



COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

December 8, 2015

Brian C. Crawford
DIRECTOR

Thomas Lai
ASSISTANT DIRECTOR

Marin County Board of Supervisors
3501 Civic Center Drive
San Rafael, CA 94903

Re: Proposed Ordinance to License Medical Cannabis Dispensaries in
Unincorporated Marin County

Marin County Civic Center
3501 Civic Center Drive
Suite 308
San Rafael, CA 94903
415 473 6269 T
415 473 7880 F
415 473 2255 TTY
www.marincounty.org/plan

Dear Supervisors:

RECOMMENDATION: Conduct a merit hearing and adopt the proposed ordinance licensing medical cannabis dispensaries.

SUMMARY: The proposed ordinance would establish a regulatory framework to license medical cannabis dispensaries to meet the medical needs of, and expand options for, patients to access medical cannabis consistent with the state's Compassionate Use Act and Medical Cannabis Program. Dispensaries are currently not allowed in the unincorporated areas of Marin County, and none are open or permitted in any of the cities within the county.

Over the past several months, staff worked with a subcommittee of the Board of Supervisors comprised of Supervisors Arnold and Connolly to research various regulatory models used by different cities and counties and to develop an ordinance that would be appropriate for the unincorporated county. On June 9, 2015, your Board conducted a public workshop, received many comments both in writing and at the workshop, and directed staff to consider areas for additional review. A second draft of the proposed ordinance was released on October 2, 2015, and the Board gave direction to staff to make minor changes to the ordinance at the initial first reading on October 20, 2015, followed by a first reading on November 10, 2015. The proposed ordinance would:

- Establish a competitive process for licensing medical cannabis dispensaries that are operated by non-profit patient collectives under the state's Medical Cannabis Program;
- Confer the authority to issue, revoke, and modify licenses to the County Administrator, with staffing to administer the ordinance provided by the Community Development Agency and the Board of Supervisors serving to hear appeals;
- Limit the number of licensed dispensaries in the unincorporated areas of the county to four, with no more than two dispensaries in the urbanized (Highway 101) corridor, and two dispensaries in rural central/west Marin;
- Identify potential eligible sites based on one of three commercial zoning districts (C1, CP/C-CP, VCR/C-VCR) where dispensaries would be recognized as a permitted use with respect to applicable zoning and land use plans;

- Require eligible sites to maintain a distance of at least 800 feet from public or private schools (K-12), youth-oriented facilities (public park with playgrounds and amenities intended for, and used predominantly by minors), smoke shops, or another dispensary;
- Allow, but does not regulate, delivery of medical cannabis by a dispensary to members and laboratory testing of cannabis by a dispensary for potency, molds, fungi, and other contaminants; and
- Require dispensaries to meet best management/operation standards, such as restricted hours, security measures, patient limits, and to be subject to county monitoring and reporting.

The proposed ordinance will also complement the recently approved California Medical Marijuana Regulation and Safety Act (MMRSA) (which was signed into law by the Governor on October 9, 2015) by establishing local standards for medical cannabis dispensaries before the state's licensing program takes effect, thereby allowing those dispensaries that have a County license to be eligible to apply for the new state license when the state's program launches in a few years. Unlike the new state law, this ordinance does not regulate delivery, cultivation, manufacturing, labeling, and laboratory testing of medical cannabis. Since the MMRSA allows local jurisdictions to regulate and establish more restrictive standards with respect to medical cannabis, staff will continue to work with the Board's subcommittee to monitor the state's implementation of the MMRSA and consider potential future amendments to the County ordinance. Furthermore, the ordinance does not protect the dispensary operator, property owner, patients, or caregivers from potential Federal prosecution and enforcement under the Federal Control Substances Act since cannabis remains a controlled substance that is illegal for any person to possess under federal law.

FISCAL/STAFFING IMPACT: Administration of the ordinance will increase the workload for the Community Development Agency. There will likely be additional costs borne to the County Administrator's Office and other departments related to implementation, administration, and enforcement. These direct costs will be offset by application review and monitoring fees to be established separately by the Board of Supervisors to ensure that the program is cost covered. Staff will monitor and work with the County Administrator as part of Fiscal Year 2016-17 budget planning.

