Description of Operations. A description of the nature of the proposed Commercial Cannabis Activity within the proposed facilities, proposed hours of operation, product type, average production amounts (including each product produced by type, amount, process, and rate), source(s) of Cannabis, equipment, and delivery or distribution services.
 - i. Security Plan. A description and documentation of how the applicant will secure the premises 24 hours per day, 7 days per week. The security plan shall comply with general conditions set forth in subsection (p) of section 6-59.10 of this Article.
 - j. Tracking System. A description of how the Cannabis Business will track inventory of Cannabis or Cannabis Products from seed to sale in accordance with State law.
 - k. Plan for Unsold Cannabis or Waste. A plan for the disposal of any unsold Cannabis, Cannabis Product, or related waste as set forth below in subsection (w) of section 6-59.10 of this Article.
 - l. Insurance. Certificate of insurance demonstrating ability to comply with the insurance requirements as required for the applicable permit in a form acceptable to the City Attorney's Office set forth in subsections bb. and dd. of section 6-59.10 of this Article.
 - m. Labor Peace Agreement. For an applicant with ten (10) or more employees, the applicant must provide either a statement that the applicant will enter into and will abide by the terms of the agreement, or provide a copy of a fully executed labor

peace agreement as part of the application. Once a labor peace agreement is fully executed, the Permittee shall provide the City with a copy of the page of the labor peace agreement that contains the requisite signatures.

- n. Compliance Statement. A copy of the Cannabis Business's operating conditions, containing a statement dated and signed by each Cannabis Business Owner, under penalty of perjury, that they have read, understand and shall ensure compliance with all operating conditions.
- o. Signature of Applicant and Property Owner. The application shall be signed by each Cannabis Business Owner under the penalty of perjury, certifying that the information submitted, including all supporting documents, is to the best of the applicant's knowledge and belief, true, accurate and complete, and by the property owner for purposes of certifying that s/he has reviewed the application, and approves the use of the property for the purposes stated in the application.
- p. Confidentiality. The information required by this Section shall be confidential, and shall not be subject to public inspection or disclosure except as may be required by federal, state or local law. Disclosure of information pursuant to this Section shall not be deemed a waiver of confidentiality by the applicant or any individual named in the application. The City shall incur no liability for the inadvertent or negligent disclosure of such information.
- q. Other Information. Any other reasonably requested information relevant to the City's review and approval of any permit application, including denials, transfers, change of ownership, modifications, renewals, revocations, and suspensions, or the administration or enforcement of the Alameda Municipal Code governing Cannabis or any Commercial Cannabis Activity.
- r. False Statements/Representations. It is unlawful to make any false statement or representation or to use or submit any false or fraudulent documentation in any application or materials submitted to the City for the purpose of evaluating or approving any permits, authorizations, or entitlements to operate or in connection with a local investigation into a person who applies for a Permit or a Cannabis Business in the City.

6-59.6 Review of Applications; Appeal of Denials and Suspensions

- a. Review of Application. The Department shall review each application to determine compliance with this Article. Upon written notice that an application is incomplete, the applicant may submit additional information as requested by The Department. Failure to submit requested information within 60 days shall be deemed an abandonment of the application and no further action will be taken by The Department. The Department shall also consider the application in light of the results from any investigation into the application as deemed necessary by The Department, in consultation with the Chief of Police.
- b. Withdrawal of Application.

1. An applicant may withdraw an application at any time prior to the City's issuance of a license or denial of a license.
 2. Requests to withdraw an application must be submitted to the City in writing, dated, and signed by the applicant.
 3. Withdrawal of an application shall not, unless the City has consented in writing to such withdrawal, deprive the City of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any such ground.
 4. The City will not refund application fees for a withdrawn application.
 5. An applicant may reapply at any time following the withdrawal of an application and will be required to submit a new application and fee.
- c. Denial of Application. If The Department denies an application, the applicant shall be notified in writing, which shall include the reasons for the denial. Notification of denial shall be delivered by first class mail to the applicant, unless the applicant consents to a different mode of service, including without limitation, electronic service. No permit shall be issued unless a successful appeal of the denial is made within the requisite time frame.
- d. Appeal of Denial.
1. Within 10 days after The Department serves notification of denial, an applicant may appeal the denial by notifying the City Clerk in writing of the appeal, the reasons for the appeal, and paying any applicable fees.
 2. The City Clerk shall set a hearing on the appeal and shall fix a date and time certain, within 30 days after the receipt of the applicant's appeal, unless the City and the applicant agree to a longer time, to consider the appeal. The City Clerk shall provide notice of the date, time and place of hearing, at least 7 days prior to the date of the hearing.
 3. The City Manager shall randomly assign a Hearing Officer to hear the appeal, determine the order of procedure, and rule on all objections to admissibility of evidence. The applicant and The Department shall each have the right to submit documents, call and examine witnesses, cross-examine witnesses and argue their respective positions. The proceeding shall be informal, and the strict rules of evidence shall not apply, and all evidence shall be admissible which is of the kind that reasonably prudent persons rely upon in making decisions.
 4. The Hearing Officer shall issue a written decision within a reasonable amount of time after the close of the hearing. The decision of the Hearing Officer shall be final.

- e. Grounds for Denial, Revocation or Suspension of Permit. The granting of a Permit or a renewal thereof may be denied and an existing Permit revoked or suspended if any of the following conditions exist:
1. The Permittee, or any employee, independent contractor, volunteer, or other agent having actual or apparent authority to act on behalf of a Cannabis Business, has knowingly made a false statement, omission, or negligent failure to notify the City of information required by this Article in the application or in other documents furnished to the City.
 2. A Cannabis Business Owner has been convicted of an offense that is substantially related to the qualifications, functions, or duties of a Cannabis Business Owner for which the application is made, which includes but is not limited to:
 - i. A violent felony conviction, as specified in Penal Code section 667.5(c).
 - ii. A serious felony conviction, as specified in Penal Code section 1192.7.
 - iii. A felony conviction involving fraud, deceit or embezzlement.
 - iv. A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.
 - v. A felony conviction for drug trafficking with an enhancement pursuant to Health and Safety Code section 11370.4 or 11379.8.
 - vi. Except as provided in subsections (iv) and (v) above, an application for a permit shall not be denied if the sole ground for denial is based upon a prior conviction of either section 11350 or section 11357 of the California Health and Safety Code. An application for a permit also shall not be denied if the State would be prohibited from denying a license pursuant to either section 26057(b)(5) or section 26059 of the California Business and Professions Code.
 3. Conviction of any controlled substance felony subsequent to permit issuance shall be grounds for revocation of a permit or denial of the renewal of a permit.
 4. The Permittee has been sanctioned by any licensing or permitting authority, including any enforcement action taken by any other city or county, for unauthorized Commercial Cannabis Activity, including without limitation, denial, suspension, or revocation of a business license, operating permit, land use entitlement, or similar privilege to conduct Commercial Cannabis Activity.

5. The granting or renewing of the Permit would perpetuate or encourage any of the following:
 - i. Distribution of Cannabis or Cannabis Products to minors;
 - ii. Generation of revenue from the sale of Cannabis or Cannabis Products to fund criminal enterprises, gangs, or cartels;
 - iii. Diversion of Cannabis or Cannabis Products to jurisdictions outside of the State where Cannabis and Cannabis Products are unlawful under state or local law;
 - iv. Trafficking of other illegal drugs or facilitation of other illegal activity;
 - v. Violence and the use of firearms in the cultivation and distribution of Cannabis and Cannabis Products;
 - vi. Drugged driving or exacerbation of other adverse public health consequences associated with Cannabis;
 - vii. The use of public lands in the cultivation of Cannabis; or
 - viii. The use of federal property for Commercial Cannabis Activity.
6. For any other reason that would allow the State to deny a license under the MAUCRSA.
7. Failure to pay required fees, taxes, or other monies owed to the City outside of the 30-day grace period.
8. Violation of any provision of the AUMA or MAUCRSA, this Article, or any other permits issued by the City for the Commercial Cannabis Activity, such as a use permit.
9. Any later discovered act or conduct which would have been considered a ground for denial of the Permit in the first instance.
10. Failure to take reasonable measures to control patron conduct, where applicable, resulting in disturbances, vandalism, criminal activity, crowd control problems occurring inside of or outside the premises, traffic control problems, creation (or assist in the creation) of a public or private nuisance, or obstruction of the operation of another business.
11. Violation or failure to comply with the terms and conditions of the permit.
12. The application is speculative, made by a third party with no immediate plans for commencing operations, or is incomplete and not cured within sixty (60) days after written notification of the deficiency was mailed.

f. Suspension and Revocation.

1. Summary Suspension. If the Chief of Police or The Department deems continuation of the operation of the Cannabis Business by the Permittee, or any employee, independent contractor, volunteer, or other agent of a Cannabis Business Owner having actual or apparent authority to operate the Cannabis Business, will cause an imminent threat to the health, safety or welfare of the public, the Chief of Police or The Department may immediately and summarily suspend the Permit and all rights and privileges thereunder for a period not to exceed 30 days.
 - i. The summary suspension shall take effect immediately upon service of a written notice of suspension by the Chief of Police or The Department upon the Permittee via personal delivery to any employee at the site address of the Cannabis Business. Notice given shall include the following information:
 - a) The effective date and time period of the summary suspension;
 - b) The grounds and reasons upon which the summary suspension is based;
 - c) That the Permittee who wishes to challenge the summary suspension may request a hearing before a Hearing Officer;
 - d) The method for requesting a hearing before the Hearing Officer; and
 - e) The notice of summary suspension shall become final unless the Chief of Police or The Department receives a written request for a hearing from the Permittee as set forth below.
 - ii. If the Permittee wishes to challenge the summary suspension, the Permittee must file a written request with the Chief of Police or The Department for a hearing within three (3) business days after service of the notice of summary suspension. If the Chief of Police or The Department does not receive a request for a hearing from the Permittee within this time period, the notice of summary suspension shall become final.
 - iii. The Chief of Police or The Department must respond to the Permittee's request for a hearing by holding a hearing to affirm, modify, or overrule the summary suspension within five (5) business days of the Permittee's request for a hearing, unless the City and the Permittee agree to an extension of the time within which a hearing can be held.
 - iv. The Chief of Police or The Department may recommend permanent revocation as set forth below on the basis of facts supporting summary suspension.

2. Permanent Revocation. The Chief of Police or The Department shall give notice to the Permittee of his or her intent to permanently revoke a Permit in the same manner as notice of denial and provide the City Clerk with a copy of the notice.
 - i. The hearing for the revocation of the Permit shall be set and conducted in the same manner as an appeal of denial.
 - ii. The decision of the Hearing Officer shall be final.

6-59.7 Permit Issuance

- a. Before issuing any Permit, The Department shall determine that all of the following requirements have been met:
 1. The application is complete and all applicable City taxes, fees, or monies owed have been paid.
 2. The use permit has been approved or other land use requirements have been met, and all conditions of approval have been met or in good standing.
 3. There are no outstanding notices of nuisance or other unresolved code compliance issue at the site of the Commercial Cannabis Activity.

6-59.8 Permit Term

- a. Term. The Permit shall be valid for one (1) year from the date of issuance. Once a Permit expires, it shall terminate and there is no grace period.
- b. Renewal Application. A Permit renewal application and any applicable fees must be submitted at least sixty (60) days before the expiration of the Permit. Failure to submit a renewal application prior to the expiration date of the permit will result in the automatic expiration of the Permit on the expiration date. Permit renewal is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations currently in place and may require the submittal of additional information to ensure that the new standards are met. No person shall have any entitlement or vested right to receive a Permit under this Article. A Permittee may appeal expiration of a Permit as described in this Section in the same manner as appealing a denial in subsection (c) (Appeal of Denial) of section 6-59.6 above.

