

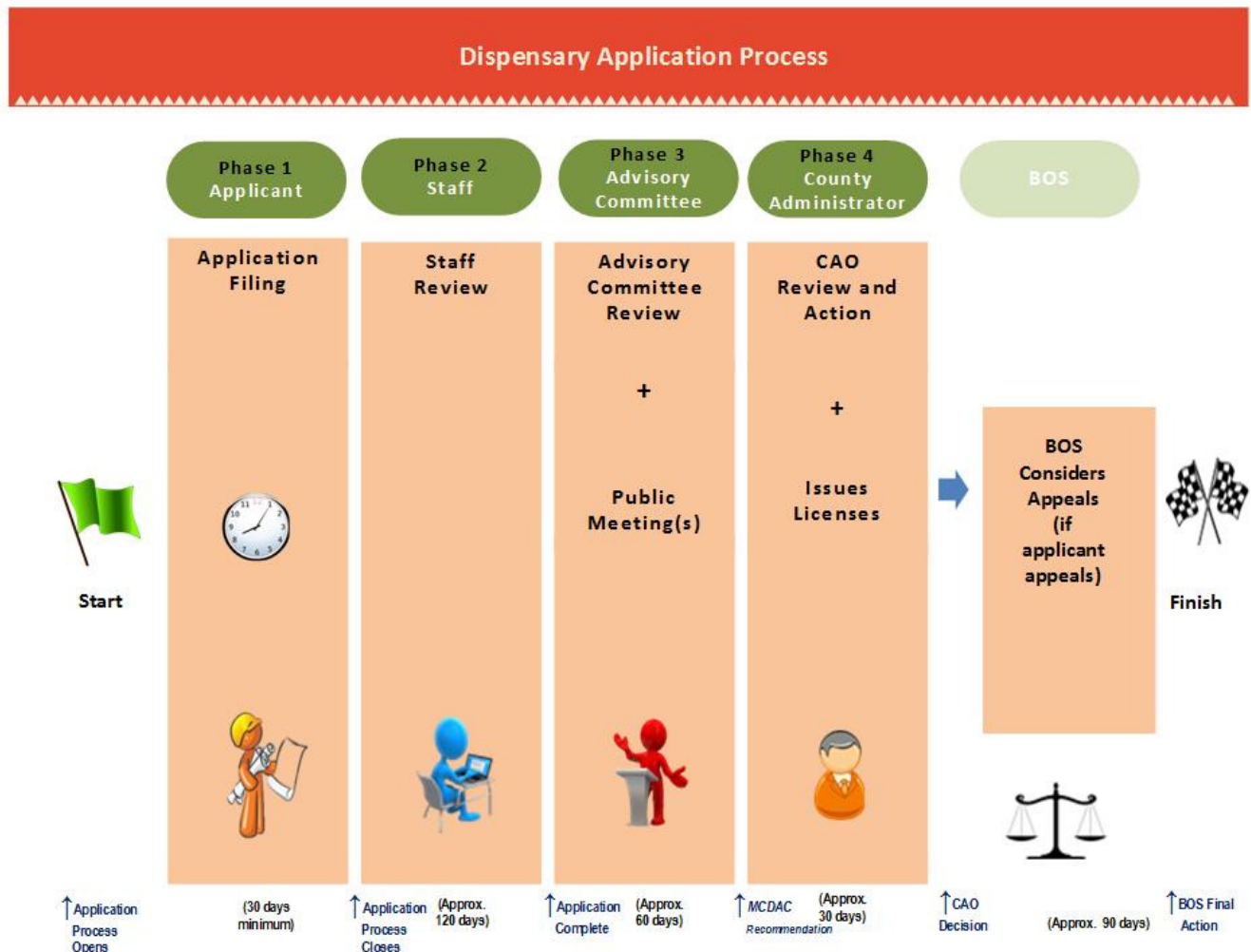
# COMMUNITY DEVELOPMENT AGENCY

## Marin County Medical Cannabis Dispensary Program Dispensary Application Guide

On December 8, 2015, the Marin County Board of Supervisors adopted Ordinance 3639 which established regulations allowing for licensing up to four medical cannabis dispensaries in the unincorporated areas of Marin County. The Dispensary Application Guide outlines the process and criteria used by the County to select the best qualified medical cannabis dispensary operators and sites. Applicants will compete for the Dispensary Licenses, and the program will be administered consistent with Proposition 215 and the California Compassionate Use Act.