REVIEWED BY: (These boxes must be checked)

- | | |
|--|------------------------------|
| <input type="checkbox"/> Department of Finance | <input type="checkbox"/> N/A |
| <input checked="" type="checkbox"/> County Counsel | <input type="checkbox"/> N/A |
| <input type="checkbox"/> Human Resources | <input type="checkbox"/> N/A |

SIGNATURE:

Tom Lai
Assistant Director

Reviewed By:

Brian C. Crawford
Director

- Attachments: (1) Proposed Ordinance
(2) Petition from San Geronimo Valley residents (received 11/30/15)

MARIN COUNTY BOARD OF SUPERVISORS

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNTY OF MARIN TO LICENSE MEDICAL CANNABIS DISPENSARIES IN UNINCORPORATED MARIN COUNTY BY ADDING CHAPTER 6.85 MEDICAL CANNABIS DISPENSARIES TO THE MARIN COUNTY CODE

SECTION I. FINDINGS

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

- I. The voters of the State of California approved Proposition 215 (codified as Health and Safety Code Section 11362.5 et seq.) entitled "The Compassionate Use Act of 1996" (Act). 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.
- II. The State enacted SB 420 in 2004, being Sections 11362.7 et seq., of the Health and Safety Code, being identified as the Medical Cannabis Program, (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 Program.
- III. The California Medical Marijuana Regulation and Safety Act (CMMRSA) was passed by the state legislature on September 11, 2015 and signed into law by the Governor on October 9, 2015. The Marin County Cannabis Dispensary Ordinance is intended to serve as a program in conjunction with implementation of the CMMRSA.
- IV. To protect the public health, safety, and welfare, it is the desire of the Board of Supervisors to modify the Marin County Code consistent with the Program, regarding the location and operation of medical cannabis dispensaries and to meet the medical needs of those residing in the county.
- V. It is the Board of Supervisor's intention that nothing in this chapter shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. Section 841, to otherwise permit any activity that is lawfully and constitutionally prohibited under that Act. Nothing in this chapter is intended to grant immunity from criminal prosecution under Federal law. This ordinance does not protect users, caregivers, or the owners of properties from Federal prosecution, or from having their property seized by Federal authorities under the Federal Control Substances Act.
- VI. It is the Board of Supervisor's intention that nothing in this chapter shall be construed to (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) allow the use of cannabis for nonmedical purposes; or (3) allow any activity relating to the cultivation, distribution, or consumption of cannabis that is otherwise illegal.
- VII. Pursuant to California Health and Safety Code Section 11362.71 et seq., the State Department of Health through the county's Department of Health and Human Services, is to be responsible for establishing and maintaining a voluntary medical cannabis identification card program for qualified patients and primary caregivers.
- VIII. California Health and Safety Code Section 11362.71(b) requires every county health department, or its designee, to implement a procedure to accept and process applications from those seeking

to join the identification program in the matters set forth in Section 11362.71 et seq.

- IX. 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.

SECTION II. ACTION

NOW, THEREFORE, BE IT RESOLVED that the Marin County Board of Supervisors hereby adopts Ordinance No. _____ and adds Chapter 6.85 Medical Cannabis Dispensaries to the Marin County Code, consisting of Exhibit "A" to Marin County Ordinance No. _____.

SECTION III: EFFECTIVE DATE

This ordinance shall be and is hereby declared to be in full force and effect as of sixty (60) days from and after the date of its passage and shall be published before the expiration of fifteen (15) days after its passage, with the names of the supervisors voting for and against the same in the INDEPENDENT JOURNAL, a newspaper of general circulation published in the County of Marin.

SECTION IV: VOTE

Introduced at a regular meeting of the Board of Supervisors held on the 10th day of November 2015, and adopted by the Board of Supervisors of the County of Marin, State of California, on the 8th day of December, 2015, by the following vote to wit:

AYES:

NOES:

ABSENT:

KATIE RICE, PRESIDENT
MARIN COUNTY BOARD OF SUPERVISORS

ATTEST: _____
Clerk

EXHIBIT "A" TO MARIN COUNTY ORDINANCE NO. _____

Marin County Code Chapter 6.85 Medical Cannabis Dispensaries

Section: 6.85.010 Findings.