6-59.9 Transfer of or Modifications to the Permit

- a. City Approval Required. A Permit is non-transferable to another location. No transfer to another person or modifications to the Permit, including changes to the permitted facility, may be made except in accordance this section.
- b. Change of Ownership. A change in ownership constitutes a transfer of or modification to the Permit and as such shall require an application. A request for change in Permit ownership shall be submitted to The Department, in accordance

with subsection (f) below. Requests submitted less than sixty (60) days before the transfer will be processed only at the City's discretion and may be subject to an expedited processing fee. A new Cannabis Business Owner(s) shall meet all requirements for applicants of an initial Permit. The request shall include the following information:

1. Identifying information for the new Cannabis Business Owner(s) and management as required in an initial Permit application;
 2. A written certification by the new Cannabis Business Owner as required in an initial Permit application;
 3. The specific date on which the transfer is to occur; and
 4. Acknowledgement of full responsibility for complying with the existing Permit.
- c. Change in Security Plan. A request to modify the security plan shall be submitted to The Department, with a copy to the Chief of Police, on a City form at least sixty (60) days prior to the anticipated change, together with the applicable fee.
- d. Change of Contact Information. A request for change in Cannabis Business contact information shall be submitted to The Department, with a copy to the Chief of Police, on a City form at least thirty (30) days prior to the anticipated change, together with the applicable fee.
- e. Change in Trade Name. A written request for change in Cannabis Business trade or business name shall be submitted to The Department, with a copy to the Chief of Police, in a form approved by the Department at least thirty (30) days prior to the anticipated change, together with the applicable fee.
- f. Application. A permit transfer or modification application and any applicable fees must be submitted at least sixty (60) days before the transfer or modification of the Permit. Failure to timely submit a transfer or modification application will result in the automatic expiration of the Permit. Permit renewal is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations currently in place and may require the submittal of additional information to ensure that the new standards are met. No person shall have any entitlement or vested right to receive a Permit under this Article.

6-59.10 General Conditions for All Cannabis Businesses

- a. Compliance with State and Local Law. The applicant shall fully comply with all State laws and local laws for Cannabis, including the Alameda Municipal Code and all uncodified resolutions and ordinances adopted by the City Council.
- b. Compliance with Laws Regarding Edible Cannabis Products. Cannabis Businesses that manufacture, prepare, dispense, and/or sell food, including Cannabis-infused foods and/or edible Cannabis Products, must comply with and are subject to the

provisions of all relevant State and local laws and County regulations regarding the preparation, distribution, labeling, and sale of such items.

- c. Maintain State Licensure. At such time that the State has begun to issue licenses and at all times thereafter, the Permittee shall hold a valid State license for the equivalent State license type. All Permittees must maintain their state license and any other applicable licenses and permits required by the State, County, and City, including, for example, an Alameda business license.
- d. Duty to Notify. All Applicants or Permittees have a continuing duty to immediately notify The Department of any proposed or considered change of ownership, changes to an application, or discrepancies between any information provided to the City related to Alameda Municipal Code or other local regulations governing Cannabis Businesses, and the actual facts, conditions, or circumstances concerning an applicant's or Permittee's Cannabis Business or the proposed or permitted facility. A failure to promptly notify the City may be grounds for denial or revocation. Additionally, all applicants or permittees must notify the City prior to applying for any new permits issued by the State of California.
- e. Operational Radius.
 - 1. No Cannabis Business engaging in Dispensary/Retail, Dispensary/Delivery-Only or Cultivation shall locate within a 1,000-foot radius of a public or private school providing instruction in kindergarten or any grades 1 through 12. Further, no such Cannabis Business shall locate within a 600-foot radius of a youth center, tutoring center, or day care center. The distance shall be measured via a path of travel from the nearest door of the nearest foregoing sensitive uses known when the RFP is issued or application is submitted, whichever is applicable, for a given Permit to the nearest door of the dispensary/retail/cultivation. For purposes of this section, "school" does not include any private school or similar use in which education of any kind is primarily conducted in private homes, churches or similar locations where such instruction is an ancillary use. All other sensitive uses identified in this subsection not defined herein or in this Article are defined under the California Child Health Care Act, codified in the California Health and Safety Code.
 - 2. All other Cannabis Businesses shall not locate within a 600-foot radius of the same foregoing sensitive uses known when the application is submitted, measured via a path of travel from the nearest door of the nearest foregoing sensitive uses to the nearest door of the Cannabis Business.
- f. Separation Distances. In addition to the operational radius, noted above, no two (2) cannabis businesses engaging in cannabis retail shall be permitted to operate within one (1) mile of each other. This requirement shall not apply to "delivery-only" dispensaries.
- g. On-site Use or Consumption. Notwithstanding section 24-11 (SMOKING PROHIBITIONS IN PLACES OF EMPLOYMENT AND UNENCLOSED PUBLIC

PLACES) of the Alameda Municipal Code, on-site use or consumption of Cannabis or Cannabis Products is permitted in interior areas on the licensed premises of a Dispensary/Retail Permittee under their control, but shall not occur in parking areas or any other areas that cannot be excluded from public view or access by the Permittee. On-site use or consumption is strictly prohibited for any other Cannabis Business. Pursuant to section 6-59.16 in this Article, The Department shall promulgate guidelines, procedures, and regulations governing on-site consumption of Cannabis or Cannabis Products on the licensed premises of a Dispensary/Retail Permittee.

- h. Free Samples. Free samples of Cannabis or Cannabis Product by any Cannabis Business or Permittee is strictly prohibited.
- i. Local Hire/Local Ownership/Community Benefit. If applicable, the Permittee shall implement their voluntary plan containing feasible options to maximize local hire, local ownership, and community benefit.
- j. Employee Age Requirement. Permittees shall employ only persons at least 21 years of age at any permitted facility within the City of Alameda.
- k. On-site Community Relations Staff. Permittees shall post on the premises for public view the current name, phone number, secondary phone number and e-mail address of an on-site community relations staff person to whom notice of any operating problems associated with the Cannabis Business site may be reported. This information shall be updated as necessary to keep it current. The On-site Community Relations Staff can be the same individual as the On-site Operations Manager.
- l. On-site Operations Manager. Permittees shall have an on-site manager at each permitted facility within the City who is responsible for overall operation at all times that employees are conducting operations, and shall provide the City with contact information for all such persons, including telephone number and email address. Permittees shall also provide the City with the name and contact information including phone number of at least one manager that can be reached 24-hours a day. The On-site Community Relations Staff can be the same individual as the On-site Operations Manager.
- m. Nuisance Abatement. Permittees shall take all reasonable steps to discourage and correct conditions that constitute a public or private nuisance in parking areas, sidewalks, alleys and areas surrounding a permitted facility. Such conditions include, but are not limited to: smoking; creating or permitting a noise disturbance or odor issue; loitering; littering; and graffiti. If the City receives any nuisance complaints, the Permittee shall work with the Building Official and other relevant City departments, including the Police and Fire departments, to correct and address such concerns. Unresolved or repeated nuisance complaints may be basis for suspension or revocation of the Permit or denial of Permit renewal. Graffiti must be removed from property and parking lots under the control of the Permittee within 72 hours of discovery or notification by the City.

- n. Air Quality, Odor Control, and Ventilation. All Commercial Cannabis Activity shall be operated so as not to cause offensive odors perceptible to the average person at or beyond any property line of the lot containing the premises where Commercial Cannabis Activity is being conducted. Facilities containing Commercial Cannabis Activity shall be equipped with odor control, filtration, and ventilation system(s) to control odors, humidity, and mold so that odor generated inside the property is not detected outside the property, anywhere on adjacent property or public rights-of-way, or within any other unit located within the same building as the Cannabis Business Permittee. All components of the Commercial Cannabis Activity shall comply with the requirements of the Bay Area Air Quality Management District. An odor detected no more than fifteen (15) minutes in one (1) day is acceptable.
- o. Hours of Operation. All permitted facilities, except the licensed premises of Dispensary/Retail Permittees, shall be closed to the general public. For all permitted facilities any delivery, distribution, or pick-up of a substantial amount of cash, Cannabis, or Cannabis Product shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m. Hours of operation for all Permittees may be between the hours of 7:00 a.m. to 9:00 p.m., except that modifications beyond this period can be approved for Manufacturing and Testing Lab Permittees only, as part of their use permit. With the exception of activities authorized pursuant to a Dispensary/Retailer Permit, no direct sales of Cannabis or Cannabis Product to the general public may occur upon the premises.
- p. Fire Alarm System. The Cannabis Business must have a fully-operational fire alarm system approved by the Fire Chief.
- q. Security Measures. Consistent with the approved security plan required under section 6-59.5, all Cannabis Businesses shall at a minimum provide and maintain the following security measures and all records or data, regardless of its form, related to such measures:
 - 1. Operational Security Measures. The Security Plan shall address the following to ensure operational security:
 - i. Preventing individuals from remaining on the premises if they are not engaged in an activity expressly related to the operations of the Cannabis Activity;
 - ii. Establishing limited access areas accessible only to authorized personnel including security measures to both deter and prevent unauthorized entrance into areas containing Cannabis or Cannabis Products and theft or diversion of Cannabis or Cannabis Products;
 - iii. Storing all finished Cannabis and Cannabis Products in a secured and locked room, safe, or vault, and in a manner as to prevent diversion, theft, and loss, except for limited amounts of cannabis used for display purposes or immediate sale, if applicable;

- iv. Providing tamper proof and tamper evident packaging for finished Cannabis Product;
 - v. Preventing offsite nuisance impacts to adjoining or nearby properties as required by the Permit as set forth in subsection (l) of section 6-59.10 of this Article; and
 - vi. Securing cash that remains on the premises.
2. Alarm System. A commercial burglar alarm system with video surveillance approved by the Chief of Police, which is capable of providing the Police Department with secure, internet-based access to unaltered surveillance footage or data of all controlled access areas, security rooms, points of ingress/egress, all point of sale (POS) areas, and other areas deemed reasonably necessary by the Chief of Police.
3. Security Guard. At all times while a Cannabis Business that is a Dispensary/Retail Permittee is open, it shall provide at least one security guard who is registered with Bureau of Security and Investigative Services, possesses a valid and current security guard registration card on their person while on-duty, and is dressed in a manner approved by the Chief of Police. Security guards are permitted, but not mandated, to carry firearms. The security guard and/or Cannabis Business personnel shall monitor the site and the immediate vicinity of the site to ensure that patrons immediately leave the site and do not consume Cannabis on the property or in the parking lot. The foregoing requirements may be imposed upon other Permittees at the discretion of either the Chief of Police or The Department as part of that Permittee's Security Plan, or if required by State law.
4. The Chief of Police shall have the authority to require additional reasonable security measures to further protect the public health, safety, and welfare, and to adopt implementing regulations and departmental guidelines related to all aspects of security measures required of Permittees, including specific technical requirements of security measures, inspections to ensure compliance, and access to records and electronic media. Failure to maintain effective security measures at all times is a violation of this Section and cause for permit revocation or suspension. All outdoor lighting used for security purposes shall be shielded and downward facing.
- r. Security Breach. A Cannabis Business shall notify the Police Department within 24 hours after discovering any of the following:
- 1. Diversion, theft, loss, or any criminal activity by the Permittee, or any employee, independent contractor, volunteer, or other agent of the Permittee, involving the Cannabis or Cannabis Product.

