



# City of Alameda

## Meeting Agenda

### City Council

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Tuesday, January 15, 2019

7:00 PM

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

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#### **REVISED SPECIAL MEETING - CLOSED SESSION - 5:15 P.M.**

The agenda was revised on January 8, 2019 at 5:00 p.m. to have the meeting start at 5:15 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 [2019-6358](#) CONFERENCE WITH LABOR NEGOTIATORS (Government Code section 54957.6)  
CITY NEGOTIATORS: David L. Rudat, Interim 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), Alameda Management and Confidential Employees Association (MCEA); Executive Management Employees (EXME) and Electric Utility Professionals of Alameda (AMPU)  
UNDER NEGOTIATION: Salaries and Terms of Employment
  - 3-B [2019-6365](#) PUBLIC EMPLOYEE APPOINTMENT/HIRING  
Pursuant to Government Code § 54957  
Title/description of positions to be filled: City Attorney
  - 3-C [2019-6366](#) PUBLIC EMPLOYEE APPOINTMENT/HIRING  
Pursuant to Government Code § 54957  
Title/description of positions to be filled: City Manager
  - 3-D [2019-6417](#) CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Government Code section 54956.8)  
PROPERTY: A 30 acre portion of Site B, Alameda Point  
CITY NEGOTIATOR: David L. Rudat, Interim City Manager  
POTENTIAL BUYER: Abbott Bros. Development, Inc.

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**

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

**Pledge of Allegiance**

1      **Roll Call - City Council**

2      **Agenda Changes**

3      **Proclamations, Special Orders of the Day and Announcements - Limited to 15 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    [2019-6399](#)    Minutes of the Special and Regular City Council Meetings Held on December 18, 2018. (City Clerk)

5-B    [2019-6402](#)    Bills for Ratification. (Finance)

**Attachments:**    [Bills for Ratification](#)

5-C    [2019-6382](#)    Recommendation to Authorize the Interim City Manager to Execute a First Amendment to the Professional Services Agreement with Hinderliter de Llamas Associates (HdL) to Include the Review and Examination of Measure F Transactions and Use Tax Records Collected by the California Department of Tax and Fee Administration and to Increase Compensation Under the Agreement by \$25,000; and

Adoption of Resolution Authorizing Hinderliter de Llamas Associates (HdL) Access to the City's Sales and Transactions and Use Tax Records. (Finance 2410)

**Attachments:**    [Exhibit 1 - Agreement](#)  
                          [Exhibit 2 - First Amendment](#)  
                          [Resolution](#)

- 5-D**     [2019-6369](#)     Adoption of Resolution Authorizing the Interim City Manager to Execute Agreements and All Related Documents with the California Department of Tax and Fee Administration for Implementation of the City's Half-Cent Transactions and Use Tax (Measure F) Approved by the Voters at the November 6, 2018 General Election. (Finance 2410)

**Attachments:**   [Exhibit 1 - Agreement for Preparation](#)  
                              [Exhibit 2 - Agreement for State Administration](#)  
                              [Resolution](#)

- 5-E**     [2019-6347](#)     Adoption of Resolution Authorizing the City of Alameda to Participate in the United States Department of Housing and Urban Development (HUD) Public Offering as Part of the Section 108 Loan Guarantee Assistance Program to Refinance an Existing Note in the Original Principal Amount of \$4,000,000, Related to Financing of the Civic Center Parking Garage (Series 2006-A);

Adoption of Resolution Authorizing the City of Alameda to Participate in the United States Department of Housing and Urban Development (HUD) Public Offering as Part of the Section 108 Loan Guarantee Assistance Program to Refinance an Existing Note in the Original Principal Amount of \$3,000,000, Related to Financing of the Civic Center Parking Garage (Series 2008-A); and

Recommendation to Authorize the Interim City Manager to Negotiate and Execute Related Documents, Agreements, and Modifications Related to the Refinancing. (Community Development 274)

**Attachments:**   [Resolution - Series 2006-A](#)  
                              [Resolution - Series 2008-A](#)

- 5-F**     [2019-6352](#)     Adoption of Resolution Authorizing the Interim City Manager to Execute a Cooperation Agreement and Any Amendments Thereto between Eden Housing, Inc., a California Corporation, and the City of Alameda for Compliance with the Requirements of a Grant Application Under the Affordable Housing and Sustainable Communities Funding Program for: A) the 70-Unit Family Affordable Housing Project on Block 8 within Site A at Alameda Point and B) Transportation Projects (a Segment of Main Street (West Side) between Pacific and Atlantic Avenues or a Segment of Central Avenue, and Lighting Along the Cross-Alameda Trail). (Base Reuse 819099)

**Attachments:**   [Exhibit 1 - Cooperation Agreement](#)  
                              [Presentation](#)  
                              [Resolution](#)

- 5-G**     [2019-6353](#)     Adoption of Resolution Declaring Results of Special Election in

Community Facilities District No. 17-1 (Alameda Point Public Services District), Determining That Alteration of the Rate and Method of Apportionment of Special Taxes for the District is Lawfully Authorized, and Directing Recording of an Amendment to Notice of Special Tax Lien. (Base Reuse 819099)

**Attachments:** [Resolution](#)

- 5-H     [2019-6354](#)     Adoption of Resolution Approving a Memorandum of Understanding (MOU) Between the Alameda Police Officers Association Non-Sworn Unit (PANS) and the City of Alameda for a Forty-Two Month Term Commencing December 27, 2018 and Ending June 30, 2022. (Human Resources 2510)

**Attachments:**    [Exhibit 1 - MOU \(Redline\)](#)  
                          [Exhibit 2 - MOU](#)  
                          [Resolution](#)

- 5-I     [2019-6359](#)     Adoption of Resolution Approving a Memorandum of Understanding Between the Alameda City Employees Association and the City of Alameda for a Forty-Two Month Term Commencing December 28, 2018 and Ending June 30, 2022. (Human Resources 2510)

**Attachments:**    [Exhibit 1 - MOU \(Redline\)](#)  
                          [Exhibit 1 - REVISED MOU \(Redline\)](#)  
                          [Exhibit 2 - MOU](#)  
                          [Exhibit 2 - REVISED MOU](#)  
                          [Resolution](#)

- 5-J     [2019-6361](#)     Adoption of Resolution Approving a Memorandum of Understanding (MOU) Between the Management and Confidential Employees Association (MCEA) and the City of Alameda for a Forty-Two Month Term Commencing December 27, 2018 and Ending June 30, 2022. (Human Resources 2510)

**Attachments:**    [Exhibit 1 - MOU \(Redline\)](#)  
                          [Exhibit 2 - MOU](#)  
                          [Resolution](#)

## 6     Regular Agenda Items

- 6-A     [2019-6345](#)     Recommendation to Provide Direction on the City's Proposal for the Homeless Emergency Aid Program (HEAP) and Authorize the Interim City Manager to Work with the Social Service Human Relations Board to Finalize and Implement the City's HEAP Programs and Services. (Economic Development 001)

**Attachments:**    [Presentation](#)

- 6-B**     [2019-6384](#)     Public Hearing to Consider Introduction of Ordinance Amending the Alameda Municipal Code by (1) Amending Section 30-10 (Cannabis) to (a) Add Cannabis Retail Businesses as Conditionally Permitted Uses in the C-1, Neighborhood Business, and C-M, Commercial-Manufacturing Zoning Districts, (b) Amend Certain Portions of the Zoning Code to Enable Cannabis Retail Businesses to Dispense Non-Medicinal or “Adult Use” Cannabis, and (c) Amend Certain Portions of the Zoning Code to Remove the Dispersion Requirement; and (2) Repeal Ordinance No. 3228; and