### Overview

The application process includes the following four (4) phases: (1) Application Filing; (2) Staff review; (3) Advisory Committee review; and (4) County Administrator decision.



## 1. Application Filing (Phase 1)

The Community Development Agency will open the initial and all subsequent filing periods for Dispensary Licenses for a period of no less than 30 days, and notify interested parties, including subscribers to the County's webpage for the Medical Cannabis Dispensary Program (<http://www.marincounty.org/main/medical-cannabis-dispensary-ordinance>). The County will only accept applications for Dispensary Licenses during the noticed time period(s). Applications filed outside of the noticed time periods will be rejected. The Community Development Agency will also conduct at least one briefing with prospective Applicants to discuss the submittal requirements, timeline, and process prior to the close of the application intake period.

### Submittal Requirements

The Dispensary License Application ("Application") is comprised of six (6) components.

All applicants are required to submit a completed Application and non-refundable application review fee using the forms provided by the Community Development Agency. The Application shall include the following signed declarations from the appropriate entities: (1) a statement by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is complete and accurate; (2) a statement by the property owner (if different from the applicant) that he or she certifies under penalty of perjury that the applicant has his/her consent to submit an Application at the proposed site; and (3) a statement by the applicant and property owner (if different from the applicant) that grants authorization for the County, and its agents and employees, to seek verification of the information contained within the Application and to enter the property to inspect the premises and process the Application.

The following application submittal materials shall be provided.

- One completed and signed original copy of the "Marin County Medical Cannabis Dispensary Application" form, 10 photocopies of the completed and signed form, and one electronic (pdf) copy of the completed and signed form.
- Application fees as required by Board of Supervisors Resolution 2016-40.
- Ten copies of complete sets of plans not to exceed 24 inches by 36 inches, collated and folded to a size no larger than 11 inches by 17 inches, plus one set of reduced plans no larger than 11 inches by 17 inches, and one pdf of all plan sheets. The reduced plan set shall include a scale conversion that allows approximate measurements to be made. All plans shall identify the name(s) of the plan preparer and be dated.
- Ten copies and an electronic (pdf) copy of all supplemental documents shall be submitted. Documents shall not exceed a size of 11 inches by 17 inches, with minimum font size of 12 points. All documents shall be clearly labeled with the name of the applicant and address of the proposed dispensary, pages numbered, either typed or written in blue or black ink, and shall be accompanied by an electronic (pdf) version of all documents.
- The application shall be accompanied by an index that cross-references responses to all application submittal items to the exact document and/or location where the information is provided. Please see attached example.

A. Applicant Information

- 1) Name of Applicant. The full name (including any current or prior aliases, or other legal names the applicant is or has been known by, including maiden names), present address, and telephone number of the applicant and evidence that the applicant is also a qualified Patient/Caregiver. "Applicant" includes an individual owner, managing partner/principal, operator, or anyone with an ownership or other proprietary interest in a dispensary. As used herein, the term "applicant" is also to be construed to include its use in the plural (applicants). If the applicant is a corporation or business entity, submit the Articles of Incorporation and Bylaws that have been previously filed with the State of California and a signed declaration by an officer who is also a qualified Patient/Caregiver. In case of joint venture or other joint-prime relationships, an officer of each venture partner shall be listed as co-applicants;
- 2) Mailing Address. The address to which all correspondence about the Application is to be mailed;
- 3) Previous Addresses. Previous addresses for the past three years immediately prior to the present address of the applicant;
- 4) Age Verification. Written proof that the applicant is over the age of 18 years of age;
- 5) Physical Description. Applicant's height, weight, color of eyes and hair;
- 6) Photographs. Passport quality photographs for identification purposes;
- 7) Employment History. All business, occupation, or employment of the applicant for the three years immediately preceding the date of the application;
- 8) Tax History. Any business tax history of the applicant, including whether such person(s), in previously operating in this county, a city within Marin County, or another city, county or state under license has had a business license and/or zoning permit revoked or suspended, and the reason therefor, and the business or activity or occupation subsequent to such action of suspension or revocation;
- 9) Management Information. The name or names and addresses of the person or persons having the management or supervision of applicant's business;
- 10) Criminal Background. A live scan submission for the applicant. This includes, at a minimum, a background investigation verifying whether the person or person having the management or supervision of applicant's business has been convicted of a crime(s), the nature of such offense (s), and the sentence(s) received therefore;
- 11) Employee Information. Anticipated number of employees, volunteers, and other persons who will work at the dispensary;

B. Project Narrative and Business Plan

The applicant shall submit a project narrative that describes the business model and plans, including a summary of the proposed location of the dispensary, dispensary size, number of patients, purpose, and a statement and/or information that establishes the need for the proposed dispensary to serve qualified patients in the area. The narrative shall also include a comprehensive written response demonstrating compliance with Ordinance 3639, including how the Application complies with each of the standards and criteria for review, and include relevant information that demonstrates the applicant's knowledge of local, state, and federal laws governing medical cannabis.