2. The loss or unauthorized alteration of records related to Cannabis or Cannabis Product, registered Qualifying Patients, Primary Caregivers, or employees or agents.
 3. Significant discrepancies identified in inventory.
 4. Any other material breach of security.
- s. Building and Fire Standards. The Chief Building Official may require additional specific standards to meet the California Building Code and Fire Code, including but not limited to installation of fire suppression sprinklers.
 - t. Generators. The use of generators for cultivation is prohibited, except for temporary use in the event of a power outage or emergency.
 - u. Water Usage or Discharge. The Cannabis Business must conform to all State and local regulations regarding water usage. Discharges of any kind into a public or private sewage or storm drainage system, watercourse, body of water or into the ground, must be in compliance with provisions of Chapter XVII of the Alameda Municipal Code, the East Bay Municipal Utility District Wastewater Control Ordinance (Ordinance No. 355-11, as amended by subsequent ordinances from time to time), and applicable Federal and State laws and regulations.
 - v. Use of Pesticides. No pesticides, insecticides or rodenticides that are prohibited by applicable law for fertilization or production of edible produce may be used on any Cannabis cultivated, produced, or distributed by a Cannabis Business. A Cannabis Business shall comply with all applicable law regarding use of pesticides, insecticides, or rodenticides.
 - w. Separation of Employee Areas. Employee breakrooms, eating areas, changing facilities, and bathrooms shall be completely separated from the storage areas for Cannabis or Cannabis Products.
 - x. Disposal of Unsold Cannabis, Cannabis Product, or Related Waste. All unsold Cannabis, Cannabis Product, and related waste that is to be disposed of must be made unusable and unrecognizable prior to removal from the business and must be in compliance with all applicable laws. The purpose of this condition is to protect any portion thereof from being possessed or ingested by any person or animal and to ensure it may not be utilized for unlawful purposes and complies with all state, local, and federal laws.
 - y. Testing. All Cannabis Businesses shall cause to be tested all of their Cannabis and Cannabis Products by a licensed testing laboratory for various metrics in accordance with applicable State law and regulations adopted by the California Bureau of Cannabis Control (or successor agency), including without limitation, chemical profiles and contaminants/contaminant thresholds. All Cannabis Businesses shall maintain a copy of the certificate of analysis or similar documentation on the premises evidencing compliance with State law and regulations regarding testing.

- z. Labeling and Packages. Labels and packages of Cannabis and Cannabis Products shall meet all state and federal labeling and packaging requirements. Until such regulations are adopted by the federal and/or state authorities, as a condition of Permit issuance, The Department, in consultation with the Chief of Police, may impose labeling and packaging requirements to protect the public safety, health and welfare.
- aa. Consent to Inspection. City, including City personnel from Police, Community Development, Public Works, and Fire departments, County, and State representatives may enter and inspect the property of every Cannabis Business during hours of operation, or at any other reasonable time, to ensure compliance and enforcement of the provisions of this Article and the inspection of records related to the business or otherwise required by State law, except that the inspection and copying of private medical records shall be made available to the Police Department only pursuant to a properly executed search warrant, subpoena, or court order. It is unlawful and cause for immediate suspension or revocation of the permit for any property owner, landlord, lessee, Cannabis Business, and/or its owner, agent, employee to refuse to allow, impede, obstruct or interfere with an inspection.
- bb. Maintenance of Records. Records of Commercial Cannabis Activity must be maintained in accordance with State and local law, be maintained in order to show compliance with this Article, and be made available to the City upon request. Failure to provide such records is grounds for revocation of any Permit. Records maintained must include, but are not limited to the following.
 - 1. All Permittees must maintain:
 - i. Proof of a valid use permit issued in conformance with the Alameda Municipal Code.
 - ii. The full name, address, and telephone number(s) of the owner, landlord and/or lessee of the property.
 - iii. The full name, address, and telephone number(s) of each person engaged in the management of the Cannabis Business and the exact nature of the participation in the management of the Cannabis Business, and for cultivators, the full name, address, and telephone number(s) of each employee engaged in the cultivation of Cannabis at the property.
 - iv. For a minimum of three (3) years, a written accounting or ledger of all cash, receipts, credit card transactions, and reimbursements (including any in-kind contributions) as well as records of all operational expenditures and costs incurred by the Permittee in accordance with generally accepted accounting practices and standards typically applicable to business records, which shall be made available to the City during business hours for inspection upon reasonable notice by The Department or Chief of Police.

- v. Any and all records required by or related to this Article, the Alameda Municipal Code, or any conditions attached to any Permit or land use entitlement, including a use permit, issued for Commercial Cannabis Activity or otherwise associated with the property.
- 2. A Dispensary/Retailer Permittee that operates as a medicinal Cannabis cooperative or collective for qualified patients, shall maintain all records as required by State law.
- 3. A Manufacturer Permittee shall maintain the following records on the property:
 - i. Evidence of: (a) verification that all Cannabis Products manufactured and packaged at the location are manufactured, packaged, and labeled in compliance with all applicable state and local laws; and (b) laboratory testing as required by State and local laws.
 - ii. A list of any Cannabis Business operating under a Dispensary/Retailer Permit located in the City of Alameda that the Manufacturer Permittee has provided, or intends to provide its product to. The list shall include the name of the Dispensary/Retailer Permittee, its address, the date the Cannabis Products were distributed, and the type and amount of the product that was distributed.
- 4. A Manufacturer Permittee who produces edible Cannabis Products shall maintain the following records on the property:
 - i. Proof of inspection and all required approvals required by the Alameda County Environmental Health Department and the County Health Officer for food manufacturers, packagers, and/or distributors.
 - ii. Producers of edible Cannabis Products that are tested for contaminants shall maintain a written or computerized log documenting:
 - a) The source of the Cannabis used in each batch of product;
 - b) The contaminant testing date; and
 - c) The testing facility for the Cannabis.
- 5. A Cultivator Permittee shall maintain the following records on the property:
 - i. An inventory record documenting the dates and amounts of Cannabis cultivated at the property, the daily amounts of Cannabis stored on the property, and an inventory record of all Cannabis distributed to Cannabis Businesses operating under a Dispensary/Retailer Permit located in the City. The inventory shall include total plants grown by the cultivator, the total

weight of all Cannabis distributed, and receipts and documents detailing the sale or distribution of Cannabis.

- ii. Evidence to verify that all Cannabis is cultivated in compliance with all applicable state and local laws.
- cc. Insurance. Maintain at all times Commercial General Liability insurance on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury with per-occurrence limits set by the City Attorney's Office. The Commercial General Liability policy shall provide contractual liability, shall include a severability of interest or equivalent wording, shall specify that insurance coverage afforded to the City shall be primary, and shall include an Additional Insured Endorsement naming the City, its officials and employees as additional insured. Pollution Legal Liability shall be required for cultivation and manufacturing operations with per-occurrence limits set by the City Attorney's Office. Failure to maintain insurance as required herein at all times shall be grounds for suspension or revocation of the Permit.
- dd. Project Costs. The applicant shall pay for any analysis and review by City staff or a consultant related environmental clearance for the project under applicable State and federal law, and pay for all related costs, including costs incurred by the City, associated with project review under CEQA.
- ee. Worker's Compensation Insurance; Employer's Liability Insurance. Applicant or Permittee shall, at Applicant/Permittee's expense, maintain in full force and effect during duration of the Permit, worker's compensation insurance with not less than the minimum limits required by law, and employer's liability insurance with a minimum limit of coverage set by the City Attorney's Office.
- ff. Indemnity. By accepting the permit, each Permittee agrees to indemnify, defend and hold harmless to the fullest extent permitted by law, the City, its officers, agents and employees from and against any all actual and alleged damages, claims, liabilities, costs (including attorney's fees), suits or other expenses resulting from and arising out of or in connection with Permittee's operations, except such liability caused by the active negligence, sole negligence or willful misconduct of City, its officers, agents and employees.
- gg. Waiver of Sovereign Immunity. All tribal government applicants and Permittees applying for, or renewing an existing Permit, are required to execute and include a waiver of tribal sovereign immunity when submitting their initial or renewal application.
- hh. Destruction Bond. Any Cannabis Business must provide proof of a bond of at least five thousand dollars (\$5,000) and up to an amount permitted by applicable law to cover the costs of destruction of Cannabis or Cannabis Products if necessitated by a violation of applicable law, including this Article.

- ii. Notification of Enforcement Action. Notify The Department, with a copy to the Chief of Police, within three days of any notices of violation or other corrective action ordered by a state or other local licensing authority, and provide copies of the relevant documents.
- jj. Commencement of Operations or Abandonment. The Permittee's Cannabis Business must open at the approved premises and commence operations within one year of being issued a Permit under this Article or the date the use permit for the Commercial Cannabis Activity vests, whichever is later, as required by section 6-59.12 of this Article. Additionally, after operations have lawfully commenced, the Cannabis Business must not remain inoperative for a period of more than six months, unless upon showing of good cause. Failure to meet this condition is grounds for revocation of any Permit or land use entitlements.

6-59.11 Conditions for Specific Permits

- a. Delivery/Distribution Permittees. A Cannabis Business operating within the City under either a Dispensary/Retailer, Dispensary/Delivery-Only, or Distributor Permit which delivers or distributes Cannabis shall be subject to the following conditions:
 - 1. Delivery or distribution of Cannabis may be made only from a Dispensary-Retailer, Dispensary/Delivery Only or Distributor issued a permit by the City and the State in compliance with this ordinance and State law.
 - 2. Maintain at all times all licenses and permits as required by California state law and the laws of the local jurisdiction in which the Permittee is located, and provide immediate notification to the Chief of Police if any license or permit is suspended or revoked.
 - 3. Any person who delivers or distributes Cannabis to a Customer or licensee must have in his/her possession a copy of the appropriate Permit, which shall be made available upon request to law enforcement. A manifest with all information required in this section must accompany any person who delivers or distributes Cannabis to a Customer or licensee at all times during the process and hours of delivery or distribution.
 - 4. The person delivering or distributing, in addition to their vehicle or other mode of delivery/distribution, shall not advertise any activity related to Cannabis nor shall it advertise the name of the Permittee. Any delivery or distribution vehicle or other mode of transport must be made in compliance with State and local law as it may be amended, including use of a dedicated GPS device for identifying the location of the vehicle or other method of transport (cell phones and tablets are not sufficient).
 - 5. Delivery or distribution of Cannabis shall be directly to the residence or business address of the Customer or licensee in the State of California; delivery or distribution to any other location is prohibited. Delivery or distribution vehicles

shall not leave the State of California while in possession of Cannabis or Cannabis Products for sale, delivery, or distribution.

6. Delivery or distribution of Cannabis shall occur only between the hours of 7:00 a.m. and 9:00 p.m. Any deliveries started but not completed before the hour of 9 p.m. shall return to the permitted facility and be completed the next business day.
7. No Permittee shall deliver or distribute (nor cause to be delivered or distributed) Cannabis in excess of the limits established by the California Bureau of Cannabis Control (or successor agency) during the course of delivering or distributing Cannabis; until the California Bureau of Cannabis Control (or successor agency) establishes the limit, the limit shall be no more than \$3,000 of Cannabis or Cannabis Product.
8. Submit and regularly update the following information concerning delivery or distribution:
 - i. Listing of all vehicles and devices to be used for delivery or distribution of Cannabis or Cannabis Products within the City, which includes the vehicle's make, model, year, license plate number, and vehicle identification number.
 - ii. Copies of applicable authorizing state and local licenses and permits issued to Cannabis Business allowing it to engage in Commercial Cannabis Activity.
9. All orders to be delivered or distributed shall be packaged bearing the names of the Customer or licensee. A Customer or licensee requesting delivery or distribution shall maintain a physical or electronic copy of the request and shall make it available upon request by the State, licensing authority, and law enforcement officers, which shall include the following information:
 - i. Name and address of the licensed Dispensary-Retailer or Distributor Permittee.
 - ii. The name of the employee who delivered or distributed the order.
 - iii. The date and time the request was made.
 - iv. The complete address where delivery or distribution occurred.
 - v. A detailed description of the Cannabis or Cannabis Product(s) requested for delivery or distribution, including the weight or volume, or any accurate measure of the amount of Cannabis or Cannabis product ordered.
 - vi. The date and time of delivery or distribution was made, and the signature of the person who received the delivery or distribution.

b. Dispensary-Retail Permittees. In addition to the standards applicable to all Cannabis Businesses, the following apply to Cannabis Businesses with a Dispensary-Retail Permit:

1. Displays/Inventory. Display of Cannabis Products shall be limited to only an amount necessary to provide a visual sample for Customers. All Cannabis or Cannabis Products available for sale or display must be securely locked and stored. No Cannabis Product shall be visible from the exterior of the business.
2. Check Cashing Prohibited. No Dispensary/Retail Permittee may engage in check cashing activities at any time.
3. Physician recommendations. No recommendations from a physician for medicinal Cannabis shall be issued on-site.
4. Minimum Operational Hours. Any Cannabis Business facility operating under a Dispensary/Retail permit must be open to the public a minimum of 40 hours per week.
5. Underage Entrants. No one under the age of 21 shall be allowed to enter any Cannabis Business facility unless, as permitted under State law, the person is a qualified patient or a primary caregiver and they are in the presence of their parent or legal guardian.
6. Shipments. Shipments of Cannabis or Cannabis Products shall only be accepted during the regular business hours of the receiving Cannabis Business. Shipments of Cannabis or Cannabis Products from the Cannabis Business shall only be made during the regular business hours of the shipping Cannabis Business.
7. Alcohol/Tobacco. There shall be no on-site sales of alcohol or tobacco products, and no on-site consumption of alcohol or tobacco by patrons.
8. Signage/Trade Dress.
 - i. All signage for Commercial Cannabis Activity shall be subject to the sign regulations in section 30-6 of Chapter XXX of the Alameda Municipal Code.
 - ii. Any and all signage, packaging, and facilities shall not be "attractive," as it is defined by the State, to minors, and shall not be visible from the exterior of the licensed premises.
 - iii. Mandatory Signage. A sign must be posted in a conspicuous location inside the Cannabis Business and advise that:
 - a) The use of Cannabis may impair a person's ability to drive a motor vehicle or operate heavy machinery;

- b) Loitering in a public place in a manner and under circumstances manifesting the purpose and with the intent to commit an offense specified in Chapter 6 (commencing with section 11350) and Chapter 6.5 (commencing with section 11400 of the Health and Safety Code is prohibited;
 - c) Loitering on private property without visible or lawful business with the owner or occupant is prohibited by California Penal Code Section 647(h); and
 - d) This Cannabis Dispensary/Retailer establishment is permitted in accordance with the Municipal Code, and State law, including the MAUCRSA, and Bureau of Cannabis Control regulations.
- 9. Safety of Products. The Dispensary/Retailer Permittee must ensure that the Cannabis and Cannabis Products it offers for sale are manufactured, packaged, tested, and labeled in compliance with all applicable state and local laws. No Dispensary/Retailer Permittee may obtain or distribute Cannabis Products from any Cannabis Business unless such business has a valid permit or license issued by the Bureau of Cannabis Control and a California city or county.
- c. Dispensary/Delivery-Only Permittees. In addition to the other applicable standards, the following apply to Cannabis Businesses with a Dispensary/Delivery-Only Permit:
 - 1. Shipments. Shipments of Cannabis or Cannabis Products shall only be accepted during the regular business hours of the receiving Cannabis Business. Shipments of Cannabis or Cannabis Products from the Cannabis Business shall only be made during the regular business hours of the shipping Cannabis Business.
 - 2. Signage/Trade Dress.
 - i. All signage for Commercial Cannabis Activity shall be subject to the sign regulations in section 30-6 of Chapter XXX of the Alameda Municipal Code.
 - ii. Any and all signage, packaging, and facilities shall not be “attractive,” as it is defined by the State, to minors, and shall not be visible from the exterior of the licensed premises.
 - iii. Mandatory Signage. A sign must be posted in a conspicuous location in or around, the Cannabis Business and advise that:
 - a) The use of Cannabis may impair a person’s ability to drive a motor vehicle or operate heavy machinery;
 - b) Loitering in a public place in a manner and under circumstances manifesting the purpose and with the intent to commit an offense specified in Chapter 6 (commencing with section 11350) and Chapter

6.5 (commencing with section 11400 of the Health and Safety Code is prohibited;

- c) Loitering on private property without visible or lawful business with the owner or occupant is prohibited by California Penal Code Section 647(h).
- 3. Safety of Products. The Dispensary/Delivery-Only Permittee must ensure that the Cannabis and Cannabis Products it offers for delivery are manufactured, packaged, tested, and labeled in compliance with all applicable state and local laws. No Dispensary/Retailer Permittee may obtain or distribute Cannabis Products from any Cannabis Business unless such business has a valid permit or license issued by the Bureau of Cannabis Control and a California city or county.
- d. Cultivation Permittees. In addition to the standards applicable to all Cannabis Businesses, the following apply to Cannabis Businesses with a Cultivation Permit:
 - 1. Outdoor Cultivation Prohibited.
 - i. Outdoor cultivation of Cannabis is not permitted in any Zoning District.
 - ii. All cultivation must be done inside a fully enclosed structure, and the cultivation operation shall not be visible from the exterior of any structure on the property.
 - 2. Public Access Restricted. A Cultivation Permittee must restrict access by members of the public to the permitted facility, except that licensees obtaining or seeking to obtain Cannabis or Cannabis Products (or their authorized representatives) may enter the licensed premises for that purpose.
 - 3. All Cultivation Permittees must obtain and maintain a valid Distributor Permit, from the City.
- e. Manufacturing Permittees. In addition to the standards applicable to all Cannabis Businesses, the following apply to Cannabis Businesses with a Manufacturing Permit:
 - 1. All manufacturing activities that will be conducted by the Permittee must be included on the application. No additional manufacturing activity not already included in the application can be conducted without a City-approved amendment to any applicable Permit providing for such additional activity.
 - 2. The premises shall not contain an exhibition or Cannabis Product sales area or allow for retail distribution of Cannabis Products at that location.
 - 3. Preparation, Packaging, and Labeling of Edibles. The preparation, packaging, and labeling of edible Cannabis Products shall comply with applicable federal,

state, and local law, including without limitation applicable regulations promulgated by the County of Alameda.

- f. Distributor Permittees. In addition to the standards applicable to all Cannabis Businesses, the following apply to Cannabis Businesses with a Distributor Permit:
1. A Distributor Permittee shall ensure that all Cannabis Product batches are stored separately and distinctly from others on the distributor's premises.
 2. A distributor shall ensure a label with the following information is physically attached to each container of each batch:
 - i. The manufacturer or cultivator's name and license number;
 - ii. The date of entry into the distributor's storage area;
 - iii. The unique identifiers and batch number associated with the batch;
 - iv. A description of the Cannabis Products with enough detail to easily identify the batch; and
 - v. The weight of or quantity of units in the batch.
 3. A Distributor Permittee shall store harvest batches and edible Cannabis Products that require refrigeration consistent with State and local law.
 4. A Distributor Permittee shall store Cannabis or Cannabis Products in a building designed to permit control of temperature and humidity and shall prevent the entry of environmental contaminants such as smoke and dust. The area in which Cannabis or Cannabis Products are stored shall not be exposed to direct sunlight. A Distributor Permittee may not store Cannabis or Cannabis Products outdoors.
 5. Any facilities of the Distributor Permittee shall not contain an exhibition or Cannabis Product sales area or allow for retail distribution of Cannabis or Cannabis Products at that location.
- g. Additional Permit-Specific Requirements. As set forth below, The Department may issue implementing regulations to impose additional permit-specific requirements in the interest of protecting the public health, safety, and welfare in an expeditious manner.
- h. Prohibited Activity. Cannabis may not be smoked, ingested, or possessed in a manner that violates State law (Health & Safety Code sections 11362.3 and 11362.79).

6-59.12 Failure to Commence Operations/Abandonment

- a. The purpose of this Section is to prevent the reservation of land for future use by a Permittee that has no good faith intent to commence the proposed use, and after lawful use has commenced, to encourage productive use of land within the City.
- b. If a Cannabis Business has not opened at the approved location and commenced operations within one (1) year of being issued a permit under this Article or the date the use permit for the Commercial Cannabis Activity vests, whichever is later, or if at any other time, after operations have lawfully commenced, the Cannabis Business remains inoperative for a period of more than 90 days, the Permit shall be deemed expired and void.
- c. The City shall provide written notice to the Cannabis Business that the Permit has expired and is void. A Cannabis Business may appeal the Permit expiration in the same manner as appealing a denial in subsection (c) (Appeal of Denial) of section 6-59.6 of this Article.
- d. Upon a factual showing of good cause by the Cannabis Business for its failure to commence or continue operations within the required time, the Hearing Officer may grant a one-time only extension, not to exceed 60 days, based upon a factual finding of good cause for the extension. The determination of good cause to support the one-time extension shall be final.
- e. "Good cause" includes, but is not limited to, termination of the Cannabis Business' lease by the property owner; a change in federal, state or local law that now prohibits use of the previously approved location as a Cannabis Business; foreclosure or sale of the approved location resulting in the Cannabis business' inability to enter into a new lease; damage to or deterioration to the building that prevents the safe use and/or occupation of the structure until all required repairs are made in conformity with a Notice and Order issued to the property owner by the City's Building Official pursuant to the California Code of Regulations and the Uniform Code for Abatement of Dangerous Buildings. However, if the Cannabis Business was responsible for the condition, including any non-permitted construction or alteration of the structure, or non-permitted electrical, mechanical or plumbing, "good cause" shall not be found.

6-59.13 Fees.

Applicants and Permittees shall pay all applicable fees as set forth in the City's Master Fee Schedule adopted by resolution. Applicants and Permittees also shall pay the amount as prescribed by the Department of Justice of the State of California for the processing of fingerprints. None of the above fees shall be prorated, or refunded in the event of permit denial, suspension or revocation.

6-59.14 Regulations and Enforcement

- a. Any action required by either The Department or Chief of Police under this Section may be fulfilled by designees.

- b. The Department and Chief of Police are authorized to coordinate implementation and enforcement of this Article and may promulgate appropriate regulations or guidelines for such purposes.

6-59.15 Penalties

- a. Each and every violation of this Section, including without limitation the causing, permitting, aiding, abetting, or concealing a violation of this Section, shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Alameda Municipal Code, unless specifically provided for herein, including without limitation punishment as a misdemeanor.
- b. As a nuisance per se, any violation of this Article shall be subject to injunctive relief, revocation of the business' Cannabis Business permit, disgorgement and payment to the City of any and all monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or equity, including without limitation a civil action brought by the City. The City may also pursue any and all remedies and actions available and applicable under local and state laws for any violations committed by the Cannabis Business and persons related to or associated with the Cannabis Business.
- c. A person engaging in Cannabis Business without a Permit required by this Article shall be subject to civil penalties of up to three times the amount of the Permit fee for each violation, and the State or local authority, or court may order the destruction of Cannabis associated with that violation. A violator shall be responsible for the cost of the destruction of Cannabis associated with the violation, in addition to any amount covered by a bond required as a condition of licensure. Each day of operation shall constitute a separate violation of this Section.
- d. Any person violating any other provision of this Article (or any provision of the Alameda Municipal Code related to Cannabis), including refusing access to inspect the premises under subsection (z) of section 6-59.10 of this Article or knowingly or intentionally misrepresenting any material fact in procuring such required permits (i.e., regulatory permit and use permit), shall be deemed guilty of a misdemeanor punishable by a fine of not less than \$250.00 and not more than \$1,000.00 for each day (or portion thereof) of the violation or for each individual item constituting the violation (e.g., Cannabis or Cannabis Product), or by imprisonment for not more than 12 months, or by both such fine and imprisonment.

6-59.16 Implementing Regulations

- a. The Department shall have the authority to adopt all necessary guidelines, procedures, and regulations to implement the requirements and fulfill the policies and purposes of this Article and any other local ordinance governing Cannabis, including without limitation adding or amending specific conditions imposed on any Cannabis Business.