Introduction of Ordinance: (1) Amending the Alameda Municipal Code by Amending Article XVI (Cannabis Businesses) of Chapter VI (Businesses, Occupations and Industry) to (a) Eliminate the Cap on Testing Laboratories, (b) Allow for Two Additional Cannabis Businesses to Operate as “Dispensary/Delivery” (Delivery Required, Open to the Public) within the Zoning Districts for Cannabis Retail, (c) Amend the Dispersion Requirement to Require No More Than Two Cannabis Retail Businesses to Operate on Either Side of Grand Street, (d) Create a Two-Tier Buffer Zone from Sensitive Uses for Cannabis Businesses, (e) Amend Certain Portions of the Regulatory Ordinance to Enable Cannabis Retail Businesses to Dispense Non-Medicinal or “Adult Use” Cannabis, (f) Modify Requirements for Off-Island Delivery, and (g) Make Other Clarifying or Conforming Amendments Thereto; and (2) Repealing Ordinance No. 3227. (Community Development 209)

**Attachments:**    [Exhibit 1 - Map of Zones](#)  
                              [Exhibit 2 - Letter](#)  
                              [Exhibit 3 - Ordinance Land Use \(Redline\)](#)  
                              [Exhibit 4 - Ordinance Regulatory \(Redline\)](#)  
                              [Correspondence - Updated 1-15](#)  
                              [Ordinance - Land Use](#)  
                              [Ordinance - Regulatory](#)

- 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**

**11 Adjournment - City Council****SPECIAL MEETING - 7:01 P.M. (Following Regular Meeting)**

The special meeting agenda was added on January 8, 2019 at 5:00 p.m.

**1 Roll Call - City Council****2 Agenda Items**

- 2-A**     [2019-6396](#)     Recommendation to Review the Ballot Arguments and Address Rebuttals for the Two April 9, 2019 Special Election Measures: 1) a Proposed Initiative Measure to Change the Designation for an Approximately 3.65 Acre Site on McKay Avenue, by Amending the General Plan Designation from Office to Open Space, and by Amending the Zoning Ordinance from Administrative-Professional District to Open Space District; and 2) the Caring Alameda Act. (City Clerk 2220)
- Attachments:**     [Exhibit 1 - Ballot Argument Against Initiative](#)  
                                                                                                 [Exhibit 2 - Ballot Argument In Favor of Caring Alameda Act](#)  
                                                                                                 [Exhibit 3 - Declaration of Argument Authors](#)
- 2-B**     **2019-6424**     Recommendation to Consider Directing the City Attorney to Initiate Litigation to Obtain a Judicial Declaration Whether Enforcement of the McKay Open Space Initiative will Require the City of Alameda to Compensate the Owner for the Value of the McKay Avenue Property in the event that the McKay Open Space Initiative Becomes Effective. (City Manager 2100)

**3 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](http://www.alamedaca.gov/agendas).
- Documents related to this agenda are available for public inspection and copying at of 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](mailto: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.

Public Hearing to Consider Introduction of Ordinance Amending the Alameda Municipal Code by (1) Amending Section 30-10 (Cannabis) to (a) Add Cannabis Retail Businesses as Conditionally Permitted Uses in the C-1, Neighborhood Business, and C-M, Commercial-Manufacturing Zoning Districts, (b) Amend Certain Portions of the Zoning Code to Enable Cannabis Retail Businesses to Dispense Non-Medicinal or “Adult Use” Cannabis, and (c) Amend Certain Portions of the Zoning Code to Remove the Dispersion Requirement; and (2) Repeal Ordinance No. 3228; and

Introduction of Ordinance: (1) Amending the Alameda Municipal Code by Amending Article XVI (Cannabis Businesses) of Chapter VI (Businesses, Occupations and Industry) to (a) Eliminate the Cap on Testing Laboratories, (b) Allow for Two Additional Cannabis Businesses to Operate as “Dispensary/Delivery” (Delivery Required, Open to the Public) within the Zoning Districts for Cannabis Retail, (c) Amend the Dispersion Requirement to Require No More Than Two Cannabis Retail Businesses to Operate on Either Side of Grand Street, (d) Create a Two-Tier Buffer Zone from Sensitive Uses for Cannabis Businesses, (e) Amend Certain Portions of the Regulatory Ordinance to Enable Cannabis Retail Businesses to Dispense Non-Medicinal or “Adult Use” Cannabis, (f) Modify Requirements for Off-Island Delivery, and (g) Make Other Clarifying or Conforming Amendments Thereto; and (2) Repealing Ordinance No. 3227. (Community Development 209)

To: Honorable Mayor and Members of the City Council

From: David L. Rudat, Interim City Manager

### EXECUTIVE SUMMARY

On November 7, 2018, City Council adopted Ordinance Nos. 3227 and 3228 concerning cannabis businesses in Alameda. Those Ordinances are now in effect. A complaint, however, was filed under the City’s Sunshine Ordinance that the agenda title for these ordinances when the City Council considered their introduction did not reflect certain provisions in the ordinance that was introduced on October 16, 2018, and then adopted on November 7, 2018. The Open Government Commission conducted a hearing on the complaint, sustained it and, as a remedy, held that the Ordinances were deemed null and void and that the Council may consider re-noticing the ordinances following a public hearing.

The City Attorney’s Office had advised the Commission and the Council that the Sunshine Ordinance had not been violated and that the Commission did not have the legislative authority to render a legally adopted ordinance null and void.

Given the decision of the Commission and the opinion of the City Attorney, the City Manager and staff are recommending that the two ordinances be re-introduced and adopted, and that Ordinances Nos 3227 and 3228 be subsequently repealed when the new ordinances are adopted and become effective.



Rather than risk future confusion over the legal status of Ordinance Nos. 3227 and 3228 (and the likely accompanying use of limited city resources), and to further sustain public confidence in its public officials and legal processes concerning the adoption and enforcement of its laws, staff's proposed solution as the most expeditious and balanced one, with the least amount of risk, that would best serve interests of the community as a whole.

Accordingly, in an abundance of caution only, the City Manager and staff are recommending that the two ordinances be re-considered and that Ordinance Nos. 3227 and 3228 be repealed.

## 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.

In late 2017, the City Council 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, 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;
- ☐ 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.

On October 16, 2018, the Council made revisions to an ordinance prepared by staff based on Council direction, which included a revision to convert the two additional “delivery-only” dispensaries to “delivery-required” (open to the public) dispensaries. After making those revisions, the Council introduced on first reading two ordinances amending Ordinance No. 3227 (Regulatory Ordinance) and Ordinance No. 3228 (Land Use Ordinance). Following the first reading, on October 30, 2018, a member of the public filed a complaint with the Open Government Commission (“OGC”) concerning the agenda title for the two ordinances that the Council introduced on October 16. On November 7, 2018, the Council took final action to adopt the two ordinances on second reading, after taking further public comment, including comment from the OGC complainant. The matter was heard by the OGC on November 14, 2018. After deliberation, the OGC sustained the complaint and, in light thereof, deemed the two ordinances null and void and that the ordinances be re-noticed to allow members of the public to be heard.

Thereafter, the City Attorney’s Office provided a legal memorandum to the Commission that set forth in more detail why there had not been a violation of the Sunshine Ordinance but, assuming the Commission found a violation that the Commission did not have the

legal authority to render Ordinances adopted by the City Council null and void. Rather, if the Commission continued to conclude that there had been a violation of the Sunshine Ordinance, it should recommend to the City Council that the Ordinances be considered for re-introduction following a public hearing and that the adopted Ordinances be repealed.

At the request of the City Attorney's Office, the complaint was returned to the Commission on December 17, 2018, for further consideration in light of the City Attorney's memorandum. Nevertheless, the Commission sustained the complaint, ordered Ordinance Nos. 3227 and 3228 null and void, and noted that the Council may reintroduce the two ordinances after a properly noticed public hearing.