The Business Plan shall provide details of the entity that is seeking to obtain the Dispensary License, and articulate the full scope of work proposed, partnerships, property and location, relationship to

property owner, and provide details of the day-to-day operation of the dispensary. The Business Plan shall also explain how the proposal will conform to State and County laws relative to the business operating as a not-for-profit entity.

The applicant shall submit a schedule outlining the timeline for any proposed construction and improvements and the type and number of building and other construction permits that are required, along with a general timeline for opening the dispensary.

The applicant shall demonstrate sufficient capital in place to build, secure, and start up the proposed dispensary. Such costs shall include applicable County fees. The applicant shall demonstrate sufficient financing to cover construction, start-up, equipment, and packaging. Financial information shall include estimated costs to build, operate, compensate employees, equipment costs, utility costs, and other Operations and Management, as needed. Applicants shall provide three-year Pro Formas and the following documents to substantiate their ability to operate the dispensary:

- 1) A description of the source and uses of the capitalization funds, and how the funds are to be expended; and
- 2) Three years of Audited Financial Statements and Tax Returns for Corporate entities that have been in existence for three or more years; for entities in existence fewer than three years, documentation establishing the entity (such as Articles of Incorporation) and three years of Financial Statements and Tax Returns from at least two Management Members.

#### C. Operating Plan

The applicant shall submit a plan of operations describing how the dispensary will operate consistent with the intent of State and County law and the provisions of this chapter, including but not limited to:

- 1) Ensuring cannabis is not purchased or sold by the dispensary in a manner that would generate a profit;
- 2) Controls that will assure medical cannabis will only be dispensed to qualifying patients or caregivers;
- 3) Controls that will ensure limitations on number of patients are adhered to;
- 4) Controls that will ensure access to dispensary premises is adequately monitored and restricted to pre-approved qualified patients and caregivers; and
- 5) Method for ensuring that a qualified patient's physician is not recommending cannabis for other than medically appropriate reasons.

#### D. Site and Improvement Plans

The applicant shall submit plans of the property that is proposed for the dispensary, including the following:

- 1) Site Plan. A sketch or diagram showing the exterior configuration of the premises, including the outline of all structures, parking, trash disposal, and landscape areas, and property boundaries. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions to an accuracy of plus or minus six inches with all parking/delivery/loading areas and paths of travel that comply with the Americans with Disabilities Act clearly labeled and dimensioned;
- 2) Neighborhood Context Map. An accurate straight-line drawing depicting the building and the portion thereof to be occupied by the dispensary, all properties and uses within 1,000 feet of the boundaries of the property on which the dispensary permit is requested, and: (a) the property line of any dispensary within 800 feet of the primary entrance of the dispensary for which a license is

requested, (b) the property line of any "smoke shop" within 800 feet of the primary entrance of the dispensary, and (c) the property lines of any school, park, or residential zone or use within 800 feet of the primary entrance of the dispensary;

- 3) Floor Plan. A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the dispensary. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches; and
- 4) Lighting Plan. A lighting plan showing existing and proposed exterior premises and interior lighting levels that would be the minimum necessary to provide adequate security lighting for the use.

#### E. Security Plan

The applicant shall submit a detailed security plan outlining the proposed security arrangements for assuring the safety of persons and to protect the premises from theft and robbery. The plan shall include general security policies for the facility, employee specific policies, training, sample written policies, transactional security, visitor and neighborhood security, and security for delivery services. The plan shall include the location/placement of all physical components of the security plan (including installation of security cameras and a robbery alarm system monitored by a licensed operator), and a security assessment of the site conducted by a qualified professional. Plans shall consider all potential security threats and plan for any contingency needed for these situations. The County may limit the amount of information about the proposed security plan that is available for public review and comment.