Section 2: CEQA DETERMINATION

The City Council finds that adoption of this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to Business and Professions Code section 26055(h) as discretionary review and approval, which shall include any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code, shall be required in order to engage in commercial cannabis activity within the City of Alameda under such Ordinance. Adoption of this Ordinance is additionally exempt from CEQA pursuant to section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that the adoption of this Ordinance may have a significant effect on the environment.

Section 3: SEVERABILITY

If any provision of this Ordinance is held by a court of competent jurisdiction to be invalid, this invalidity shall not affect other provisions of this Ordinance that can be given effect without the invalid provision and therefore the provisions of this Ordinance are severable. The City Council declares that it would have enacted each section, subsection, paragraph, subparagraph and sentence notwithstanding the invalidity of any other section, subsection, paragraph, subparagraph or sentence.

Section 4: EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after the expiration of thirty (30) days from the date of its final passage.

Presiding Officer of the City Council

Attest:

Lara Weisiger, City Clerk

I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by the Council of the City of Alameda in a regular meeting assembled on the _____, 2018, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this _____, 2018.

Lara Weisiger, City Clerk
City of Alameda

Approved as to form:

Janet C. Kern, City Attorney
City of Alameda

CITY OF ALAMEDA ORDINANCE NO. _____

New Series

AMENDING THE ALAMEDA MUNICIPAL CODE BY AMENDING SECTION 30-10 (CANNABIS) TO (1) ADD CANNABIS RETAIL BUSINESSES AS CONDITIONALLY PERMITTED USES IN THE C-1, NEIGHBORHOOD BUSINESS AND C-M, COMMERCIAL-MANUFACTURING ZONING DISTRICTS; (2) ADD DELIVERY-ONLY CANNABIS RETAIL BUSINESSES AS A CONDITIONALLY PERMITTED USE IN THE C-M, COMMERCIAL-MANUFACTURING ZONING DISTRICT; (3) AMEND CERTAIN PORTIONS OF THE ZONING ORDINANCE TO ENABLE CANNABIS RETAIL BUSINESSES TO DISPENSE NON-MEDICINAL OR “ADULT USE” CANNABIS; AND (4) AMEND CERTAIN PORTIONS OF THE ZONING CODE TO ELIMINATE THE DISPERSION REQUIREMENT FOR DELIVERY-ONLY CANNABIS BUSINESSES

BE IT ORDAINED by the City Council of the City of Alameda:

Findings.

In enacting this Section, the City Council finds as follows:

1. The amendment maintains the integrity of the General Plan.

The proposed Zoning text amendments update the City’s cannabis regulations in light of the City’s semi-annual report on cannabis in a manner that complies with State law enacted through the Adult Use of Marijuana Act (AUMA), Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), and any implementing regulations. Specifically, the amendments add provisions further regulating cannabis businesses in the city. The proposed amendments to regulate cannabis activity are necessary to ensure a balance between the rights of cannabis businesses, providers, and users with the obligations of the City under the General Plan to protect the public health, safety, and general welfare of the community through land use regulations and processes. Furthermore, the proposed amendments establish additional land use regulations for cannabis businesses, a new industry that would support an overarching General Plan goal to provide adequate businesses and services to Alameda residents. For these reasons, the proposed amendments maintain the integrity of the General Plan.

2. The amendment will support the general welfare of the community.

The primary purpose and intent of the proposed Zoning text amendments is to regulate cannabis activities in a manner that protects the public health, safety and welfare of the community. The proposed Zoning text amendments support the general welfare of the community by establishing land use regulations for cannabis business activity and personal use and cultivation. Absent appropriate regulation, cannabis business activities including, but not limited to, unregulated cultivation, manufacturing, processing, and distribution have been documented throughout communities in California to pose a potential threat to the public health, safety and welfare. The proposed amendments allow the City to ensure that land use decisions regarding cannabis business activity are made according to specific rules and

regulations and through a public process. The proposed rules and regulations ensure that cannabis business activities in the city will be conducted in an orderly manner, avoiding potential public nuisance, land use conflicts and adverse impacts to the public health, safety and general welfare that may occur in the absence of these regulations.

3. The amendments are equitable.

The proposed Zoning text amendments are equitable in that they balance the rights of cannabis businesses, providers, and users with the obligations of the City to protect the public health, safety, and general welfare of the community through land use regulations and processes. The proposed regulations enable cannabis businesses to operate, and personal consumption and cultivation to occur, under the rights and privileges provided under State law while establishing rules and regulations that protect the general public from potential adverse impacts of cannabis business activity and personal consumption and cultivation. The proposed Zoning text amendments are also equitable in that they establish appropriate processes and procedures for the review of cannabis business activity that balance the community's need for local cannabis businesses, but also provides appropriate oversight and discretion for individual applications.

Section 1: Section 30-10 (Cannabis) of the Alameda Municipal Code shall be amended as follows (unchanged text in plain Arial font; additions in single-underline font; deletions in ~~strikethrough~~ font):

30-10 - CANNABIS

30-10.1 - Commercial Cannabis Uses.

- a. *Findings.* This section establishes regulations governing the commercial cultivation, manufacture, distribution, delivery, testing, and sale of cannabis and cannabis products. The purpose of these regulations is to provide requirements and criteria to approve of cannabis businesses engaged in such uses. The City of Alameda finds it necessary to establish such requirements and criteria in the interest of the public health, safety and welfare to regulate all cannabis-related uses.
- b. *Definitions.* The applicable definitions in the Alameda Municipal Code are incorporated by this reference, unless otherwise defined herein.
 1. *Cannabis* means any and 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 the purpose of this section, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.

2. *Cannabis business* means a business or enterprise engaged in commercial cannabis activity.
3. *Cannabis product* means cannabis that has undergone a process whereby the cannabis has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible, topical, or other cannabis-containing product.
4. *Chief of Police* shall mean the Chief of Police of the City of Alameda Police Department or the Chief's designee.
5. *Commercial cannabis activity* means the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, sale, delivery, or provision of cannabis or cannabis products for commercial purposes, whether for profit or not.
6. *Community Development Department* shall mean the Director of Community Development Department of the City of Alameda (or successor department), or his or her designee.
7. *Concentrated cannabis* means the separated resin, whether crude or purified, obtained from cannabis.
8. *Day care center* means any licensed child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school-age child care centers.
9. *Delivery* means the commercial transfer of cannabis or cannabis products, for profit or not, to a customer by any means. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of cannabis or cannabis products. Delivery, however, shall not include commercial transfer of cannabis or cannabis products, for profit or not, by means of a self-service display, which is strictly prohibited.
10. *Distribution* means the procurement, sale, and transport of cannabis or cannabis products between entities licensed pursuant to the Medicinal and Adult-Use of Cannabis Regulation and Safety Act and any subsequent State of California legislation or regulation regarding the same.
11. *Edible cannabis product* means 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 Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.
12. *Medicinal cannabis* or *medicinal cannabis product* means cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the

Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician's recommendation or other authorization permitted by State law.

13. *Permit* refers to any one (1) of the regulatory permits described in subsection c of Section 6-59.4 of Article XVI that affords the permittee the privilege of conducting the activity allowed under the regulatory permit.
 14. *Person* shall mean and include a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, limited liability company, business, estate, trust, business trust, receiver, syndicate, organization, or any other group or combination acting as a unit, or the manager, lessee, agent, servant, officer or employee of any of them.
 15. *Youth centers* means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities. Youth centers shall also mean any facility determined by the Alameda Recreation and Parks Department to be a recreation center in a City park.
- c. *Permitted uses.* The following are the permitted commercial cannabis land uses within the City of Alameda. Any Commercial Cannabis Land Use Not expressly provided for in this section is deemed prohibited.
1. *Cannabis retail*, which is distinct from *cannabis retail – delivery-only*, means the sale, delivery, or provision of cannabis or cannabis product to customers by any person, business, or organization.
 2. *Cannabis retail – delivery-only* means the sale, delivery, or provision of cannabis or cannabis product to customers by any person, business, or organization from a delivery-only dispensary licensed in the City, which is closed to the public.
 3. *Cannabis industry* means the possession, manufacture, distribution, processing, storing, laboratory testing, labeling, or transportation of cannabis or cannabis products, or some combination of the foregoing in accordance with State law, by any person, business, or organization for commercial purposes, whether for profit or not. This use also includes the production, preparation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container by any person, business, or organization.
 4. *Cannabis cultivation* means the production of clones, immature plants, seeds, and agricultural products used specifically for the propagation and cultivation of cannabis to mature plants. Except as provided for in the preceding sentence, cannabis cultivation shall not include any activity involving the planting, growing, harvesting, drying, curing, grading, trimming, or processing of cannabis, which is prohibited.

- d. *Applicability.* This section shall apply to the establishment of all land uses related to cannabis and cannabis products.
- e. *Home Occupations.* It is unlawful to engage in commercial cannabis activity as a home occupation as defined in Section 30-2b of this Chapter.
- f. *Use Permit.*
 - 1. *Use Permit Requirement.* It is unlawful to engage in commercial cannabis activity, as such use classifications are described in subsection (c) above, without first obtaining a use permit.
 - 2. *Administrative Approval.* Use permits to engage in commercial cannabis activity may be approved by the Zoning Administrator where the Administrator determines that each of the criteria of subsection 30-21.3b, pursuant to Section 30.21.4 of the Alameda Municipal Code, are satisfied.
- g. *Permitted Locations.*
 - 1. No commercial cannabis activity shall be permitted on city-owned land or federal property.
 - 2. Notwithstanding Section 30-4 (District Uses and Regulations) of the Alameda Municipal Code, Cannabis Cultivation, as defined in the Alameda Municipal Code, may be conditionally permitted in the following zoning districts or locations:
 - i. C-M, Commercial Manufacturing District; and
 - ii. AP-E1, Alameda Point, Enterprise District 1, AP-E2, Alameda Point, Enterprise District 2, and AP-AR, Alameda Point, Adaptive Reuse subdistricts.
 - 3. Notwithstanding Section 30-4 (District Uses and Regulations) of the Alameda Municipal Code, Cannabis Industry, to the extent permitted by the Alameda Municipal Code, may be conditionally permitted in the following zoning districts and locations:
 - i. C-M, Commercial Manufacturing District;
 - ii. AP-E1, Alameda Point, Enterprise District 1, AP-E2, Alameda Point, Enterprise District 2, and AP-AR, Alameda Point, Adaptive Reuse subdistricts; and
 - iii. Office, research and development, and light industrial zones in the Marina Village Master Plan area.
 - 4. Notwithstanding Section 30-4 (District Uses and Regulations) of the Alameda Municipal Code, Cannabis Retail, to the extent permitted by the Alameda Municipal Code, may be conditionally permitted in the following zoning districts and locations:
 - i. C-1, Neighborhood Business District;
 - ii. C-C, Community Commercial Zone;
 - iii. C-M, Commercial Manufacturing District;
 - iv. AP-AR, Alameda Point, Adaptive Reuse;