In order to carry out the intent of the Commission's decision, and to avoid any potential litigation concerning the legal status of the two ordinances, this item has been scheduled for a public hearing on the Council's January 15, 2019 agenda.

## DISCUSSION

### **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 1 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.

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 “Dispensary/Delivery” (Delivery Required; Open to the Public) in the C-M and C-1 Zones

At its October 16, 2018 meeting, the Council modified its original direction to permit two additional “delivery-only” dispensaries to add two additional “delivery-required” dispensaries, which would be open to the public. These businesses would be no different (functionally and from a regulatory perspective) from full-service retail dispensaries, except that they would be required to offer cannabis delivery from the licensed premises. For example, they would be open to the public. Allowing delivery-required dispensaries as a conditionally permitted use in the C-1 and C-M districts would be consistent with the underlying intent for that zone. 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 dispensaries in the C-M zone. Staff received the attached letter from Harbor Bay Business Park opposing the proposed zoning amendment (Exhibit 2).

Allow Retail and “Dispensary/Delivery” (Delivery-Required; Open to the Public) 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:

- ☐ Removing the one (1) mile dispersion requirement from the Zoning Ordinance and including it wherever the Council saw fit (e.g., Regulatory Ordinance);
- ☐ Requiring that delivery-only dispensaries meet the same parking requirements as manufacturing uses rather than retail uses; and
- ☐ Reviewing 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.

The ordinances as drafted include some but not all of the changes recommended by the Planning Board. Following the Planning Board meeting, staff had 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. However, in light of the Council's direction at the October 16, 2018 meeting, these amendments were removed from the Land Use Ordinance.

Based on the Planning Board's recommendation, the Council's direction concerning dispensaries and the decision of the Open Government Commission, staff recommends that the City Council introduce a new ordinance amending Ordinances No. 3206 (Land Use Ordinance attached as Exhibit 3), which tracks the language of Ordinance No. 3228, as described above, and repealing Ordinance No. 3228.

### **Regulatory Ordinance Amendments**

Staff prepared a draft ordinance amending the Regulatory Ordinance based on Council direction received on July 24, 2018, and direction received from the Council on October 16, 2018. The following is a summary of the key amendments to the Regulatory Ordinance considered on October 16, 2018.

#### **Dispersion Requirement**

As noted above, the Planning Board recommended that the dispersion requirement be removed from the Zoning Code. The Planning Board felt that the dispersion requirement was not a land use issue. The dispersion requirement prohibits retail dispensaries to be located within one mile of each other. In light of the Planning Board's recommendation, the proposed ordinances reflect the recommended change. Therefore, the dispersion requirement has been deleted from the Zoning Ordinance and added to the Regulatory Ordinance. A modified dispersion requirement (overconcentration) would still apply to "Dispensary/Delivery" (Delivery-Required, Open to the Public) dispensaries. The proposed ordinance would permit two dispensaries east of Grand Street and two dispensaries west of Grand Street and does not make a distinction between the types of retail dispensary.

#### **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 (both types) 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 that 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 without going through a RFP process. To date, no applications have been received for any of these business uses.

#### *Allow for Delivery-Required 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 have been 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.

However, at its October 16 meeting, the Council gave direction and instead of “delivery-only” proposed that these businesses be required to offer delivery services from the licensed premises, which would be open to the public. As such, these “delivery-required” dispensaries would be permitted in the C-1 and C-M zones. The ordinance as drafted

allows for two “delivery-required” dispensaries. As noted above, these uses are no different from full-service dispensaries, except that they must offer delivery services and be open to the public.

### 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

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; 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.

As with the Land Use Ordinance, noted above, in light of the Council direction on October 16, 2018 concerning dispensaries and the Open Government Commission’s decision, staff recommends that the City Council introduce a new ordinance amending Ordinance No. 3201 (Regulatory Ordinance attached as Exhibit 4), which tracks the language of Ordinance No. 3227, as described above, and repealing Ordinance No.3227.

## **Request for Proposals Process**

Staff had requested that the Council confirm continued use of the RFP process to facilitate administration of the cap. The Council decided to continue using the RFP process. The action currently before the Council would have no impact on that part of the Council's decision on October 16, 2018, which remains undisturbed.

## **FINANCIAL IMPACT**

As noted on a previous staff report, 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. The City's Master Fee Schedule was amended in July 2018 to include fees to be charged in conjunction with administering the City's cannabis business regulatory program to ensure full cost recovery.

## **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:

Hold a Public Hearing to Consider the Introduction of an Ordinance (1) Amending the Alameda Municipal Code by Amending Section 30-10 (Cannabis) to (a) Add Cannabis Retail Businesses as Conditionally Permitted Uses in the C-1, Neighborhood Business, and C-M, Commercial-Manufacturing Zoning Districts, (b) Amend Certain Portions of the Zoning Code to Enable Cannabis Retail Businesses to Dispense Non-medicinal or "Adult Use" Cannabis, and (c) Amend Certain Portions of the Zoning Code to Remove the Dispersion Requirement; and (2) Repealing Ordinance No. 3228; and

Introduce an Ordinance: (1) Amending the Alameda Municipal Code by Amending Article XVI (Cannabis Businesses) of Chapter VI (Businesses, Occupations and Industry) to (a) Eliminate the Cap on Testing Laboratories, (b) Allow for Two Additional Cannabis



Businesses to Operate as “Dispensary/Delivery” (Delivery Required, Open to the Public) Within the Zoning Districts for Cannabis Retail, (c) Amend the Dispersion Requirement to Require No More Than Two Cannabis Retail Businesses to Operate on Either Side of Grand Street, (d) Create a Two-Tier Buffer Zone from Sensitive Uses for Cannabis Businesses, (e) Amend Certain Portions of the Regulatory Ordinance to Enable Cannabis Retail Businesses to Dispense Non-medicinal or “Adult Use” Cannabis, (f) Modify Requirements for Off-Island Delivery, and (g) Make Other Clarifying or Conforming Amendments thereto; and (2) Repealing Ordinance No. 3227.