#### F. Public Benefits Plan

To further demonstrate the exceptional merits of a proposed Application, applicants are requested to submit a Public Benefits Plan which addresses the following considerations:

- 1) Whether the dispensary will be locally owned where more than 50% of the ownership interest is by a resident living in the County of Marin;
- 2) Whether the dispensary will adhere to compensation policies that are consistent with the County's Living Wage Ordinance (Marin County Code Chapter 2.50) for staff and employees;
- 3) Whether the dispensary agrees not to interfere with employees' decisions to unionize, thereby being a "card check neutral" facility;
- 4) Whether the dispensary will implement a community relations program with staff who are assigned as points of contact to address neighborhood concerns, and if so, details of such a program;
- 5) Whether the dispensary will implement an educational awareness program that explains the benefits and potential abuses of cannabis, and to provide information and/or referrals to substance use disorder education, prevention, and treatment programs, and if so, details of such a program;
- 6) Whether the dispensary will seek and maintain certification as a Marin County Green Business;
- 7) Whether the dispensary will offer a reduced pricing plan for qualified low income patients and military veterans who are Marin County residents, and if so, the level of subsidy that will be provided to the qualified patients; and
- 8) Whether the dispensary will implement the following minimum labeling and warning requirements from the State's Medical Marijuana Regulation Safety Act: (a) labeling all medical cannabis product and placing them in a tamper-evident package; (b) including source and date of manufacture and cultivation prominently displayed and in a clear and legible font; (c) listing pharmacologically active ingredients including tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content; (d) using generic food names to describe edible medical cannabis products; (e) referencing to "medical use only and Schedule I Controlled Substance" on packages; (f) identifying the net weight of the medical cannabis for packages containing only dried flower; (g) adding warnings if nuts or other known allergens are used; (h) adding warnings about the medicine's intoxicating effects; and (i) ensuring that packages and labels use designs that are not attractive to children.

## 2. Staff Review (Phase 2)

The Staff Review phase includes two subphases.

The first subphase involves a review of the Application package to ensure it contains all required information and is deemed complete. Applicants who submitted all required elements will be notified, generally within 120 days of filing, that their application is complete and accepted for processing or rejected. The applicant may be required to submit clarifications and/or additional information in order to get a complete application. Upon notification that an application submittal is incomplete, generally within 30 days of filing, the applicant will be granted an extension of time not to exceed 30 additional days to submit all materials required to complete the application. If the application remains incomplete in excess of 30 days the application shall be rejected, unless an extension is granted based on receipt of an extension request from the applicant prior to the expiration of the 30-day time period. The time period for granting or denying a license shall be stayed during the period in which the applicant is granted an extension of time. The decisions governing completeness and extensions are final and not appealable.

The second subphase involves a review of the completed application by a Staff Review Panel, comprised of County staff and/or experts who will comment on the applications within their respective areas of expertise. The panel members will be selected by the Community Development Agency Director and may include, but are not necessarily limited to, those with expertise in land use planning, public safety, sustainability, building codes, finance, and law enforcement/security. The staff review panel will evaluate the relative strengths and weaknesses of each Application and forward its comments, within approximately 30 days, to the Medical Cannabis Dispensary Advisory Committee (“MCDAC”). The comments made by the Staff Review Panel are final and cannot be appealed.

## 3. Medical Cannabis Dispensary Advisory Committee Review (Phase 3)

The County Administrator will appoint a minimum 5-member Medical Cannabis Dispensary Advisory Committee (MCDAC). Committee members may include, but are not necessarily limited to, current or past elected officials of public agencies in Marin County, County/City administrators, and County/City Community Development/Planning Directors. Members may also include health professionals and/or patient advocates and members with expertise in law enforcement, prosecution, or defense. The MCDAC is charged with reviewing the comments from the Staff Review Panel, to convene public meeting(s) to receive public input on the applications, to numerically rank and score the proposals, and to make its recommendation to the County Administrator, generally within 60 days from receipt of the comments from the Staff Review Panel. At least 10 days prior to the public meeting(s), notices will be mailed to owners of properties located within 1,000 feet from the exterior property boundaries of the sites that are proposed as dispensaries, distributed electronically to all subscribers to the County’s Medical Cannabis Dispensary website (<http://www.marincounty.org/main/medical-cannabis-dispensary-ordinance>), and published in the Marin Independent Journal. The Community Development Agency Director may also provide additional notice of the MCDAC meeting(s), as necessary or desirable, such as posting notices in public locations within a community. Applicants will be invited to make a presentation of their applications before the MCDAC and to answer questions from the MCDAC. The MCDAC will also invite comments from the public. Within 30 days following the public meeting, the MCDAC will issue its final recommendations to the County Administrator. The recommendations made by the MCDAC are final and cannot be appealed.