- v. NP-W, North Park Street Workplace subdistrict ; and
 - vi. NP-G, North Park Street Gateway subdistrict.
- h. Notwithstanding Section 30-4 (District Uses and Regulations) of the Alameda Municipal Code, Cannabis Retail – Delivery-Only, to the extent permitted by the Alameda Municipal Code, may be conditionally permitted in the following zoning district(s) and location(s).
- 1. C-M, Commercial Manufacturing District.
- h. *Off-Street Parking.*
- 1. All sites where commercial cannabis activity is permitted shall at a minimum comply with the parking regulations in Section 30-7 of Chapter XXX of the Alameda Municipal Code. Cannabis manufacturing and Cannabis retail – delivery-only uses shall be subject to the same parking requirement as a manufacturing, major use under Section 30-7.6 and Cannabis retail uses shall be subject to the same parking requirement as a general retail use.
- i. *Lighting.*
- 1. All exterior lighting shall comply with Chapter XXX of the Alameda Municipal Code, and at a minimum, be fully shielded, downward casting and not spill over onto structures, other properties or the night sky.
- j. *Business Conducted Within Building.*
- 1. No manufacturing, production, distribution, storage, display, retail, or wholesale of cannabis and cannabis-infused products shall be visible from the exterior of the building where the commercial cannabis activity is being conducted. All structures used for cultivation, shall comply with the setback requirements for the base zoning district and any applicable combining zoning districts. There shall be no exterior evidence of cultivation outside the structure.
- k. *Conditions of Approval.*
- 1. All cannabis businesses shall comply with the general conditions set forth in Section 6-59.10 and all applicable specific conditions set forth in Section 6-59.11 of Article XVI of Chapter VI of the Alameda Municipal Code.
 - 2. In approving a use permit for commercial cannabis activity, the city may also specify such additional conditions as it deems necessary to fulfill the purposes of this section and Article XVI of Chapter VI of the Alameda Municipal Code, including without limitation, conditions of approval to safeguard public health, safety, and welfare, address nuisance impacts to surrounding uses, and prevent a disproportionate burden on public services (e.g., police, fire, building, etc.) and may require reasonable guarantees and evidence that such conditions are being, or will be, complied with.
- l. *Vesting of Use Permit.*
- 1. Notwithstanding Section 30-21.9 (Termination Due to Inaction) of Chapter XXX (Development Regulations) of the Alameda Municipal Code, a use permit, if

granted, for commercial cannabis activity shall terminate one (1) year from the date of its granting, unless actual construction or alteration, or actual commencement of the authorized activities, has begun under valid permits within such period, including without limitation the granting of a regulatory permit pursuant to Article XVI (Cannabis Businesses) of Chapter VI (Business, Occupations, and Industries) of the Alameda Municipal Code. An applicant may seek a one-time one (1) year extension to the use permit for good cause, but may only do so no earlier than sixty (60) days prior to expiration of the initial one (1) year term.

2. "Good cause" includes, but is not limited to, termination of the cannabis business' lease by the property owner; a change in federal, state or local law that now prohibits use of the previously approved location as a cannabis business; foreclosure or sale of the approved location resulting in the cannabis business' inability to enter into a new lease; damage to or deterioration to the building that prevents the safe use and/or occupation of the structure until all required repairs are made in conformity with a Notice and Order issued to the property owner by the City's Building Official pursuant to the California Code of Regulations and the Uniform Code for Abatement of Dangerous Buildings. However, if the cannabis business was responsible for the condition, including any non-permitted construction or alteration of the structure, or non-permitted electrical, mechanical or plumbing, "good cause" shall not be found.
- m. *Revocation or Modification.* A use permit approved under this section may be revoked or modified at any time following a public hearing in accordance with Section 30-21.3 of this chapter.

(Ord. No. 3206 N.S., § 2, 12-19-2017)

30-10.2 - Personal Cultivation of Cannabis.

- a. *Purpose.* The purpose of this section is to regulate and impose zoning restrictions on the personal cultivation of cannabis for lawful personal use (medicinal or adult-use) incidental to the residential use of the primary residential dwelling pursuant to State law. This section is not intended to interfere with a patient's right to use medical cannabis pursuant to the Compassionate Use Act, as may be amended, nor does it criminalize cannabis possession or cultivation otherwise authorized by State law. This section is not intended to give any person or entity independent legal authority to operate a cannabis business; it is intended simply to regulate and impose zoning restrictions regarding personal cultivation of cannabis in the City of Alameda pursuant to the Alameda Municipal Code and State law.
- b. *Authority.* The primary responsibility for enforcement of the provisions of this section shall be vested in the Community Development Department and the Chief of Police.
- c. *Definitions.* For the purpose of this section, unless the context clearly requires a different meaning, the words, terms, and phrases set forth in this section have the meanings given to them in this section:

1. *Accessory structure* shall have the same meaning as set forth in Section 30-5.7 of this chapter.
 2. *Cannabis cultivation area*, means the maximum dimensions allowed for the growing of cannabis. For indoor cultivation areas, the cannabis cultivation area shall be measured in contiguous square feet using clearly identifiable boundaries of all area(s) that will contain cannabis plants at any point in time, including all of the space(s) within the boundaries, in the primary residential dwelling or permitted accessory structure.
 3. *Cultivate* or *cultivation* means any activity involving the planting, growing, harvesting, drying, curing, trimming, or processing of cannabis for personal use.
 4. *Primary caregiver* shall have the same definition as set forth in California Health and Safety Code Section 11362.7, as that section now appears, or may hereafter be amended or renumbered, but who does not receive remuneration for these activities except for compensation in full compliance with subdivision (c) of Section 11362.765 of the Health and Safety Code.
 5. *Primary residential dwelling* shall mean the primary residential dwelling of the primary caregiver, qualified patient, or adult twenty-one (21) years of age or older who is eligible to cultivate cannabis for medicinal or adult use in compliance with this section.
 6. *Qualified patient* shall have the same meaning as a patient that uses or ingests medicinal cannabis as that term is defined in Section 11362.7 of the California Health and Safety Code and who is entitled to the protections of California Health and Safety Code Section 11362.5, as may be amended.
- d. *Personal Cultivation of Cannabis.*
1. A qualified patient or primary caregiver shall be allowed to cultivate and process cannabis within his/her primary residential dwelling in compliance with the standards established by subsection (e) of this section and subject to the following limitations:
 - i. Any cannabis cultivated is for the exclusive personal use of the qualified patient, and is not provided, sold, distributed, or donated to any other person.
 - ii. No more than six (6) living cannabis plants at any one (1) time per qualified patient for medicinal use may be cultivated at any primary residential dwelling.
 - iii. In the case of a primary caregiver, the foregoing limit shall apply to each qualified patient on whose behalf the primary caregiver is cultivating, but in no event shall that amount exceed thirty (30) cannabis plants to be cultivated at any primary residential dwelling.
 - iv. A copy of documentation of qualified patient status and/or primary caregiver status consistent with the provisions of California Health and Safety Code Section 11362.7 et seq. shall be maintained at the primary residential dwelling, including clear and adequate documentation, where applicable, evidencing that the qualified patient or primary caregiver may possess an

amount of cannabis in excess of the limits set forth in the preceding paragraph (i), consistent with the patient's needs.

- v. A qualified patient or primary caregiver shall not participate in medicinal cannabis cultivation in any other property within the City.
- 2. An adult person twenty-one (21) years of age or older shall be allowed to cultivate and process cannabis for personal use within his/her primary residential dwelling in compliance with the standards established by subsection (e) of this section and subject to the following limitation:
 - i. No more than six (6) living cannabis plants at any one (1) time may be cultivated for adult use within the adult person's primary residential dwelling, regardless of the number persons residing thereon.
- 3. Cannabis cultivation is prohibited in the common areas of a multi-unit residential development and in common areas of any commercial or industrial development.
- 4. Nothing in this section shall be interpreted to allow a qualified patient or primary caregiver to combine limits for medicinal and adult-use to exceed the limits set forth above.
- e. *Standards for Personal Cultivation of Cannabis.*
 - 1. To the extent that the city is required to allow the cultivation of cannabis for personal use and consumption under State law, the standards set forth in this section shall apply. Nothing in this section shall be interpreted to permit cultivation of cannabis for commercial purposes.
 - i. *Allowed Cultivation Areas.* Cannabis may be cultivated in the interior only of the primary residential dwelling, subject to the following limitations:
 - a) Cultivation of cannabis plants for personal use must be in full compliance with all the applicable provisions of California law.
 - b) Cultivation must occur in one (1) cannabis cultivation area in a single primary residential dwelling.
 - 1) For an adult person twenty-one (21) years of age or older or a qualified patient, the cultivation area shall be no more than one hundred (100) contiguous square feet.
 - 2) For primary caregivers, it shall be no more than one hundred (100) contiguous square feet for each qualified patient on whose behalf the primary caregiver is cultivating, but shall in no event be more than five hundred (500) contiguous square feet.
 - c) The cannabis cultivation and processing area shall be in compliance with the California Building Code, California Fire Code, and other locally adopted life/safety codes, including requirements for electrical and mechanical ventilation systems.
 - d) Interior cultivation and processing areas are restricted to one (1) room of a primary residential dwelling, or within a self-contained outside

accessory structure that is secured, locked, and fully enclosed. The accessory structure shall comply with all requirements under section 30-5.7f (Accessory Buildings), and shall not be constructed or covered with plastic or cloth. If located in a garage, the cultivation or processing use shall not result in a reduction of required off-street parking for the residence, as required under Section 30-7.3 of this chapter. The primary residential dwelling shall maintain kitchen, bathrooms, and primary bedrooms for their intended use and not be used primarily for personal Cannabis cultivation or processing.

- e) Cannabis cultivation and the establishment or use of the cultivation and processing areas cannot cause nonconformity under the Alameda Municipal Code.

ii. *Lighting and Electricity Restrictions.*

- a) Any cannabis cultivation lighting shall not exceed one thousand two hundred (1,200) watts unless specifically approved in writing by the Building Official (or designee).
 - b) All electrical equipment used in the cultivation or processing of cannabis (e.g., lighting and ventilation) shall be plugged directly into a wall outlet or otherwise hardwired; the use of extension cords to supply power to electrical equipment used in the cultivation or processing of cannabis is prohibited.
- iii. Only cannabis cultivated at the primary residential dwelling in conformance with this section shall be allowed to be processed at the primary residential dwelling.
- iv. Any use of a compressed flammable gas or gas products (CO₂, butane, etc.) as a solvent or other volatile solvent in the extraction of THC or other cannabinoids, or cannabis cultivation or processing for personal use is prohibited.
- v. There shall be no exterior evidence, including but not limited to odor, view, or other indication of cannabis cultivation or processing on the property that is perceptible to a person with normal unaided vision standing at the property lines of the subject lot.
- vi. For the convenience of the qualified patient, primary caregiver, or adult person twenty-one (21) years of age or older, to promote building safety, to assist in the enforcement of this section, and to avoid unnecessary confiscation and destruction of cannabis plants and unnecessary law enforcement investigations, persons cultivating cannabis pursuant to this section may notify the City regarding the cultivation site. The names and addresses of persons providing such notice, or of cultivation sites permitted under these regulations shall not be considered a public record under the California Public Records Act or the City of Alameda's Sunshine Ordinance.
- vii. The cannabis cultivation and processing area shall not adversely affect the health or safety of the nearby residents in any manner, including but not

limited to by creating dust, glare, heat, noise, noxious gases, odor, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.

- viii. The cannabis cultivation or processing for personal use shall not adversely affect the health or safety of the occupants of the primary residential dwelling or users of the accessory building in which it is cultivated or processed, or occupants or users of nearby properties in any manner, including but not limited to creation of mold or mildew.
- f. *Public Nuisance.* It is declared to be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any premises within the City of Alameda to cause or allow such premises to be used for the outdoor or indoor cultivation of cannabis plants, or processing thereof as described herein, or to process, cultivate or allow the cultivation of cannabis plants in any manner that conflicts with the limitations imposed in this section.
- g. *Enforcement.*
 - 1. The remedies provided by this section are cumulative and in addition to any other remedies available at law or in equity, including the civil and administrative enforcement and penalty provisions for municipal code violations set forth in Chapter I of the Alameda Municipal Code.
 - 2. Any person who violates any provisions of this section shall be guilty of a misdemeanor, subject to a penalty of imprisonment in the county jail for a period of time not to exceed six (6) months, or by a fine not to exceed the amount set forth in Chapter I of the Alameda Municipal Code, or both, for each violation. Notwithstanding the classification of a violation of this section as a misdemeanor, at the time an action is commenced to enforce the provisions of this section, the trial court, upon recommendation of the prosecuting attorney, may reduce the charged offense from a misdemeanor to an infraction.
 - 3. Any person convicted of an infraction under this section shall be punished by pursuant to Chapter I of the Alameda Municipal Code:
 - 4. The penalties provided for herein shall attach to each violation. For purposes of this section, a violation shall accrue for each day (or portion thereof) of the violation or for each individual item constituting the violation (e.g., cannabis plant).