Respectfully submitted,  
Dave Rudat, Interim City Manager

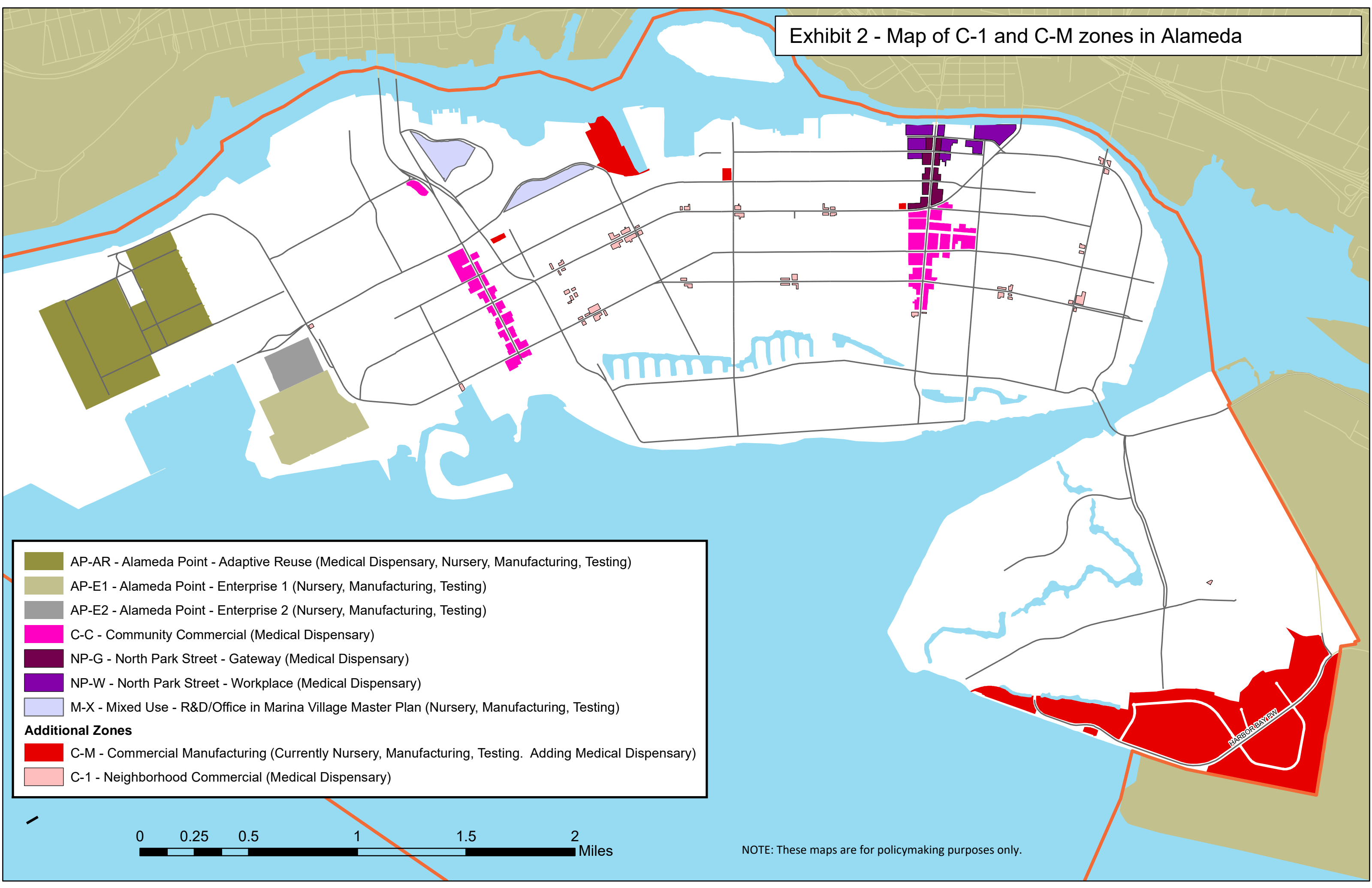
By,  
Michael H. Roush, Interim City Attorney

Financial Impact section reviewed,  
Elena Adair, Finance Director

Exhibits:

1. Map of Zones
2. Letter
3. Ordinance Land Use (Redline)
4. Ordinance Regulatory (Redline)

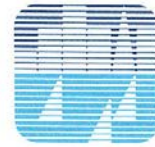
Exhibit 2 - Map of C-1 and C-M zones in Alameda



- 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,

A handwritten signature in blue ink, appearing to read "J. Ernst".

JOSEPH ERNST  
President of the Harbor Bay Business Park Association

CITY OF ALAMEDA ORDINANCE NO. \_\_\_\_\_

New Series

AMENDING THE ALAMEDA MUNICIPAL CODE BY (1) AMENDING SECTION 30-10 (CANNABIS) TO (A) ADD CANNABIS RETAIL BUSINESSES AS CONDITIONALLY PERMITTED USES IN THE C-1, NEIGHBORHOOD BUSINESS, AND C-M, COMMERCIAL-MANUFACTURING ZONING DISTRICTS, (B) AMEND CERTAIN PORTIONS OF THE ZONING CODE TO ENABLE CANNABIS RETAIL BUSINESSES TO DISPENSE NON-MEDICINAL OR “ADULT USE” CANNABIS, AND (C) AMEND CERTAIN PORTIONS OF THE ZONING CODE TO REMOVE THE DISPERSION REQUIREMENT; AND (2) REPEAL ORDINANCE NO. 3228.

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 30-10.1 (Cannabis) of the Alameda Municipal Code shall be amended as follows (in redline; otherwise, no change):

30-10.1 - Commercial Cannabis Uses.

Subsections a. through b.: No Change.

- c.1. *Cannabis retail* means the sale, delivery, or provision of ~~medicinal~~-cannabis or cannabis product to customers or members by any person, business, or organization.

Subsections c.2 through f.2: No Change.

Subsections g.1 through g.3.iii.: No Change.

- g.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. ~~ii.~~ AP-AR, Alameda Point, Adaptive Reuse;

- v. ~~iii.~~ NP-W, North Park Street Workplace subdistrict; and  
vi. ~~iv.~~ NP-G, North Park Street Gateway subdistrict.

Subsections i. through n (except renumbering): No Change.

Section 2: Section 30-10.2 (Personal Cultivation of Cannabis) of the Alameda Municipal Code: No Change.

Section 3: 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 4: REPEAL

Ordinance No. 3228 is repealed in its entirety if and when this Ordinance becomes effective and operative.

Section 5: 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 6: 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.

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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 this \_\_\_\_ day of \_\_\_\_\_, 2019, 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 \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Lara Weisiger, City Clerk  
City of Alameda

Approved as to form:

\_\_\_\_\_  
Michael H. Roush, Interim City Attorney  
City of Alameda

CITY OF ALAMEDA ORDINANCE NO. \_\_\_\_\_

New Series

(1) AMENDING THE ALAMEDA MUNICIPAL CODE BY AMENDING ARTICLE XVI (CANNABIS BUSINESSES) OF CHAPTER VI (BUSINESSES, OCCUPATIONS AND INDUSTRY) TO (A) ELIMINATE THE CAP ON TESTING LABORATORIES, (B) ALLOW FOR TWO ADDITIONAL CANNABIS BUSINESSES TO OPERATE AS “DISPENSARY/DELIVERY” (DELIVERY REQUIRED, OPEN TO THE PUBLIC) WITHIN THE ZONING DISTRICTS FOR CANNABIS RETAIL, (C) AMEND THE DISPERSION REQUIREMENT TO REQUIRE NO MORE THAN TWO CANNABIS RETAIL BUSINESSES TO OPERATE ON EITHER SIDE OF GRAND STREET, (D) CREATE A TWO-TIER BUFFER ZONE FROM SENSITIVE USES FOR CANNABIS BUSINESSES, (E) AMEND CERTAIN PORTIONS OF THE REGULATORY ORDINANCE TO ENABLE CANNABIS RETAIL BUSINESSES TO DISPENSE NON-MEDICINAL OR “ADULT USE” CANNABIS, (F) MODIFY REQUIREMENTS FOR OFF-ISLAND DELIVERY, AND (G) MAKE OTHER CLARIFYING OR CONFORMING AMENDMENTS THERETO; AND (2) REPEALING ORDINANCE NO. 3227

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, Sections 6-59.1 through 6-59.2: No Change.

Section 2: Article XVI, CANNABIS BUSINESSES, of Chapter VI (BUSINESSES, OCCUPATIONS, AND INDUSTRIES) of the Alameda Municipal Code, Section 6-59.3 is hereby amended as follows (in redline; otherwise, no change):

**6-59.3 Definitions.**

*AUMA* – no change.

*Cannabis* – no change



*Cannabis Business* means a business or enterprise, whether for profit or not, engaged in Commercial Cannabis Activity.

*Cannabis Business Owner* means any of the following:

1. Each person ~~having with~~ an aggregate ownership interest of 20 percent or more in ~~the a person, as defined herein, who applies for a Permit or is a Cannabis Business other than~~ Permittee, unless the interest is solely a security interest, lien, or encumbrance on property that will. 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 used by the considered owners.
2. The chief executive officer of a person, as defined herein, who applies for a Permit or is a Cannabis Business Permittee.
- ~~1. If the Cannabis Business is a publicly traded company, the chief executive officer or any person with an aggregate ownership interest of twenty percent (20%) or more; or, for non-publicly traded companies, any individual having an ownership interest as defined by State law, including any implementing regulations.~~
- ~~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.~~
- ~~3-6. Each person who participates in the direction, control, or management of, person, as defined herein, who applies for a Permit or has a financial interest in, the is a Cannabis Business- Permittee. Such an individual includes any of the following:~~
  - ~~2. Any person with community property rights of an ownership interest is considered a person with ownership interest.~~
    - 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.

