

ORDINANCE NO. 3678
ORDINANCE OF THE MARIN COUNTY BOARD OF SUPERVISORS
ADDING COUNTY OF MARIN CODE CHAPTER 5.90, MEDICINAL CANNABIS DELIVERY-
ONLY RETAILER LICENSING, AND PROHIBITING ALL OTHER MEDICINAL
CANNABIS COMMERCIAL ACTIVITIES REQUIRING A STATE LICENSE

The Board of Supervisors of the County of Marin ordains as follows:

SECTION I: FINDINGS

1. **WHEREAS**, in 1996 the voters of the State of California approved Proposition 215 (codified at Health and Safety Code section 11362.5 et seq. and titled "The Compassionate Use Act of 1996"). The intent of Proposition 215 was to enable persons residing in California who are in need of cannabis for medical purposes to be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances; and
2. **WHEREAS**, in 2004 the State enacted Senate Bill 420 (codified at Health and Safety Code section 11362.7 et seq., and titled the "Medical Cannabis Program"), to clarify the scope of the Compassionate Use Act of 1996 and to allow cities, counties and other governing bodies to adopt and enforce rules and regulations consistent with the Medical Cannabis Program; and
3. **WHEREAS**, in 2015 Assembly Bills 243 and 266 and Senate Bill 643 were enacted (codified at Business and Professions Code section 19300 et seq. and titled the "Medical Cannabis Regulation and Safety Act" (MCRSA), previously known as the Medical Marijuana Regulation and Safety Act); and
4. **WHEREAS**, on June 27th, 2017, the State enacted Senate Bill 94, titled "Medicinal and Adult-Use Cannabis Regulation and Safety Act" (MAUCRSA), which repealed MCRSA; and
5. **WHEREAS**, to protect the public health, safety, and welfare, it is the desire of the Board of Supervisors to modify the Marin County Code to be consistent with MAUCRSA, regarding the control and regulation of medicinal cannabis retailers and to meet the medical needs of those residing in the county; and
6. **WHEREAS**, to protect the public health, safety, and welfare, it is the desire of the Board of Supervisors to place more restrictive location limits for a medicinal cannabis retailer beyond those required in MAUCRSA; and
7. **WHEREAS**, a medicinal cannabis delivery-only retailer use authorized by this ordinance is allowed within the zoning districts specified in this ordinance; and
8. **WHEREAS**, nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. 841 or to license any activity that is prohibited under said Act except as mandated by State law; and
9. **WHEREAS**, this Chapter is found to be categorically exempt from environmental review pursuant to CEQA Guidelines Section 15061(b)(3) in that the Board of Supervisors finds and determines that there is nothing in this Chapter or its implementation that could foreseeably have any significant effect on the environment; and

10. **WHEREAS**, nothing in this Ordinance shall be construed to allow any activity relating to cannabis that is otherwise not expressly allowed in the Marin County Code or is illegal under State law, or allow persons to engage in conduct that endangers others or causes a public nuisance.

11. **NOW, THEREFORE, BE IT RESOLVED** that the Marin County Board of Supervisors hereby adopts Ordinance No. 3678, and adds Chapter 5.90 Medicinal Cannabis Delivery-Only Retailer Licensing to the Marin County Code, consisting of Exhibit "A" to Marin County Ordinance No. 3678.

SECTION II: EFFECTIVE DATE AND PUBLICATION

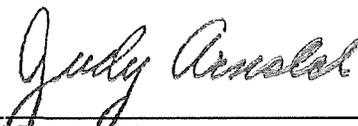
This Ordinance shall be and is hereby declared to be in full force and effect as of thirty (30) days from and after the date of its passage and shall be published once before the expiration of fifteen (15) days after its passage, with the names of the Supervisors voting for and against the same, in the *Marin Independent Journal*, a newspaper of general circulation published in the County of Marin.

SECTION III: VOTE

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin, State of California, on this 14th day of November 2017 by the following vote:

AYES: SUPERVISORS Dennis Rodoni, Katie Rice, Damon Connolly, Kathrin Sears, Judy Arnold

NOES: NONE
ABSENT: NONE



JUDY ARNOLD, PRESIDENT
MARIN COUNTY BOARD OF SUPERVISORS

ATTEST:



Matthew H. Hymel
Clerk of the Board of Supervisors

EXHIBIT "A" TO MARIN COUNTY ORDINANCE NO. 3678

Marin County Code Chapter 5.90

Medicinal Cannabis Delivery-Only Retailer Licensing

Section: 5.90.010 Findings.