Presiding Officer of the City Council

Attest:

Lara Weisiger, City Clerk

I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by the Council of the City of Alameda in a regular meeting assembled on the _____, 2018, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this _____, 2018.

Lara Weisiger, City Clerk
City of Alameda

Approved as to form:

Janet C. Kern, City Attorney
City of Alameda

CITY OF ALAMEDA RESOLUTION NO. _____

AMENDING MASTER FEE RESOLUTION NO. 12191 TO ADD NEW CANNABIS
BUSINESS OPERATOR AND REGULATORY FEES

WHEREAS, the Alameda Municipal Code and the California Government Code provide that the City Council shall set fees reasonable to recover the cost of providing various services by resolution; and

WHEREAS, the City Council, at the August 27, 1991 Special City Council meeting directed City staff to amend the Alameda Municipal Code to reflect that City fees shall be set by City Council Resolution; and

WHEREAS, State law authorizes local governments to charge fees for services based on the estimated reasonable cost of providing the service for which the fee is charged; and

WHEREAS, the City Council is authorized to increase fees annually by the percentage increase in consumer and/or construction price indices for the San Francisco Bay Area; and

WHEREAS, the City Council established a regulatory regime by adopting various ordinances regulating Cannabis Business Activities in the city of Alameda, effective January 18, 2018, as amended from time to time; and

WHEREAS, the purpose of the regulatory regime is to ensure that the Cannabis Businesses and their operations are conducted in a secure and safe manner consistent with all applicable local and state laws, rules and regulations governing the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, research and development, delivery, sale, or provision of Cannabis or Cannabis Products for commercial purposes, whether for profit or not, including Proposition 64, known as the "Control, Regulate and Tax Adult Use of Marijuana Act" ("AUMA") and Senate Bill 94 (Medicinal and Adult-Use Cannabis Regulation and Safety Act, or "MAUCRSA");

WHEREAS, the City is estimated to incur certain costs associated with accepting, processing, reviewing, investigating, and formally considering the merits of each submittal for all the requisite permits, approvals, and entitlements, including applications for an operator's permit, use permit, and other approvals associated with the operation of each type of Cannabis Business pursuant to any and all ordinances containing the rules, regulations and procedures duly adopted by the City Council and the Implementing Regulations adopted by the Planning, Building and Transportation Department, the successor to the Community Development Department for implementation of cannabis

business ordinances adopted by Council, and thereafter amended from time to time, effective January 18, 2018; and

WHEREAS, a study was commissioned and has been completed to determine the reasonable cost for issuing and regulating various cannabis permits; and

WHEREAS, the City Council desires to recover the costs that the City will incur with accepting, processing, reviewing, investigating, and formally considering the merits of each submittal by each Cannabis Business applicant for all the requisite permits, approvals, and entitlements, including applications for an operator's permit, use permit, and other approvals associated with the operation of each type of Cannabis Business and in performing certain regulatory activities associated with the operation of each type of Cannabis Business facility in a manner permitted by applicable law; accordingly, the City Council mandated that the cost of cannabis business activities shall be borne solely by cannabis businesses.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Alameda as follows:

Section 1. FINDINGS.

(a) That the foregoing recitals are true and correct statements of fact and are incorporated into this Resolution by this reference.

(b) That the regulatory fees adopted by this resolution pursuant to the City's adopted cannabis business regulatory regime, as evidenced by the adoption of various ordinances regulating Cannabis Business Activities in the city of Alameda, effective January 18, 2018, as amended from time to time, are fair, reasonable and equal to, or less than, the reasonable costs the City will incur with accepting, processing, reviewing, investigating, and formally considering the merits of each submittal by each Cannabis Business applicant for all the requisite permits, approvals, and entitlements, including applications for an operator's permit, use permit, and other approvals associated with the operation of each type of Cannabis Business and in performing certain regulatory activities associated with the operation of each type of Cannabis Business facility in a manner permitted by applicable law, as evidenced by the "Cannabis Business Operator Permit and Regulatory Fee Study," dated October 2018," which forms the basis of the City Council's findings.

Section 2. ADOPTION OF FEE; AMENDMENT OF MASTER FEE SCHEDULE.

(a) Based on the foregoing, that Master Fee Resolution No. 12191 as to fees for services provided by City Departments are adjusted as set forth in Exhibit A, which is attached hereto, and are to be included in the Master Fee Schedule, which shall be imposed on any Cannabis Business applicant for the reasonable estimated costs the City will incur with respect to accepting, processing, reviewing, investigating, and formally

considering the merits of each submittal for all the requisite permits, approvals, and entitlements, including applications for an operator's permit, use permit, and other approvals associated with the operation of each type of Cannabis Business pursuant to any and all ordinances containing the rules, regulations and procedures duly adopted by the City Council and the Implementing Regulations adopted by the Planning, Building and Transportation Department. These fees may be adjusted annually by the Bay Area Consumer Price Index (CPI).

(b) That the payment of any fees set forth in Exhibit A shall be due and payable at the time of an application or request, including submittal of a proposal in response to a RFP, is submitted to the City.

(c) That the City will not begin any review or investigation of any permits, approvals, and entitlements, including applications for an operator's permit, use permit, and other approvals associated with the operation of each type of Cannabis Business until and unless the applicable fee has been paid in full.

(d) That the payment of any fees set forth in Exhibit A does not guarantee approval of any permits, approvals, and entitlements, including applications for an operator's permit, use permit, and other approvals associated with the operation of each type of Cannabis Business.

(e) That the fees set forth in Exhibit A are solely for costs that will be incurred, for activities described herein, and do not include any other fees due for, without limitation, other permits, licenses, inspections, document preparation that may be required by the City, including, building permits, environmental review, business licensing, certificates of occupancy, or mandatory inspections (e.g., fire).

(f) That the fees set forth in Exhibit A shall be evaluated and updated from time to time to ensure that they reflect the reasonable costs to administer the cannabis regulatory regime, including without limitation, in the following instances: (i) when the regulatory regime has been implemented for a period of time sufficient for the City to have had an opportunity to review the actual costs incurred in administering the program; (ii) if the ordinances, comprising the regulatory regime, have been substantially amended such that the time and/or processes involved are substantially changed; or (iii) at the expiration of 10 years, which is the period over which the Fee Study proposes recovery of the implementation costs.

(g) That The City Manager and the Director of the Planning, Building, and Transportation Department, their successors or designees, are authorized to implement this Resolution.

(h) This Resolution is effective immediately upon its adoption.

* * * * *

EXHIBIT A
SUMMARY OF PROPOSED CANNABIS BUSINESS OPERATOR APPLICATION AND PERMIT FEES

Fee Description	Fee ¹	Unit	Figure
Cannabis Business Operator Permit: LOI Review Fee	\$900	flat fee	3
Cannabis Business Operator Permit: RFP Proposal Fee	\$4,400	flat fee	4
Cannabis Business Operator Permit: RFP Decision Appeal Fee	\$6,600	deposit-based	5
Cannabis Business Operator Permit: Application Fee	\$7,600	deposit-based	6
Cannabis Business Operator Permit: Renewal Fee	\$2,300	deposit-based	7

Notes:

¹ Proposed fees are rounded down to the nearest hundred dollars.

SUMMARY OF CANNABIS BUSINESS REGULATORY PROGRAM FEES

Fee Description	Fee ¹	Unit	Figure
Retail Dispensary	\$7,400	per permit annually	9
Nusery Cultivation	\$4,500	per permit annually	10
Testing Laboratory	\$4,500	per permit annually	11
Manufacturing: Volatile	\$8,500	per permit annually	12
Manufacturing: Non-Volatile	\$7,700	per permit annually	13
Delivery-Only Dispensary	\$6,000	per permit annually	14
Distribution (in conjunction with Cultivation or Manufacturing only)	\$4,400	per permit annually	15
Delivery (in conjunction with Retail only)	\$3,700	per permit annually	16

Notes:

¹ Proposed fees are rounded down to the nearest hundred dollars.

CANNABIS BUSINESS OPERATOR PERMIT LOI REVIEW FEE

Department / Office	Position	Fully Burdened Hourly Rate	Billable Hours	Estimated Labor Costs
		<i>Calc</i>	<i>a</i>	<i>b</i>
			<i>a*b=c</i>	
Base Reuse and Economic Development, and Planning and Building	Director	\$145	0.50	\$72.50
Base Reuse and Economic Development, and Planning and Building	Economic Development Manager/ Planning Services Manager	\$106	5.50	\$583.00
Planning and Building	Planner II	\$71	1.50	\$106.50
City Attorney's Office	Assistant City Attorney	\$121	1.50	\$181.50
Finance	Accounting Technician	\$50	0.25	\$12.50
Total Labor Costs				\$956.00
Contracted Services, Supplies, and Other Expenses				\$0.00
Cost Recovery %:				100%
Proposed Flat Fee per application¹				\$900.00

Notes:

¹Proposed fees are rounded down to the nearest hundred dollars.

CANNABIS BUSINESS OPERATOR PERMIT RFP PROPOSAL REVIEW

Department / Office	Position	Fully Burdened Hourly Rate	Billable Hours	Estimated Labor Costs	
		<i>Calc</i>	<i>a</i>	<i>b</i>	<i>a*b=c</i>
Base Reuse and Economic Development, and Planning and Building	Director	\$145	1.00	\$145.00	
Base Reuse and Economic Development, and Planning and Building	Economic Development Manager/ Planning Services Manager	\$106	14.00	\$1,484.00	
City Attorney's Office	Assistant City Attorney	\$121	2.00	\$242.00	
Finance	Accounting Technician	\$50	1.00	\$50.00	
Selection Panel					
Real Estate/Property Management	Base Reuse and Economic Development	\$129	4.00	\$516.00	
Finance	Financial Services Manager	\$123	4.00	\$492.00	
Recreation and Park	Manager, Mastic Senior Center	\$150	4.00	\$600.00	
Planning Division	Alameda Contract/PT Planner	\$111	4.00	\$444.00	
Public Works	Public Works Director	\$102	4.00	\$408.00	
Total Labor Costs				\$4,381.00	
Contracted Services, Supplies, and Other Expenses				\$100.00	
Cost Recovery %:				100%	
Proposed Flat Fee per application ¹				\$4,400.00	

CANNABIS BUSINESS OPERATOR PERMIT RFP DECISION APPEAL FEE

Department / Office	Position	Fully Burdened Hourly Rate	Billable Hours	Estimated Labor Costs
		<i>Calc</i>	<i>a</i>	<i>b</i>
				<i>a*b=c</i>
Base Reuse and Economic Development, and Planning and Building	Director	\$145	1.00	\$145.00
Base Reuse and Economic Development, and Planning and Building	Economic Development Manager/ Planning Services Manager	\$106	10.00	\$1,060.00
City Attorney's Office	Assistant City Attorney	\$121	15.00	\$1,815.00
City Attorney's Office	Paralegal	\$66	5.00	\$330.00
Contracted Services	Hearing Officer	\$300	10.00	\$3,000.00
Total Labor Costs				\$6,350.00
Contracted Services, Supplies, and Other Expenses				\$300.00
Cost Recovery %:				100%
Proposed Deposit-based Fee per application¹				\$6,600.00

Notes:

¹Proposed fees are rounded down to the nearest hundred dollars.