*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.

*Chief of Police* – no change.

*Commercial cannabis activity* – no change.

~~h. “Community Development Department” shall mean the Director of Community Development Department of the City of Alameda (or successor department), or his or her designee.~~

*Commercial cannabis* – no change.

*Customer* – no change.

*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, it shall not include any activity involving the planting, growing, harvesting, drying, curing, grading, trimming, or processing of Cannabis, which is prohibited.

*Day care center* – no change.

*Delivery* – no change

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.

Dispensary/Delivery shall mean a “Dispensary/Retailer” permittee that must offer a cannabis delivery service to the public from the licensed premises.

*Dispensary/retailer* – no change.

*Distribution* – no change.

*Edible cannabis product* – no change.

*Manufacturer* – no change.

*MAUCRSA* – no change.

*Medicinal cannabis or medicinal cannabis product* – no change.

MMRSA – no change.

Nursery – no change.

Permit – no change.

Permittee refers to any ~~Cannabis Business Owner~~ person who has been issued, ~~or otherwise~~ is named on, or operates under a Permit, regardless of whether or not ~~the Permit~~ has been voluntarily surrendered or relinquished.

Person – no change.

Primary caregiver – no change.

Qualified patient – no change.

Self-service display – no change.

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.

Youth centers – no change.

Section 3: Article XVI, CANNABIS BUSINESSES, of Chapter VI (BUSINESSES, OCCUPATIONS, AND INDUSTRIES) of the Alameda Municipal Code, Section 6-59.4 is hereby amended as follows (in redline; otherwise, no change):

#### **6-59.4 Permit Requirement; Exemptions from Permit Requirement**

Subsection(s) (a): No change.

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) Dispensary/Delivery Permit(s) for ~~medicinal~~ Cannabis or ~~medicinal~~ Cannabis Product may be issued at any given time, subject to the applicable permit types, dispersion over concentration requirement, and zoning restrictions. ~~Delivery to the consumer of Cannabis or Cannabis Products for adult use by such Dispensary/Retail Permittees from the permitted premises is prohibited.~~
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.

~~1. No more than two (2) Testing Laboratory 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 ~~and~~ 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:

Subsection(s) c.1 through c.5: No change.

c.6. Dispensary/Delivery Permit: A Dispensary/Delivery 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 must provide a cannabis delivery service to the public from the licensed premise.

Subsection(s) c.7 (except renumbering): No change.

c.8. Delivery Permit: ~~A Delivery Permit~~ No local permit is required for ~~licensed dispensaries, retailers, microbusinesses, or nonprofits allowed under Business and Professions Code section 26070.5,~~ the delivery of Cannabis by Cannabis Businesses located outside of the City to ~~deliver 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.

Subsection(s) (d) through (g): No change.

Section 4: Article XVI, CANNABIS BUSINESSES, of Chapter VI (BUSINESSES, OCCUPATIONS, AND INDUSTRIES) of the Alameda Municipal Code, Section 6-59.5 is hereby amended as follows (in redline; otherwise, no change):

#### **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 ~~Community Development~~ Department, in consultation

with the Chief of Police, and shall include the following minimum information, as applicable to the Permit type:

a. *Proposed Property.*

Subsection(s) a.1 through a.5: No change.

a.6. If the site is being rented or leased, written proof in a form approved by the ~~Community Development Director~~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.

Subsection(s) a.7 through b: No change.

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:

Subsection(s) c.1 through d.2: No change.

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 ~~Community Development~~ Department.

Subsection(s) f through l: No change.

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.

Subsection(s) (n) through (q): No change.

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.

Section 5: Article XVI, CANNABIS BUSINESSES, of Chapter VI (BUSINESSES, OCCUPATIONS, AND INDUSTRIES) of the Alameda Municipal Code, Section 6-59.6 is hereby amended as follows (in redline; otherwise, no change):

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

- a. *Review of Application.* The ~~Community Development~~ 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 ~~Community Development~~ 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 ~~Community Development~~ Department. The ~~Community Development~~ Department shall also consider the application in light of the results from any investigation into the application as deemed necessary by the ~~Community Development~~ 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.

- b-c. *Denial of Application.* If the ~~Community Development~~ 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.

~~e.d.~~ Appeal of Denial.

1. Within 10 days after the ~~Community Development~~ 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.

Subsection(s) d.2. (except renumbering): No change.

- d.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 ~~Community Development~~ 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.

Subsection(s) d.4 through e.12 (except renumbering): No change.

f. *Suspension and Revocation*

1. *Summary Suspension.* If the Chief of Police or ~~Community Development~~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 ~~Community Development~~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 ~~Community Development~~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:

Subsection(s) f.1.i.a) through f.1.i.d): No change.

- f.1.e) The notice of summary suspension shall become final unless the Chief of Police or ~~Community Development~~the Department receives a written request for a hearing from the Permittee as set forth below.



- f.1.ii. If the Permittee wishes to challenge the summary suspension, the Permittee must file a written request with the Chief of Police or ~~Community Development~~the Department for a hearing within three (3) business days after service of the notice of summary suspension. If the Chief of Police or ~~Community Development~~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.
- f.1.iii. The Chief of Police or ~~Community Development~~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.
- f.1.iv. The Chief of Police or ~~Community Development~~the Department may recommend permanent revocation as set forth below on the basis of facts supporting summary suspension.
- f.2. Permanent Revocation. The Chief of Police or ~~Community Development~~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.

Subsection(s) f.2.i through f.2.ii. (except renumbering): No change.

Section 6: Article XVI, CANNABIS BUSINESSES, of Chapter VI (BUSINESSES, OCCUPATIONS, AND INDUSTRIES) of the Alameda Municipal Code, Section 6-59.7 is hereby amended as follows (in redline; otherwise, no change):

#### **6-59.7 Permit Issuance**

- a. Before issuing any Permit, the ~~Community Development~~ Department shall determine that all of the following requirements have been met:

Subsection(s) a.1 through a.3: No change.

Section 7: Article XVI, CANNABIS BUSINESSES, of Chapter VI (BUSINESSES, OCCUPATIONS, AND INDUSTRIES) of the Alameda Municipal Code, Section 6-59.8: No Change.

Section 8: Article XVI, CANNABIS BUSINESSES, of Chapter VI (BUSINESSES, OCCUPATIONS, AND INDUSTRIES) of the Alameda Municipal Code, Section 6-59.9 is hereby amended as follows (in redline; otherwise, no change):



## **6-59.9 Transfer of or Modifications to the Permit**

Subsection(s) (a): No change.

- 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 ~~Community Development~~ 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:

Subsection(s) b.1 through b.4: No change.

- c. *Change in Security Plan.* A request to modify the security plan shall be submitted to the ~~Community Development~~ 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 ~~Community Development~~ 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.
- ~~d.e.~~ *Change in Trade Name.* A written request for change in Cannabis Business trade or business name shall be submitted to the ~~Community Development~~ Department, with a copy to the Chief of Police, in a form approved by the ~~Community Development Director~~Department at least thirty (30) days prior to the anticipated change, together with the applicable fee.

Subsection(s) (f): No change.