- (a) **WHEREAS**, in 1996 the voters of the State of California approved Proposition 215 (codified at Health and Safety Code section 11362.5 et seq. and titled "The Compassionate Use Act of 1996"). The intent of Proposition 215 was to enable persons residing in California who are in need of cannabis for medical purposes to be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances; and
- (b) **WHEREAS**, in 2004 the State enacted Senate Bill 420 (codified at Health and Safety Code section 11362.7 et seq., and titled the "Medical Cannabis Program"), to clarify the scope of the Compassionate Use Act of 1996 and to allow cities, counties and other governing bodies to adopt and enforce rules and regulations consistent with the Medical Cannabis Program; and
- (c) **WHEREAS**, in 2015 Assembly Bills 243 and 266, and Senate Bill 643 were enacted (codified at Business and Professions Code section 19300 et seq. and titled the "Medical Cannabis Regulation and Safety Act" (MCRSA), previously known as the Medical Marijuana Regulation and Safety Act); and
- (d) **WHEREAS**, on June 27th, 2017, the State enacted Senate Bill 94, titled "Medicinal and Adult-Use Cannabis Regulation and Safety Act" (MAUCRSA), which repealed MCRSA; and
- (e) **WHEREAS**, to protect the public health, safety, and welfare, it is the desire of the Board of Supervisors to modify the Marin County Code to be consistent with MAUCRSA, regarding the control and regulation of medicinal cannabis retailers and to meet the medical needs of those residing in the county; and
- (f) **WHEREAS**, to protect the public health, safety, and welfare, it is the desire of the Board of Supervisors to place more restrictive location limits for a medicinal cannabis retailer beyond those required in MAUCRSA; and
- (g) **WHEREAS**, a medicinal cannabis delivery-only retailer use authorized by this ordinance is allowed within the zoning districts specified in this ordinance; and
- (h) **WHEREAS**, nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. § 841 or to license any activity that is prohibited under said Act except as mandated by State law; and
- (i) **WHEREAS**, this Chapter is found to be categorically exempt from environmental review pursuant to CEQA Guidelines Section 15061(b)(3) in that the Board of Supervisors finds

and determines that there is nothing in this Chapter or its implementation that could foreseeably have any significant effect on the environment; and

- (j) **WHEREAS**, nothing in this Ordinance shall be construed to allow any activity relating to cannabis that is otherwise not expressly allowed in the Marin County Code or is illegal under State law, or allow persons to engage in conduct that endangers others or causes a public nuisance.

Section: 5.90.020 Purpose and intent.

It is the purpose and intent of this Chapter to regulate medicinal cannabis retailers located within unincorporated Marin, in order to promote the health, safety, and general welfare of residents and businesses within the County. This Chapter only governs the establishment and operation of medicinal cannabis “retailers,” as defined below, within unincorporated Marin.

Section: 5.90.030 Definitions.

For the purpose of this Chapter, the following words and phrases shall mean:

- (a) "Applicant" means an owner applying for a county license pursuant to this Chapter.
- (b) "Bureau" means the Bureau of Cannabis Control within the California Department of Consumer Affairs.
- (c) "Community Development Agency Director" means the Community Development Agency Director or the authorized representative thereof.
- (d) "County" means the County of Marin.
- (e) "County Administrator" means the County Administrator of the County of Marin or the authorized representative thereof.
- (f) "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this section, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the California Health and Safety Code.
- (g) "Cannabis accessories" means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or

cannabis products into the human body, as defined by Section 11018.2 of the California Health and Safety Code.

- (h) "Cannabis concentrate" means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this division. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or drug, as defined by Section 109925 of the California Health and Safety Code.
- (i) "Cannabis products" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients, as defined by Section 11018.1 of the California Health and Safety Code.
- (j) "Commercial cannabis activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products.
- (k) "Customer" means a natural person 18 year of age or older who possesses a physician's recommendation, or a primary caregiver.
- (l) "Day Care Center" means any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school age child care centers, as defined by Section 1596.76 of the California Health and Safety Code.
- (m) "Delivery" means the commercial transfer of cannabis or cannabis products to a customer. "Delivery" also includes the use by a retailer of any technology platform.
- (n) "Edible cannabis product" means cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.
- (o) "Hearing Officer" means the individual selected by the County Administrator to decide an application scoring appeal. As provided, herein, the hearing officer shall be a person knowledgeable in municipal affairs, including, but not limited to, attorneys, retired judges, or a reputable firm providing mediators and arbitrators. The hearing officer shall not be an employee of the County of Marin.
- (p) "Identification card" means a document issued by the State Department of Health that identifies a person authorized to engage in the medical use of cannabis and the person's designated primary caregiver, if any, as defined by Section 11362.7 of the California Health and Safety Code.