- I. The voters of the State of California approved Proposition 215 (codified as Health and Safety Code Section 11362.5 et seq.) entitled "The Compassionate Use Act of 1996" (Act).
- II. 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.
- III. The State enacted SB 420 in 2004, being Sections 11362.7 et seq., of the Health and Safety Code, being identified as the Medical Cannabis Program, (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 Program.
- IV. The California Medical Marijuana Regulation and Safety Act (CMMRSA) was passed by the state legislature on September 11, 2015 and signed into law by the Governor on October 9, 2015. The Marin County Cannabis Dispensary Ordinance is intended to serve as a program in conjunction with implementation of the CMMRSA.
- V. To protect the public health, safety, and welfare, it is the desire of the Board of Supervisors to modify the Marin County Code consistent with the Program, regarding the location and operation of medical cannabis dispensaries and to meet the medical needs of those residing in the county.
- VI. It is the Board of Supervisor's intention that nothing in this chapter shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. Section 841, to otherwise permit any activity that is lawfully and constitutionally prohibited under that Act. Nothing in this chapter is intended to grant immunity from criminal prosecution under Federal law. This ordinance does not protect users, caregivers, or the owners of properties from Federal prosecution, or from having their property seized by Federal authorities under the Federal Control Substances Act.
- VII. It is the Board of Supervisor's intention that nothing in this chapter shall be construed to (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) allow the use of cannabis for nonmedical purposes; or (3) allow any activity relating to the cultivation, distribution, or consumption of cannabis that is otherwise illegal.
- VIII. Pursuant to California Health and Safety Code Section 11362.71 et seq., the State Department of Health through the county's Department of Health and Human Services, is to be responsible for establishing and maintaining a voluntary medical cannabis identification card program for qualified patients and primary caregivers.
- IX. California Health and Safety Code Section 11362.71(b) requires every county health department, or its designee, to implement a procedure to accept and process applications from those seeking to join the identification program in the matters set forth in Section 11362.71 et seq.
- X. 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.

Section: 6.85.011 Purpose and intent.

It is the purpose and intent of this chapter to regulate medical cannabis dispensaries in order to promote the health, safety, and general welfare of residents and businesses within the County. It is neither the intent nor the effect of this chapter to condone or legitimize the use of cannabis.

Section: 6.85.020 Definitions.

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

- (A) "Applicant" means a person who is required to file an application for a license under this chapter, including an individual owner, managing partner, or agent of a dispensary.
- (B) "County" means the County of Marin.
- (C) "County Administrator" means the County Administrator of the County of Marin or the authorized representative thereof.
- (D) "Dispensary License" means the authority granted by the County of Marin to a Dispensary Licensee to dispense medical cannabis as a medication, and is limited to the Dispensary Licensee, and not the land.
- (E) "Dispensary Licensee" means the person (1) to whom a dispensary license is issued and (2) who is identified in California Health and Safety Code Section 11362.7, subdivision (c) or (d), or (e) or (f).
- (F) "Drug paraphernalia" shall have the same definition as California Health and Safety Code Section 11362.5, and as may be amended.
- (G) "Identification card" shall have the same definition as California Health and Safety Code Section 11362.5 et seq., and as may be amended.
- (H) "Medical cannabis dispensary," hereinafter "dispensary," shall be construed to include any association, cooperative, affiliation, or collective of persons where multiple qualified patients and/or primary care givers, are organized to provide education, referral, or network services, and facilitation or assistance in the lawful, retail distribution of medical cannabis. "Dispensary" means any facility or location where the primary purpose is to dispense medical cannabis (i.e., marijuana) as a medication that has been recommended by a physician and where medical cannabis is made available to and/or distributed by or to two or more of the following: a primary caregiver and/or a qualified patient, in strict accordance with California Health and Safety Code Section 11362.5 et seq. A dispensary shall not include dispensing by primary caregivers to qualified patients in the following locations and uses, as long as the location of such uses are otherwise regulated by this Code or applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code, residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code, a residential hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as any such use complies strictly with applicable law including, but not limited to, Health and Safety Code Section 11362.5 et seq., or a qualified patient's or caregiver's place of

residence.