Section 9: Article XVI, CANNABIS BUSINESSES, of Chapter VI (BUSINESSES, OCCUPATIONS, AND INDUSTRIES) of the Alameda Municipal Code, Section 6-59.10 is hereby amended as follows (in redline; otherwise, no change):

## **6-59.10 General Conditions for All Cannabis Businesses**

Subsection(s) (a) through (c): No change.

- d. *Duty to Notify.* All Applicants or Permittees have a continuing duty to immediately notify the ~~Community Development~~ 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 or ~~Cultivation~~ Dispensary/Delivery shall locate within a 1,000-foot radius of a public or private school providing instruction in kindergarten or any grades 1 through 12, ~~day care center, or youth center that is in existence at the time the Permit is first issued.~~ 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 to the nearest door of the dispensary/~~retail/cultivation.~~ For the 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. Over-Concentration. In addition to the operational radius, noted above, there shall be no more than two (2) cannabis businesses engaging in cannabis retail on either side of Grand Street.

e.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 ~~Community Development~~ 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.

Subsection(s) (h) through q.2. (except renumbering): No change.

- q.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 ~~Community Development~~ Department as part of that Permittee's Security Plan, or if required by State law.

Subsection(s) q.4 (except renumbering): No change.

Subsection(s) (r) through (y) (except renumbering): No change.

- 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 ~~Community Development~~ Department, in consultation with the Chief of Police, may impose labeling and packaging requirements to protect the public safety, health and welfare.

Subsection(s) (aa) through bb.1.iii. (except renumbering): No change.

- bb.1.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 ~~Community Development~~ Department or Chief of Police.

Subsection(s) bb.1.v. through hh. (except renumbering): No change.

- ii. *Notification of Enforcement Action.* Notify the ~~Community Development~~ 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.

Subsection(s) jj. (except renumbering): No change.

Section 10: Article XVI, CANNABIS BUSINESSES, of Chapter VI (BUSINESSES, OCCUPATIONS, AND INDUSTRIES) of the Alameda Municipal Code, Section 6-59.11 is hereby amended as follows (in redline; otherwise, no change):

#### **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, 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 or Distributor issued a permit by the City and the State in compliance with this ordinance and State law.

Subsection(s) a.2. through a.9.vi.: No change.

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

Subsection(s) b.1 through e.5.: No change.

- f. *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.*

Subsection(s) (g) (except renumbering): No change.

Section 11: Article XVI, CANNABIS BUSINESSES, of Chapter VI (BUSINESSES, OCCUPATIONS, AND INDUSTRIES) of the Alameda Municipal Code, Sections 6-59.12 through 6-59.13: No Change.

Section 12: Article XVI, CANNABIS BUSINESSES, of Chapter VI (BUSINESSES, OCCUPATIONS, AND INDUSTRIES) of the Alameda Municipal Code, Section 6-59.14 is hereby amended as follows (in redline; otherwise, no change):

#### **6-59.14 Regulations and Enforcement**

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

Section 13: Article XVI, CANNABIS BUSINESSES, of Chapter VI (BUSINESSES, OCCUPATIONS, AND INDUSTRIES) of the Alameda Municipal Code, Section 6-59.15: No Change.

Section 14: Article XVI, CANNABIS BUSINESSES, of Chapter VI (BUSINESSES, OCCUPATIONS, AND INDUSTRIES) of the Alameda Municipal Code, Section 6-59.16 is hereby amended as follows (in redline; otherwise, no change):

#### **6-59.16      Implementing Regulations**

- a. The ~~Community Development~~ 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 15: 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 16: REPEAL

Ordinance No. 3227 is repealed in its entirety if and when this Ordinance becomes effective and operative.

#### Section 17: 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 18: 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 this \_\_\_\_ day of \_\_\_\_\_, 2019, 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 on this \_\_\_\_ day of \_\_\_\_\_, 2019.

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Lara Weisiger, City Clerk  
City of Alameda

Approved as to form:

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Michael H. Roush, Interim City Attorney  
City of Alameda

CITY OF ALAMEDA ORDINANCE NO. \_\_\_\_\_

New Series

AMENDING THE ALAMEDA MUNICIPAL CODE BY (1) AMENDING SECTION 30-10 (CANNABIS) TO (A) ADD CANNABIS RETAIL BUSINESSES AS CONDITIONALLY PERMITTED USES IN THE C-1, NEIGHBORHOOD BUSINESS, AND C-M, COMMERCIAL-MANUFACTURING ZONING DISTRICTS, (B) AMEND CERTAIN PORTIONS OF THE ZONING CODE TO ENABLE CANNABIS RETAIL BUSINESSES TO DISPENSE NON-MEDICINAL OR “ADULT USE” CANNABIS, AND (C) AMEND CERTAIN PORTIONS OF THE ZONING CODE TO REMOVE THE DISPERSION REQUIREMENT; AND (2) REPEAL ORDINANCE NO. 3228.

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 30-10.1 (Cannabis) of the Alameda Municipal Code shall be amended as follows (in redline; otherwise, no change):

30-10.1 - Commercial Cannabis Uses.

Subsections a. through b.: No Change.

- c.1. *Cannabis retail* means the sale, delivery, or provision of cannabis or cannabis product to customers or members by any person, business, or organization.

Subsections c.2 through f.2: No Change.

Subsections g.1 through g.3.iii.: No Change.

- g.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.

Subsections i. through n (except renumbering): No Change.

Section 2: Section 30-10.2 (Personal Cultivation of Cannabis) of the Alameda Municipal Code: No Change.

Section 3: 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 4: REPEAL

Ordinance No. 3228 is repealed in its entirety if and when this Ordinance becomes effective and operative.

Section 5: 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 6: 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.

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Presiding Officer of the City Council

Attest:

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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 this \_\_\_\_ day of \_\_\_\_\_, 2019, 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 \_\_\_\_ day of \_\_\_\_\_, 2019.

---

Lara Weisiger, City Clerk  
City of Alameda

Approved as to form:

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Michael H. Roush, Interim City Attorney  
City of Alameda

CITY OF ALAMEDA ORDINANCE NO. \_\_\_\_\_

New Series

(1) AMENDING THE ALAMEDA MUNICIPAL CODE BY AMENDING ARTICLE XVI (CANNABIS BUSINESSES) OF CHAPTER VI (BUSINESSES, OCCUPATIONS AND INDUSTRY) TO (A) ELIMINATE THE CAP ON TESTING LABORATORIES, (B) ALLOW FOR TWO ADDITIONAL CANNABIS BUSINESSES TO OPERATE AS “DISPENSARY/DELIVERY” (DELIVERY REQUIRED, OPEN TO THE PUBLIC) WITHIN THE ZONING DISTRICTS FOR CANNABIS RETAIL, (C) AMEND THE DISPERSION REQUIREMENT TO REQUIRE NO MORE THAN TWO CANNABIS RETAIL BUSINESSES TO OPERATE ON EITHER SIDE OF GRAND STREET, (D) CREATE A TWO-TIER BUFFER ZONE FROM SENSITIVE USES FOR CANNABIS BUSINESSES, (E) AMEND CERTAIN PORTIONS OF THE REGULATORY ORDINANCE TO ENABLE CANNABIS RETAIL BUSINESSES TO DISPENSE NON-MEDICINAL OR “ADULT USE” CANNABIS, (F) MODIFY REQUIREMENTS FOR OFF-ISLAND DELIVERY, AND (G) MAKE OTHER CLARIFYING OR CONFORMING AMENDMENTS THERETO; AND (2) REPEALING ORDINANCE NO. 3227

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, Sections 6-59.1 through 6-59.2: No Change.

Section 2: Article XVI, CANNABIS BUSINESSES, of Chapter VI (BUSINESSES, OCCUPATIONS, AND INDUSTRIES) of the Alameda Municipal Code, Section 6-59.3 is hereby amended as follows (in redline; otherwise, no change):

**6-59.3 Definitions.**

*AUMA* – no change.