- (q) "Labeling" means any label or other written, printed, or graphic matter upon a cannabis product, upon its container or wrapper, or that accompanies any cannabis product.
- (r) "License" means a county license issued under this Chapter.
- (s) "Licensee" means any person holding a license under this Chapter.
- (t) "Medicinal cannabis" or "medicinal cannabis product" means cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician's recommendation.
- (u) "Medicinal Cannabis Delivery-Only Retailer (MCDORe) License" means a County of Marin license issued under this Chapter for a medicinal cannabis retailer that is closed to the public and conducts sales exclusively by delivery.
- (v) "Owner" means any of the following, as defined in Section 26001 of the Business and Professions Code:
 - (1) A person with an aggregate ownership interest of 20 percent or more in the person applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance.
 - (2) The chief executive officer of a nonprofit or other entity.
 - (3) A member of the board of directors of a nonprofit.
 - (4) An individual who will be participating in the direction, control, or management of the person applying for a license.
- (w) "Person" includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.
- (x) "Physician's recommendation" means a recommendation by a physician or surgeon that a patient use cannabis provided in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.
- (y) "Playground" means any park or recreational area specifically designed to be used by children which has play equipment installed, including public grounds designed for athletic activities such as baseball, football, soccer, or basketball, or any similar facility located on public or private school grounds, or on city, county, or state parks, as defined in Section 11353.1 of the Health and Safety Code.
- (z) "Premises" means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.
- (aa) "Primary caregiver" has the same meaning as in Section 11362.7 of the Health and Safety Code.

- (bb) "Purchaser" means the customer who is engaged in a transaction with a licensee for purposes of obtaining cannabis or cannabis products.
- (cc) "Qualified patient" means a person who is entitled to the protections of Section 11362.5, but who does not have an identification card issued, as defined by Section 11362.7 of the Health and Safety Code.
- (dd) "Sell," "sale," and "to sell" include any transaction whereby, for any consideration, title to cannabis or cannabis products is transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a licensee to the licensee from whom the cannabis or cannabis product was purchased.
- (ee) "Retailer" means any commercial activity that engages in retail sale and delivery of cannabis or cannabis products to customers. A retailer shall have a licensed premise which is a physical location from which commercial cannabis activities are conducted. A retailer's premises may be closed to the public. A retailer may conduct sales exclusively by delivery. As defined in Section 26070 of the Business and Professions Code.
- (ff) "School" means any facility providing instruction to kindergarten or any grades 1 through 12, as defined by Section 26054 of the Business and Professions Code.
- (gg) "Youth center" means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities, as defined in Section 11353.1 of the Health and Safety Code.

Section: 5.90.040 License requirements.

- (a) Any person seeking to sell and/or deliver medicinal cannabis from premises located in unincorporated Marin must first obtain and maintain a license in accordance with this Chapter prior to operating. However, medicinal cannabis delivery, originating from a retailer located outside of unincorporated Marin County, is not prohibited by this Chapter.
- (b) A Medicinal Cannabis Delivery-Only Retailer (MCDORe) license is required for any retail activities for which MAUCRSA requires a State "M-Retailer" license. The MCDORe license is more restrictive than a State "M-Retailer" license because it requires the retailer's premises to be closed to the public and to conduct sales exclusively by delivery.

Section: 5.90.050 Prohibited medicinal commercial cannabis activities.

- (a) All medicinal commercial cannabis activities requiring a State license under the Medicinal and Adult-use Cannabis Regulation and Safety Act, and as State licensing laws may be amended, are prohibited except as allowed under this Chapter.

Section: 5.90.060 Limitation on number of licenses.

- (a) Up to four MCDORe Licenses may be issued for premises within the unincorporated areas of Marin County for a medicinal cannabis retailer which is closed to the public and conducts sales exclusively by delivery.