## 4. County Administrator Review and Action

The County Administrator will review each Application and consider comments from the staff review committee and the recommendations from the MCDAC prior to issuing a Notice of Decision.

- The County Administrator shall either grant or deny the Application in accordance with the provisions of

Ordinance 3639 or refer an Application for a license to the Board of Supervisors, generally within 30 days from receipt of the recommendations from the MCDAC.

- In approving a Dispensary License, the County Administrator may impose conditions, restrictions or require revisions to the proposal to comply with the purpose and intent of Ordinance 3639. The applicant is responsible for paying a financial deposit to cover all costs to be incurred by the County in the administration of the Dispensary License, including condition compliance review, and investigation of complaints.
- The County Administrator shall cause a written notice of his or her decision to issue or deny a Dispensary License to be mailed to the applicant by U.S. mail.

### Review Criteria

The Notice of Decision shall include findings relative to the following review criteria:

- A. That the Dispensary License is consistent with the intent of Proposition 215 and related State law, and the provisions of Ordinance 3639, including the application submittal and operating requirements herein.
- B. That the dispensary location is not identified as having significant crime issues (e.g., based upon crime reporting district/statistics as maintained by law enforcement agencies).
- C. That there have not been significant numbers of calls for police service, crimes or arrests in the area or to an existing dispensary location.
- D. That an applicant or employee is not under 18 years of age.
- E. That all required application materials have been provided and/or how the dispensary will be operated successfully in a manner that shows it would comply with the operating requirements and standards specified in Ordinance 3639.
- F. That all required application fees have been paid and reporting requirements have been satisfied in a timely manner.
- G. That an appropriate limit on size of the dispensary has been established and the requested license is in compliance with the provisions of Ordinance 3639 and any other applicable State or local ordinance.
- H. That the location is not prohibited by the provisions of Ordinance 3639 or any local or state law, statute, rule or regulation and no significant nuisance issues or problems are anticipated or resulted.
- I. That the site plan, floor plan, and security plan have incorporated features necessary to assist in reducing potential crime-related problems and as specified in the operating requirements section. These features may include, but are not limited to, security on-site; procedure for allowing entry; openness to surveillance and control of the premises; the perimeter, and surrounding properties; reduction of opportunities for congregating and obstructing public ways and neighboring property; illumination of exterior areas; and limiting furnishings and features that encourage loitering and nuisance behavior.
- J. That no dispensary use, owner, licensee, agent, or employee has violated any provision of Ordinance 3639 including grounds for suspension, modification or revocation of a license.
- K. That all reasonable measures have been incorporated into the plan and/or consistently taken to successfully control the establishment's patrons' conduct resulting in disturbances, vandalism, crowd control inside or outside the premises, traffic control problems, ingesting cannabis in public, or creation of a public or private nuisance, or interference of the operation of another business.
- L. That the dispensary would not adversely affect the health, peace or safety of persons living or working in the surrounding area, overly burden a specific neighborhood with special needs or high impact uses, or contribute to a public nuisance; or that the dispensary has resulted in repeated nuisance activities

including disturbances of the peace, illegal drug activity, ingesting cannabis in public, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises, especially late at night or early in the morning hours, lewd conduct, or police detentions or arrests.

- M. That any provision of Ordinance 3639 or condition imposed by a County issued license, or any provision of any other local, State or Federal law, regulation, or order, or any condition imposed by licenses issued in compliance with those laws has not been violated.
- N. That the applicant has not violated any local or State law, statute, rule or regulation respecting the distribution, possession, or consumption of cannabis.
- O. That the applicant has not knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application for a license.
- P. That the applicant, his or her agent or employees, or any person who is exercising managerial authority on behalf of the applicant has not been convicted of a felony, or of a misdemeanor involving moral turpitude, or has engaged in misconduct related to the qualifications, functions or duties of a licensee. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
- Q. (S) That the applicant has not engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.

The County Administrator may also give additional merit to those applications that include an exceptional public benefits plan.

#### Appeals

An applicant who wishes to appeal the County Administrator's decision to issue, deny, or renew 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.

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 U.S. mail. The Board will also notify all parties that received notice prior to the MCDAC meeting for the specific Application, and to all subscribers to the County's Medical Cannabis Dispensary website (<http://www.marincounty.org/main/medical-cannabis-dispensary-ordinance>). The Board of Supervisors shall have the authority to determine all questions raised on such appeal.

For more information about Marin County's Medical Cannabis Dispensary Program, please visit: <http://www.marincounty.org/main/medical-cannabis-dispensary-ordinance>.