*Cannabis* – no change

*Cannabis Business* means a business or enterprise, whether for profit or not, engaged in Commercial Cannabis Activity.

*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.

*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.

*Chief of Police* – no change.

*Commercial cannabis activity* – no change.

*Commercial cannabis* – no change.

*Customer* – no change.

*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, it shall not include any activity involving the planting, growing, harvesting, drying, curing, grading, trimming, or processing of Cannabis, which is prohibited.

*Day care center* – no change.

*Delivery* – no change

*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.

*Dispensary/Delivery* shall mean a “Dispensary/Retailer” permittee that must offer a cannabis delivery service to the public from the licensed premises.

*Dispensary/retailer* – no change.

*Distribution* – no change.

*Edible cannabis product* – no change.

*Manufacturer* – no change.

*MAUCRSA* – no change.

*Medicinal cannabis or medicinal cannabis product* – no change.

*MMRSA* – no change.

*Nursery* – no change.

*Permit* – no change.

*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.

*Person* – no change.

*Primary caregiver* – no change.

*Qualified patient* – no change.

*Self-service display* – no change.

*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.

*Youth centers* – no change.

Section 3: Article XVI, CANNABIS BUSINESSES, of Chapter VI (BUSINESSES, OCCUPATIONS, AND INDUSTRIES) of the Alameda Municipal Code, Section 6-59.4 is hereby amended as follows (in redline; otherwise, no change):

**6-59.4 Permit Requirement; Exemptions from Permit Requirement**

Subsection(s) (a): No change.

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) Dispensary/Delivery Permit(s) for Cannabis or Cannabis Product may be issued at any given time, subject to the applicable permit types, over-concentration 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:

Subsection(s) c.1 through c.5: No change.

- c.6. Dispensary/Delivery Permit: A Dispensary/Delivery 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 must provide a cannabis delivery service to the public from the licensed premise.

Subsection(s) c.7 (except renumbering): No change.

- c.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.

Subsection(s) (d) through (g): No change.

Section 4: Article XVI, CANNABIS BUSINESSES, of Chapter VI (BUSINESSES, OCCUPATIONS, AND INDUSTRIES) of the Alameda Municipal Code, Section 6-59.5 is hereby amended as follows (in redline; otherwise, no change):

#### **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.*

Subsection(s) a.1 through a.5: No change.

- a.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.

Subsection(s) a.7 through b: No change.

- 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:

Subsection(s) c.1 through d.2: No change.

- 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.



Subsection(s) f through l: No change.

- 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.

Subsection(s) (n) through (q): No change.

- 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.

Section 5: Article XVI, CANNABIS BUSINESSES, of Chapter VI (BUSINESSES, OCCUPATIONS, AND INDUSTRIES) of the Alameda Municipal Code, Section 6-59.6 is hereby amended as follows (in redline; otherwise, no change):

#### **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.

Subsection(s) d.2. (except renumbering): No change.

- d.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.

Subsection(s) d.4 through e.12 (except renumbering): No change.

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:

Subsection(s) f.1.i.a) through f.1.i.d): No change.

- f.1.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.
- f.1.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.
- f.1.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.
- f.1.iv. The Chief of Police or the Department may recommend permanent revocation as set forth below on the basis of facts supporting summary suspension.
- f.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.

Subsection(s) f.2.i through f.2.ii. (except renumbering): No change.

Section 6: Article XVI, CANNABIS BUSINESSES, of Chapter VI (BUSINESSES, OCCUPATIONS, AND INDUSTRIES) of the Alameda Municipal Code, Section 6-59.7 is hereby amended as follows (in redline; otherwise, no change):

## **6-59.7 Permit Issuance**

- a. Before issuing any Permit, the Department shall determine that all of the following requirements have been met:

Subsection(s) a.1 through a.3: No change.

Section 7: Article XVI, CANNABIS BUSINESSES, of Chapter VI (BUSINESSES, OCCUPATIONS, AND INDUSTRIES) of the Alameda Municipal Code, Section 6-59.8: No Change.

Section 8: Article XVI, CANNABIS BUSINESSES, of Chapter VI (BUSINESSES, OCCUPATIONS, AND INDUSTRIES) of the Alameda Municipal Code, Section 6-59.9 is hereby amended as follows (in redline; otherwise, no change):

## **6-59.9 Transfer of or Modifications to the Permit**

Subsection(s) (a): No change.

- 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:

Subsection(s) b.1 through b.4: No change.

- 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.

Subsection(s) (f): No change.

Section 9: Article XVI, CANNABIS BUSINESSES, of Chapter VI (BUSINESSES, OCCUPATIONS, AND INDUSTRIES) of the Alameda Municipal Code, Section 6-59.10 is hereby amended as follows (in redline; otherwise, no change):

**6-59.10 General Conditions for All Cannabis Businesses**

Subsection(s) (a) through (c): No change.

- 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 or Dispensary/Delivery 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 to the nearest door of the dispensary. 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. *Over-Concentration.* In addition to the operational radius, noted above, there shall be no more than two (2) cannabis businesses engaging in cannabis retail on either side of Grand Street.
- 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.

Subsection(s) (h) through q.2. (except renumbering): No change.

- q.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.

Subsection(s) q.4 (except renumbering): No change.

Subsection(s) (r) through (y) (except renumbering): No change.

- 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.

Subsection(s) (aa) through bb.1.iii. (except renumbering): No change.

- bb.1.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.

Subsection(s) bb.1.v. through hh. (except renumbering): No change.

- 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.

Subsection(s) jj. (except renumbering): No change.

Section 10: Article XVI, CANNABIS BUSINESSES, of Chapter VI (BUSINESSES, OCCUPATIONS, AND INDUSTRIES) of the Alameda Municipal Code, Section 6-59.11 is hereby amended as follows (in redline; otherwise, no change):

#### **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, 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 or Distributor issued a permit by the City and the State in compliance with this ordinance and State law.

Subsection(s) a.2. through a.9.vi.: No change.

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

Subsection(s) b.1 through e.5.: No change.

- f. *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.

Subsection(s) (g) (except renumbering): No change.

Section 11: Article XVI, CANNABIS BUSINESSES, of Chapter VI (BUSINESSES, OCCUPATIONS, AND INDUSTRIES) of the Alameda Municipal Code, Sections 6-59.12 through 6-59.13: No Change.

Section 12: Article XVI, CANNABIS BUSINESSES, of Chapter VI (BUSINESSES, OCCUPATIONS, AND INDUSTRIES) of the Alameda Municipal Code, Section 6-59.14 is hereby amended as follows (in redline; otherwise, no change):

#### **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.

Section 13: Article XVI, CANNABIS BUSINESSES, of Chapter VI (BUSINESSES, OCCUPATIONS, AND INDUSTRIES) of the Alameda Municipal Code, Section 6-59.15: No Change.

Section 14: Article XVI, CANNABIS BUSINESSES, of Chapter VI (BUSINESSES, OCCUPATIONS, AND INDUSTRIES) of the Alameda Municipal Code, Section 6-59.16 is hereby amended as follows (in redline; otherwise, no change):

#### **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 15: 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 16: REPEAL

Ordinance No. 3227 is repealed in its entirety if and when this Ordinance becomes effective and operative.

#### Section 17: 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 18: 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 this \_\_\_\_ day of \_\_\_\_\_, 2019, 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 on this \_\_\_\_ day of \_\_\_\_\_, 2019.

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Lara Weisiger, City Clerk  
City of Alameda

Approved as to form:

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Michael H. Roush, Interim City Attorney  
City of Alameda

## LARA WEISIGER

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**From:** M Tong <maung6@hotmail.com>  
**Sent:** Tuesday, January 15, 2019 4:32 PM  
**To:** Marilyn Ezzy Ashcraft; John Knox White; Tony Daysog; Malia Vella; Jim Oddie; City Clerk  
**Subject:** Please STOP from increase Cannabis dispensary from 2 to 4 !