Section: 5.90.061 Limitation on location.

- (a) A MCDORe may only be located within the following coastal and non-coastal zoning districts: C1, CP, AP, OP, and IP.
- (b) A MCDORe shall not be allowed within the specified distances to the following uses that are in existence at the time the license is issued. The distance specified in this section shall be measured in the same manner as provided in subdivision (c) of Section 11362.768 of the Health and Safety Code, as may be amended from time to time. Specifically, the following buffers shall apply:
 - (1) Within a 600-foot radius of a school, day care center, or youth center as required by Section 26054 of the Business and Professions Code, as may be amended from time to time.
 - (2) Within a 600-foot radius of a playground, which is in addition to the uses required per Section 26054 of the Business and Professions Code.

Section: 5.90.070 License application.

- (a) A complete application shall be submitted including all information and materials required by the County and this Chapter. All applications for licenses shall be filed with the County Administrator or designee, using forms provided by the County, within the filing period that is established by the County, and which may be extended from time to time. It is the responsibility of the applicant to provide information required for approval of the license. The application shall be made under penalty of perjury.
- (b) At Phase 2, an application shall be accompanied by an application review fee, as established by resolution of the Board of Supervisors from time to time. This application review fee shall not include fingerprinting, photographing, and background check costs and shall be in addition to any other business license fee or license fee imposed by this code or other governmental agencies.

Section: 5.90.071 Review and action on applications.

- (a) The County Administrator or designee shall specify the form and content of the application for a license, and develop and implement procedures for the processing and review of a license application related to this Chapter. The processing of new license applications will include the following phases:
 - (1) Phase 1 - Prescreening: An applicant must first submit for a prescreening review by the Community Development Agency (CDA), which will include background checks of all owners of the business. The applicant selection decisions will be made by the CDA Director, and are not appealable. Only applicants who receive

approval of the prescreening review may proceed to the next phase of the selection process.

- (2) Phase 2 - Applicant Review: Upon receipt of a completed application, the County Administrator or designee shall refer the application to any other County departments as necessary to complete the review of the application. The review of the application will include the following application scoring system, based on a 100-point scale.
 - i. 20 points: Business plan including, but not limited to, applicant details, organizational structure, business-formation documents, and financial information.
 - ii. 50 points: Operating plan including, but not limited to, inventory, storage, security, quality-assurance, sales, and delivery practices.
 - iii. 30 points: Public benefits plan including, but not limited to, reduced pricing, education, and community relations.

The County Administrator or designee will issue the final score, relying only upon the written application itself, and any other written County materials generated in connection with the review. An applicant aggrieved by the Phase 2 scoring determination may appeal to the Hearing Officer within 5 business days of receiving notice of the score, the Hearing Officer appeal procedures are set forth in section 5.90.075, below.

Applicants must score 80% or above to advance to Phase 3. If the number of applicants who score more than 80% at Phase 2 exceeds the maximum number of licenses available, then a lottery of the applicants that scored above 80% will be conducted to reduce the applicant pool to the number of available licenses. Applicants selected in the lottery will advance to the next phase. Applicants that are not selected in the lottery will be placed on a qualified applicant list. Applicants placed on the qualified applicant list will be added to the lottery selection when future applications are accepted. A qualified applicant will remain eligible for five years.

- (3) Phase 3 - Site Review Pre-Submittal Meeting: Prior to submitting a site review application an applicant must first meet with Community Development Agency staff for a Pre-submittal Review. This review will include a site analysis and plan review of the proposed location.
 - (4) Phase 4 - Site Review: Upon completion of the pre-submittal meeting, and within 120 days of being selected, an applicant shall submit a site review application and site and improvement plans. Upon submittal of a complete application, the County Administrator or designee shall refer the application to any other County departments as necessary to complete the review of the application and evaluate the ability of the applicant to carry out their operating plan at the proposed site, including an analysis of the design, location, size and operating characteristics of the proposed use, and if it is compatible with the existing and future uses in the vicinity.
- (b) Upon completion of the Site Review phase, the County Administrator or designee will bring the applications before the Board of Supervisors for a decision at a duly noticed

public hearing. The Board of Supervisors shall either grant or deny an application in accordance with the provisions of this Chapter.