BUSINESS OPERATOR PERMIT APPLICATION FEE

Department / Office	Position	Fully Burdened Hourly Rate	Billable Hours	Estimated Labor Costs	
		<i>Calc</i>	<i>a</i>	<i>b</i>	<i>a*b=c</i>
Base Reuse and Economic Development, and Planning and Building	Director	\$145	2.00	\$290.00	
Base Reuse and Economic Development, and Planning and Building	Economic Development Manager/ Planning Services Manager	\$106	24.00	\$2,544.00	
Police Department	Police Chief	\$223	1.00	\$223.00	
Police Department	Police Captain	\$226	4.00	\$904.00	
Police Department	Police Sergeant	\$166	10.00	\$1,660.00	
City Attorney's Office	Assistant City Attorney	\$121	3.00	\$363.00	
City Attorney's Office	Paralegal	\$66	1.00	\$66.00	
Finance	Accounting Technician	\$50	2.00	\$100.00	
Total Labor Costs				\$6,150.00	
Contracted Services, Supplies, and Other Expenses				\$1,500.00	
Cost Recovery %:				100%	
Proposed Deposit-based Fee per application ¹				\$7,600.00	

Notes:

¹Proposed fees are rounded down to the nearest hundred dollars.

CANNABIS BUSINESS OPERATOR PERMIT RENEWAL FEE

Department / Office	Position	Fully Burdened Hourly Rate	Billable Hours	Estimated Labor Costs	
		<i>Calc</i>	<i>a</i>	<i>b</i>	<i>a*b=c</i>
Base Reuse and Economic Development, and Planning and Building	Director	\$145	1.00	\$145.00	
Base Reuse and Economic Development, and Planning and Building	Economic Development Manager/ Planning Services Manager	\$106	4.00	\$424.00	
Police Department	Police Chief	\$223	1.00	\$223.00	
Police Department	Police Captain	\$226	2.00	\$452.00	
Police Department	Police Sergeant	\$166	4.00	\$664.00	
City Attorney's Office	Assistant City Attorney	\$121	2.00	\$242.00	
Finance	Accounting Technician	\$50	1.00	\$50.00	
Total Labor Costs				\$2,200.00	
Contracted Services, Supplies, and Other Expenses				\$100.00	
Cost Recovery %:				100%	
Proposed Fee per application ¹				\$2,300.00	

Notes:

¹Proposed fees are rounded down to the nearest hundred dollars.

ALLOCATION OF CANNABIS BUSINESS DEVELOPMENT AND IMPLEMENTATION COSTS

Department / Office	Total Cost
Base Reuse and Economic Development, and Planning and Building Departments	\$73,421.00
City Attorney's Office	\$25,205.00
City Clerk's Office	\$630.00
City Manager's Office	\$3,627.00
Finance Department	\$1,772.00
Police Department	\$34,856.00
Contracted Services, Supplies, and Other Expenses	\$82,900.00
Total Cost	\$222,411.00
Total Cost Recovery Per Year (10 Years)	\$22,241.10
Number of Permits	11
Annual Cost Recovery per Permit	\$2,021.92
Typical Cost Recovery per Inspection (based on 2 per	\$1,011.00

Notes:

¹Proposed fees are rounded down to the nearest hundred dollars.

ANNUAL REGULATORY PROGRAM FEE: RETAIL

General Tasks/Activities	Director	Economic Development Manager/ Planning Services Manager	Police Sergeant	Labor Hours	Labor Costs	Contract Services, Supplies and Other Expenses	Total Cost
<i>Fully Burdened Hourly Rate</i>	\$145	\$106	\$166				
Inspection, Monitoring, Compliance	0.00	0.00	0.00	0.00	\$0.00	\$1,957.50	\$1,957.50
Oversight and Reporting	2.00	3.00	1.00	6.00	\$774.00	\$0.00	\$774.00
Proportional Implentation Costs	-	-	-	-	-	-	\$1,011.00
Total per Inspection	2.00	3.00	1.00	6.00	\$774.00	\$1,957.50	\$3,742.50
Cost Recovery %:					100%		
Proposed Annual Inspections:					2		
Proposed Annual Fee: ¹					\$7,400	per permit annually	
Permits Allowed:					2	permits	
Estimated Annual Cost Recovery to City:					\$14,800		

Notes:

¹Proposed fees are rounded down to the nearest hundred dollars.

ANNUAL REGULATORY PROGRAM FEE: NURSERY CULTIVATION

General Tasks/Activities	Director	Economic Development Manager/ Planning Services Manager	Police Sergeant	Labor Hours	Labor Cost	Contract Services, Supplies and Other Expenses	Total Cost
<i>Fully Burdened Hourly Rate</i>	\$145	\$106	\$166				
Inspection, Monitoring, Compliance	0.00	0.00	0.00	0.00	\$0.00	\$806.00	\$806.00
Oversight and Reporting	0.75	1.50	1.00	3.25	\$433.75	\$0.00	\$433.75
Proportional Implementation Costs	-	-	-	-	-	-	\$1,011.00
Total per Inspection	0.75	1.50	1.00	3.25	\$433.75	\$806.00	\$2,250.75
Cost Recovery %:					100%		
Proposed Annual Inspections:					2		
Proposed Annual Fee: ¹					\$4,500	per permit annually	
Permits Allowed:					1	permits	
Estimated Annual Cost Recovery to City:					\$4,500		

Notes:

¹Proposed fees are rounded down to the nearest hundred dollars.

ANNUAL REGULATORY PROGRAM FEE: TESTING

General Tasks/Activities	Director	Economic Development Manager/ Planning Services Manager	Police Sergeant	Labor Hours	Labor Costs	Contract Services, Supplies and Other Expenses	Total Cost
<i>Fully Burdened Hourly Rate</i>	\$145	\$106	\$166				
Inspection, Monitoring, Compliance	0.00	0.00	0.00	0.00	\$0.00	\$846.00	\$846.00
Oversight and Reporting	0.75	1.50	1.00	3.25	\$433.75	\$0.00	\$433.75
Proportional Implentation Costs	-	-	-	-	-	-	\$1,011.00
Total per Inspection	0.75	1.50	1.00	3.25	\$433.75	\$846.00	\$2,290.75
Cost Recovery %:					100%		
Proposed Annual Inspections:					2		
Proposed Annual Fee: ¹					\$4,500	per permit annually	
Permits Allowed:					2	permits	
Estimated Annual Cost Recovery to City:					\$9,000		

Notes:

¹Proposed fees are rounded down to the nearest hundred dollars.

ANNUAL REGULATORY PROGRAM FEE: MANUFACTURING – VOLATILE

General Tasks/Activities	Director	Economic Development Manager/ Planning Services Manager	Police Sergeant	Labor Hours	Labor Costs	Contract Services, Supplies and Other Expenses	Total Cost
Fully Burdened Hourly Rate	\$145	\$106	\$166				
Inspection, Monitoring, Compliance	0.00	0.00	0.00	0.00	\$0.00	\$2,492.00	\$2,492.00
Oversight and Reporting	2.00	3.00	1.00	6.00	\$774.00	\$0.00	\$774.00
Proportional Implemtation Costs	-	-	-	-	-	-	\$1,011.00
Total per Inspection	2.00	3.00	1.00	6.00	\$774.00	\$2,492.00	\$4,277.00
Cost Recovery %:					100%		
Proposed Annual Inspections:					2		
Proposed Annual Fee: ¹					\$8,500	per permit annually	
Permits Allowed:					2	permits	
Estimated Annual Cost Recovery to City:					\$17,000		

Notes:

¹Proposed fees are rounded down to the nearest hundred dollars.

ANNUAL REGULATORY PROGRAM FEE: MANUFACTURING – NON-VOLATILE

General Tasks/Activities	Director	Economic Development Manager/ Planning Services Manager	Police Sergeant	Labor Hours	Labor Costs	Contract Services, Supplies and Other Expenses	Total Cost
Fully Burdened Hourly Rate	\$145	\$106	\$166				
Inspection, Monitoring, Compliance	0.00	0.00	0.00	0.00	\$0.00	\$2,092.00	\$2,092.00
Oversight and Reporting	2.00	3.00	1.00	6.00	\$774.00	\$0.00	\$774.00
Proportional Implentation Costs	-	-	-	-	-	-	\$1,011.00
Total per Inspection	2.00	3.00	1.00	6.00	\$774.00	\$2,092.00	\$3,877.00
Cost Recovery %:					100%		
Proposed Annual Inspections:					2		
Proposed Annual Fee: ¹					\$7,700	per permit annually	
Permits Allowed:					2	permits	
Estimated Annual Cost Recovery to City:					\$15,400		

Notes:

¹Proposed fees are rounded down to the nearest hundred dollars.

ANNUAL REGULATORY PROGRAM FEE: DELIVERY-ONLY DISPENSARY

General Tasks/Activities	Director	Economic Development Manager/ Planning Services Manager	Police Sergeant	Labor Hours	Labor Costs	Contract Services, Supplies and Other Expenses	Total Cost
<i>Fully Burdened Hourly Rate</i>	\$145	\$106	\$166				
Inspection, Monitoring, Compliance	0.00	0.00	0.00	0.00	\$0.00	\$1,494.50	\$1,494.50
Oversight and Reporting	1.00	2.00	1.00	4.00	\$523.00	\$0.00	\$523.00
Proportional Implentation Costs	-	-	-	-	-	-	\$1,011.00
Total per Inspection	1.00	2.00	1.00	4.00	\$523.00	\$1,494.50	\$3,028.50
Cost Recovery %:					100%		
Proposed Annual Inspections:					2		
Proposed Annual Fee: ¹					\$6,000	per permit annually	
Permits Allowed:					2	permits	
Estimated Annual Cost Recovery to City:					\$12,000		

Notes:

¹Proposed fees are rounded down to the nearest hundred dollars.

ANNUAL REGULATORY PROGRAM FEE: DISTRIBUTION

General Tasks/Activities	Director	Economic Development Manager/ Planning Services Manager	Police Sergeant	Labor Hours	Labor Costs	Contract Services, Supplies and Other Expenses	Total Cost
<i>Fully Burdened Hourly Rate</i>	\$145	\$106	\$166				
Inspection, Monitoring, Compliance	0.00	0.00	0.00	0.00	\$0.00	\$903.00	\$903.00
Oversight and Reporting	0.25	1.00	1.00	2.25	\$308.25	\$0.00	\$308.25
Proportional Implentation Costs	-	-	-	-	-	-	\$1,011.00
Total per Inspection	0.25	1.00	1.00	2.25	\$308.25	\$903.00	\$2,222.25
Cost Recovery %:					100%		
Proposed Annual Inspections:					2		
Proposed Annual Fee: ¹					\$4,400	per permit annually	
Permits Allowed:					4	permits	
Estimated Annual Cost Recovery to City:					\$17,600		

Notes:

¹Proposed fees are rounded down to the nearest hundred dollars.

ANNUAL REGULATORY PROGRAM FEE: DELIVERY (w/RETAIL ONLY)

General Tasks/Activities	Director	Economic Development Manager/ Planning Services Manager	Police Sergeant	Labor Hours	Labor Costs	Contract Services, Supplies and Other Expenses	Total Cost
<i>Fully Burdened Hourly Rate</i>	\$145	\$106	\$166				
Inspection, Monitoring, Compliance	0.00	0.00	0.00	0.00	\$0.00	\$351.50	\$351.50
Oversight and Reporting	0.25	3.00	1.00	4.25	\$520.25	\$0.00	\$520.25
Proportional Implentation Costs	-	-	-	-	-	-	\$1,011.00
Total per Inspection	0.25	3.00	1.00	4.25	\$520.25	\$351.50	\$1,882.75
Cost Recovery %:					100%		
Proposed Annual Inspections:					2		
Proposed Annual Fee: ¹					\$3,700	per permit annually	
Permits Allowed:					2	permits	
Estimated Annual Cost Recovery to City:					\$7,400		

Notes:

¹Proposed fees are rounded down to the nearest hundred dollars.

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Council of the City of Alameda in a regular meeting assembled on 16th day of October, 2018 by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 17th day of October, 2018.

Lara Weisiger, City Clerk
City of Alameda

Approved as to form:

Janet C. Kern, City Attorney
City of Alameda