Dear Mayor & Council members,

We are long term citizens of Alameda & are very concerned of the number of cannabis dispensaries in our city.

Alameda is a small city that we are proud of our unique culture and would like to maintain our peaceful livelihood here.

We worry about the safety, noise & heavy traffic the proposed additional dispensaries may add to our city.

We want our family esp. children & elderly to be free to go around town without worrying about many strangers who may bring violence, crimes or civil disturbance to our safety.

Our small city has no need for more than 2 dispensaries.

Please vote No to increase more dispensaries.

Thanks!

Margaret Tong

## LARA WEISIGER

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**From:** Joanna Lau CPA <lau\_joanna@hotmail.com>  
**Sent:** Tuesday, January 15, 2019 1:52 PM  
**To:** Marilyn Ezzy Ashcraft; John Knox White; Tony Daysog; Malia Vella; Jim Oddie; City Clerk  
**Subject:** Don't add more marijuana storefronts in Alameda City

Dear council members,

Please don't add two additional marijuana storefronts in our small city. Two storefronts is more than enough in this moment. They can serve a lot of people. Plus, people can always order marijuana online.

Alameda city does not hire a independent group of people who monitor, regulate, review marijuana licensing & business compliance, and work on social studying for marijuana impact in the city. In long run, nobody know what the social costs will be. Adding two additional marijuana storefronts is taking higher risk for City of Alameda.

In case, two storefronts become not enough later on. The city can think about adding more stores in the future. However, it should not be in 2019! Please vote no tonight.

Thanks.

Best,  
Joanna Lau

# PORTMAN ENTERPRISES

2934 LINCOLN AVE

ALAMEDA, CA 94501

[WWW.PORTMANENT.COM](http://WWW.PORTMANENT.COM)

**To:** Mayor Marilyn Ezzy Ashcraft  
Vice Mayor John Knox White  
Councilmember Malia Vella  
Councilmember Tony Daysog  
Councilmember Jim Oddie  
Acting City Manager David Rudat  
Acting City Attorney Michael Roush  
City Attorney John Le  
City Clerk Laura Weisiger  
Economic Development Manager Lois Butler  
Community Development Director Debbie Potter

**From:** Mark Hersman                      Carrie Tillman                      Nick Portolese

**Date:** January 14, 2019

**Topic:** Cannabis Business Ordinances

Dear City Leaders,

As you are all aware, one of the final acts of the previous council was the finalization of the cannabis business ordinances. It's our understanding that the Open Government Commission (OGC) has an objection to the notification process leading to the passage of the ordinances as discussed at the October 16, 2018 City Council meeting and finalized at the November 7, 2018 City Council meeting. Specifically the complaint focuses on the change from the authorization of "2 storefront dispensaries, and 2 delivery only dispensaries" to the final decision allowing "4 storefront dispensaries, with a minimum of 2 offering delivery services". Regarding this specific issue, we were attendees to this debate, have reviewed the video recently, and we noted the following:

- The key issue debated was not the visual footprint on the city of having four storefront dispensaries, the primary concern was access to cannabis via delivery for patients who are compromised in their mobility
- Once Council received guidance that they could require a minimum of two dispensaries to provide delivery services throughout Alameda city limits, the physical nature of these dispensaries (storefront vs. warehouse) became irrelevant to the discussion

- Further, it was noted that a delivery only warehouse dispensary would need to conform to the same regulations as a storefront dispensary
- The City Attorney gave guidance to the Council that this change from warehouse/delivery only to storefront was not material enough to require a new first reading for public comment.

As witness to the council meeting in question, it's our opinion that the previous council acted in good faith and, by requesting advice from the City Attorney, was well aware and respectful of their obligations under the Sunshine Ordinance. Clearly the OGC disagrees with the City Attorney guidance, putting you, the new City Council in a difficult position. While we understand that opening up this one issue for public comment is being done to satisfy the request of the OGC, we respectfully request that your actions be limited to this one item regarding the public notice requirement concerning the nature of the approved dispensaries, and not re-litigate the balance of the cannabis ordinances.

Over the course of the last two years, the city has gone to the following lengths to gather public input:

- SCI Consulting was hired to help craft the initial ordinances and presented their findings to Council on September 5, 2017
- Questions regarding cannabis businesses locating in Alameda were included in the [quality of life survey](#) (65% of respondents favored adult use dispensaries on the island)
- A well-attended public forum was held at the Mastick Center on August 20, 2017
- On Saturday October 21, 2017, a special six hour City Council meeting was held exclusively on the topic of cannabis allowing for robust public comment
- Individual council members met with community groups, cannabis industry professionals, local prospective business owners, and community activists in order to gather multiple perspectives on the topic
- The School Board request for expanded buffer zones around schools was adopted

The city has done a thorough and professional job in evaluating the pros and cons of establishing cannabis businesses in our city, and created a comprehensive application process that will ensure that only the highest quality operators who are committed to being good stewards of our community values will be granted licenses.

As prospective dispensary operators, and long time residents of Alameda, we ask that you respect the work of the previous council and not prolong the ordinance process any further than absolutely necessary. Let's move forward with bringing cannabis business into Alameda in a responsible way.

Thank you,

Mark Hersman

Carrie Tillman

Nick Portolese

January 12, 2019

Mayor Marilyn Ezzy Ashcraft  
Vice Mayor John Knox White  
Councilmember Malia Vella  
Councilmember Tony Daysog  
Councilmember Jim Oddie

Re: Item 6B on City Council agenda set for 1/15/19 concerning proposed changes to Alameda's Cannabis Ordinance

Dear Mayor Ashcraft and fellow Councilmembers:

I am writing to you in my personal capacity concerning the above-referenced matter that you will consider at your next city council meeting on January 15, 2019. My husband and I have closely followed the trajectory of cannabis regulations coming to Alameda since the first community meeting was held at the Mastick Center on August 20, 2017. We attended early council meetings on this issue where a majority of you asked for public input into proposed regulations. As a result, on September 17, 2017, the Alameda Board of Education submitted a resolution to Council urging it to adopt regulations supporting a 1,000-foot buffer zone from schools in Alameda. In addition, the Alameda PTA Council submitted a similar resolution also asking that the 1,000-foot buffer be implemented.

This collective voice from the Board of Education and from PTA organizations across the island reflect a common goal: to reduce exposure of cannabis businesses to areas where our children go to school and congregate. This policy statement is consistent with the intent of Proposition 64, which promised to keep marijuana businesses a certain distance from schools and "other areas where children congregate." On Tuesday, this Council will consider whether to reduce the buffer zone protections for youth, tutoring, and child care centers from 1,000 feet to 600 feet. Please consider keeping the 1,000 foot buffer intact regarding these sensitive use facilities in town. While we understand the unique nature of Alameda and the apparently limited options for cannabis businesses to open under the current regulatory scheme, placing these businesses closer to areas where children congregate should be a last resort to increase location opportunities for cannabis businesses.

Second, please keep the number of allowable dispensaries to exist in Alameda at this time to two. Doubling the number of permits to be issued to dispensaries from two to four is premature. City staff have yet to work with any existing dispensaries under the new ordinance. Once new businesses open under the proposed regulations, the ordinance may need to be amended to improve outcomes for both the businesses and the city's oversight responsibilities. Once we have the benefit of time to work with a dispensary and a regulatory scheme that works for everyone, then the city can consider increasing the number of permits. Thank you for being thoughtful in your approach to these issues so that all interests are reflected in this ordinance.

Respectfully submitted,

Jennifer Williams and Bassey Obot