- (c) The County may impose conditions, restrictions or require revisions to the proposal to comply with the purpose and intent of this Chapter.
- (d) It is the intent of this Chapter to maintain at least two but no more than four MCDORe licenses.
- (e) The Board of Supervisors reserves the discretion to not grant any applications in the interest of the health, safety, or general welfare of the County.

Section: 5.90.075 Appeal from administrative decision of applicant review score.

- (a) An applicant aggrieved by the Phase 2 scoring (“administrative decision”) may appeal the administrative decision by filing an appeal in the office of the County Administrator within five business days from the date notice of the administrative decision was mailed to the applicant or licensee. The appeal document (“appeal document”) must be received in the office of the County Administrator within the applicable time period and not just mailed within such time. The person who files such an appeal shall be known as the “appellant.”
 - (1) The appeal document shall be accompanied by an appeal fee in an amount as set by Board of Supervisors resolution intended to offset the cost of the appeal. The appeal document shall set forth the administrative decision being appealed and the reasons why the decision should be modified. The appeal document should not exceed one page, as 4000-word briefs may be submitted to the hearing officer, as provided below. The appellant must provide a contact email address.
 - (2) In the event an appeal is timely filed, an administrative decision concerning the Phase 2 scoring shall not be effective until a final decision by the hearing officer has been made pursuant to this section. Failure of any person to file an appeal in accordance with the provisions of this section shall constitute a waiver of that person’s right to an appeal. If no timely appeal is filed, the administrative decision shall become effective upon expiration of the period for filing an appeal.
 - (3) Upon receipt of a timely appeal, the County Administrator shall immediately make arrangements for the selection of a Hearing Officer to conduct the appeal hearing.
 - (4) The Hearing Officer shall be a person knowledgeable in municipal affairs, including, but not limited to, attorneys, retired judges, or a reputable firm providing mediators and arbitrators. The hearing officer shall not be an employee of the County of Marin. The Hearing Officer may serve in this capacity for two years, maximum. Following the end of two years, this person is eligible to be reappointed if there have been no hearings during the two years or there is a break of time of one year between service. Not more than five business days after receiving the appeal document, the County Administrator shall notify the appellant, by email, of the name of the Hearing Officer who has been selected to hear the appeal. Within two business days of the date of emailing the notice of

the hearing officer, the appellant may request the County Administrator recuse a hearing officer for reasons of actual prejudice against the party's cause.

- (5) The Hearing Officer shall schedule and provide notice of the hearing on a date within 15 business days of the date that the County Administrator received the appeal document and accompanying appeal fee.
- (6) At the appeal hearing, the Hearing Officer shall receive oral and written evidence from the County Administrator and the appellant.
 - i. The Hearing Officer shall notify the parties that any written briefs in advance of the hearing be provided to the Hearing Officer within one business day of the hearing date. This means that the briefs shall be either personally delivered or emailed to the hearing officer one day before the hearing date. Briefs shall not exceed a word count of 4000 words.
 - ii. At the hearing, the Hearing Officer may admit any evidence that he or she finds relevant to the scoring decision. Since, as provided in this Chapter, the scoring is based on written application materials and other County documents, alone, the Hearing Officer will have the discretion to limit the evidentiary record to the written application itself and any County documents that were relied upon in scoring the application.
 - iii. The actual hearing shall be for a maximum of four hours.
 - iv. The County Administrator shall have the initial burden of proof to establish by substantial evidence the facts upon which the scoring decision was based. Once the County Administrator has met that initial burden, the burden shifts to the appellant to show that the County Administrator's decision constituted an abuse of discretion.
 - v. The appeal hearing shall be recorded by audio recording. Any party may, at its sole cost and expense, utilize the services of a certified court reporter to prepare the verbatim record of the hearing. If a court reporter is used, the transcript prepared shall be made available for purchase to both parties.
 - vi. The Hearing Officer may continue the appeal hearing from time to time, but only upon written motion of a party showing good cause for the continuance. The party requesting the continuance shall pay the costs of the hearing officer, if any, for the cancelled hearing. In no event shall a hearing be continued for more than 5 business days, or more than once.
 - a. The Hearing Officer may uphold, modify or reverse the administrative decision.
 - b. Within five business days of the conclusion of the appeal hearing, the Hearing Officer shall render his or her decision and make written findings supporting the decision. The Hearing Officer shall send the decision to the County Administrator. Upon receipt of the Hearing Officer's decision, the County Administrator shall notify the appellant of the decision and provide them with a copy of the Hearing Officer's decision.
 - c. The Hearing Officer's decision shall be final and conclusive as to the County and the appellant and no appeal to the Board of Supervisors

from the hearing officer's decision shall be available. Any legal action challenging the Hearing Officer's decision shall be filed within ninety days after the date of the Board's final decision on the applications (Section 5.90.071(b)), pursuant to Section 1094.5 et seq., of the California Code of Civil Procedure.

- (b) If the actual costs of the hearing are less than the established appeal fee, the difference will be refunded.
- (c) The County Administrator shall have the authority to establish all appropriate administrative regulations for the fair and efficient implementation of this section, conducting hearings and rendering decisions pursuant to this section.
- (d) Notwithstanding the procedures set forth in this section, the County Administrator shall have the authority to enter into a stipulated rescoring with an appellant consistent with the purposes of this title, and as warranted by fact.
- (e) Under the timelines set forth above, in no event should a hearing (even if continued) take place more than 30 calendar days beyond the date that the initial scoring decision was mailed to the applicant; and in no event should the Hearing Officer's decision be issued any later than 5 business days after the date of said hearing.

Section: 5.90.080 Operating requirements.

- (a) The licensee shall meet all operating requirements of the Medicinal and Adult-use Cannabis Regulation and Safety Act, and requirements set by the Bureau.
- (b) The licensee shall obtain and maintain a State license for the equivalent State cannabis license type. Obtain and maintain all other required State and local licenses, permits, or approvals as required.
- (c) The County Administrator or designee shall develop and implement operating requirements in addition to the State requirements, which shall include, but may not be limited to, the following:
 - (1) Limits on products sold: No food products as defined in Section 113781 of the Health and Safety Code shall be sold.
 - (2) Delivery. Delivery of cannabis goods shall be directly to the residence or business address of the customer; deliveries to any other location are prohibited. Delivery vehicles shall not advertise any activity related to cannabis nor shall it advertise the name of the licensee.
 - (3) Protection of Minors. A licensee shall not sell cannabis or cannabis products to persons under 21 without an Identification Card.
 - (4) Advertising and Marketing Restrictions. All signage shall meet the County zoning code's sign requirements and shall not advertise any activity related to cannabis.
 - (5) Records. A current register of all employees shall be maintained.
 - (6) Odor Control. No cannabis odors shall be detectable outside the facility or delivery vehicle.

- (7) Consumption. Cannabis and cannabis products shall not be consumed on the licensed premises or in a delivery vehicle.
- (8) Operating Hours. A licensee may operate between the hours of 9:00 a.m. to 9:00 p.m., up to seven days a week, unless modified as condition of license to address site specific conditions.
- (9) Contact Person. A licensee shall provide the County with the name and phone number of an on-site community relations staff person or designee to whom one can provide notice if there are operating concerns. The licensee shall make every good faith effort to encourage neighborhood residents to call this person to try to solve operating concerns before any calls or complaints are made to the County.

Section: 5.90.090 Term of license and renewal procedure.

- (a) Licenses issued under this Chapter shall be valid for 12 months from the date of issuance. The license may be renewed annually.
- (b) Licenses may be renewed by the County Administrator unless the license is suspended or revoked in accordance with the provisions of this Chapter or if the application for renewal fails to comply with the provisions of this Chapter.
- (c) Applications for renewal shall be made at least 60 days before the expiration date of the license and shall be accompanied by the nonrefundable application review fee. Applications for renewal shall be acted upon by the County Administrator. Applications for renewal made less than 60 days before the annual expiration date shall not stay the expiration date of the license.
- (d) A licensee shall be responsible for paying an annual license monitoring deposit, as established by resolution of the Board of Supervisors from time to time. This deposit shall cover the full cost borne by the County to administer the Licensing program and all responsibilities established in this Chapter.

Section: 5.90.100 License suspension, modification and revocation.

- (a) Any license issued under the terms of this Chapter may be suspended, modified, or revoked by the County Administrator or Board of Supervisors for cause including but not limited to violation of any of the requirements or provisions of this Chapter, or conflicts with State law.
- (b) Except as otherwise provided in this Chapter, no license shall be suspended, modified, or revoked by virtue of this section until written notice of the intent to consider revocation or suspension of the license has been served upon the person to whom the license was granted at least 10 days prior to the date set for such review. Such notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending such license. Notice may be given either by personal delivery to the person to be notified, or by depositing it in the U.S. mail in a sealed envelope, postage prepaid, return receipt requested, addressed to the person to be notified at his/her address as it appears in his/her application for a license.

- (c) If any person holding a license or acting under the authority of such license under this Chapter is convicted of a public offense in any court for the violation of any law which relates to his or her license, the County Administrator may revoke such license forthwith without any further action thereof, other than giving notice of revocation to the licensee.

Section: 5.90.110 Appeal from County Administrator decision.

- (a) An applicant aggrieved by the County Administrator's decision to renew, suspend, modify, or revoke a license may appeal such decision to the Board of Supervisors by filing a written notice stating all grounds on which the appeal is based and paying applicable appeal fee with the Clerk of the Board of Supervisors within 10 business days of the County Administrator's written notice of decision. If an appeal is not taken within such time, the County Administrator's decision shall be final.
- (b) The Board of Supervisors shall consider the appeal within 90 days of the date of filing the appeal. The Clerk of the board shall give 10 days' notice to the person filing the appeal of the time and place of the meeting scheduled on the appeal by serving notice personally or by depositing it in the United States post office at San Rafael, California, postage prepaid, addressed as shown on the appeal papers. The Board of Supervisors shall have the authority to determine all questions raised on such appeal. No such determination shall conflict with any substantive provision of this Chapter.

Section: 5.90.120 Effect of revocation.

- (a) When the County Administrator shall have revoked any license provided for in this Chapter and the time for appeal to the Board of Supervisors shall have elapsed, or, if after appeal to the Board of Supervisors, the decision of the County Administrator has been affirmed by the Board of Supervisors, no new application for a license shall be accepted from the applicant and no such license shall be issued to such person in which the applicant shall have any beneficial interest for a period of three years after the action revoking the license.

Section: 5.90.130 Transfer of licenses.

- (a) A licensee shall not operate under the authority of a medicinal cannabis retailer's license at any place other than the address stated in the application for the license.
- (b) The license is nontransferable unless the transferee obtains an amendment to the license from the County Administrator stating that the transferee is now the licensee. Such an amendment may be obtained only if the transferee files an application with the County Administrator in accordance with this all provisions of this Chapter accompanied by a transfer fee in an amount set by resolution of the Board of Supervisors, and the County Administrator determines in accordance this Chapter that the transferee would be entitled to the issuance of an original license.
- (c) No license may be transferred when the County Administrator has notified the licensee that the license has been or may be suspended or revoked.

- (d) Any attempt to transfer a license either directly or indirectly in violation of this section is declared void, and the license shall be deemed revoked.

Section: 5.90.140 Enforcement.

- (a) It is unlawful for any person to violate any provision or fail to comply with any of the requirements of this Chapter. A violation of this Chapter shall be punishable in accordance with the County Code.
- (b) All remedies prescribed under this Chapter shall be cumulative and the use of one or more remedies by the County shall not bar the use of any other remedy for the purpose of enforcing the provisions hereof.
- (c) Any person that violates any provision of this Chapter shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly.
- (d) Any use or condition caused or permitted to exist in violation of any of the provisions of this Chapter shall be and is declared a public nuisance and may be summarily abated by the County.
- (e) Any person who violates, causes, or permits another person to violate any provision of this Chapter commits a misdemeanor.
- (f) The violation of any provision of this Chapter shall be and is declared to be contrary to the public interest and shall, at the discretion of County Administrator, create a cause of action for injunctive relief.
- (g) In addition to the civil remedies and criminal penalties set forth above, any person that violates the provisions of this Chapter may be subject to administrative remedies as set forth by the Marin County Code.

Section: 5.90.150 Severability.

- (a) The provisions of this Chapter are declared to be severable. If any provision, clause, word, sentence, or paragraph of this Chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Chapter.

Section: 5.90.160 Judicial review.

- (a) Judicial review of a decision made by the Board of Supervisors under Section 5.90.71(b) of this Chapter may be had by filing a petition for a writ of mandate with the Superior Court in accordance with the provisions of the California Code of Civil Procedure Section 1094.5. Any such petition shall be filed within 90 days after the day the decision becomes final as provided in California Code of Civil Procedure Section 1094.6 which shall be applicable for such actions.