- (I) "Medical cannabis patient collective," hereinafter "patient collective," shall be defined the same as "dispensary," but does not operate in a "retail" capacity. As such, "patient collectives" are exempt from the provisions of this chapter.
- (J) "Person" means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability company or combination of the above in whatever form or character.
- (K) "Person with an identification card" shall have the same definition as set forth in California Health and Safety Code Section 11362.5 et seq., and as they may be amended from time to time.
- (L) "Primary caregiver" shall have the same definition as set forth in California Health and Safety Code Section 11362.5 et seq., and as may be amended.
- (M) "Qualified patient" shall have the same definition as set forth California Health and Safety Code Section 11362.5 et seq., and as they may be amended from time to time.
- (N) "Review authority" refers to the County Administrator who is designated by this ordinance as having the responsibility and authority to review, approve or deny Dispensary licenses.
- (O) "School" means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code. This definition includes an elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including the College of Marin and any other college or university.
- (N) "Youth-oriented facility" means a public park with play lots, playgrounds, athletic fields, and other amenities that are intended for use by minors or where the individuals who regularly use the facility are predominantly minors.

Section: 6.85.030 Dispensary license required to operate.

It is unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the County the operation of a dispensary unless the person first obtains and continues to maintain in full force and effect a dispensary license from the County as required in this chapter.

Section: 6.85.031 Term of licenses and renewals required.

- (A) Licenses issued under this chapter shall expire two years following the date of their issuance, and renewable after January 1, 2018 subject to compliance with the California Medical Marijuana Regulation and Safety Act (CMMRSA).
- (B) Licenses may be renewed by the County Administrator for additional periods of at least one year in length upon application by the licensee, 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 45 days before the expiration date of the license and shall be accompanied by the nonrefundable application fee referenced herein. Applications for renewal shall be acted on as provided herein for action upon applications for permits.
- (D) Applications for renewal made less than 45 days before the annual expiration date shall not stay the expiration date of the license.

- (E) Licenses may be revoked or suspended by the County Administrator or Board of Supervisors at any time, as provided in this chapter and the County Code.

Section: 6.85.032 General tax liability.

An operator of a dispensary shall also be required to apply for and obtain a general County tax certificate or exemption as a prerequisite to obtaining a license pursuant to the terms hereof, as required by the State Board of Equalization.

Section: 6.85.033 Imposition of fees.

Every application for a license shall be accompanied by a nonrefundable fee, as established by resolution of the Board of Supervisors from time to time. This application 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. The fee shall be sufficient to cover the full cost borne by the County to administer the Dispensary Licensing program and all responsibilities established in this Chapter. Fingerprinting, photographing, and background check fees will be as established by resolution adopted by the Board of Supervisors from time to time.

Section: 6.85.040 Limitations on number of dispensaries.

- (A) Up to two (2) Dispensary Licenses may be issued in each of the two (2) License Zones defined below, for a total of up to four (4) Dispensary Licenses in the unincorporated areas of Marin County, and on file in the Community Development Agency.

Zone A (Highway 101 Corridor): Unincorporated areas in the Countywide Plan's City-Centered Corridor.

Zone B (Central/West Marin): Unincorporated areas in the Countywide Plan's Inland Rural and Coastal Corridors.

Section: 6.85.041 Limitation on location of dispensary.

- (A) A dispensary may only be located within commercial designated areas of the County's general plan (Countywide Plan) and more specifically within the following zoning districts: C1, CP, C-CP, VCR, and C-VCR. In addition to the Dispensary License, the applicant shall obtain all land use permits required by the zoning district and comply with all applicable County ordinances.
- (B) A dispensary shall be in a highly visible location that provides good views of the dispensary entrance, windows and premises from the public street.
- (C) A dispensary shall not be allowed in the following areas at the time of its permitted establishment:
- (1) Within 800 feet of a youth-oriented facility, a school, a smoke-shop which sells paraphernalia for consuming drug or tobacco products, or another dispensary; or
 - (2) Within any residential zoned parcel, or any property with an underlying residential or mobile homes general plan land use designation.
- (D) The distance between a dispensary and above listed uses shall be made in a straight line from the boundary line of the property on which the dispensary is located to the boundary of the property on

which the building or structure in which the above listed use occurs or is located.

Section: 6.85.042 Operating requirements.

Dispensary operations shall be established and managed only in compliance with the following standards:

- (A) Criminal History. Any applicant, his or her agent or employees, or any person exercising managerial authority of a dispensary on behalf of the applicant shall not have been convicted of a felony, or of a misdemeanor involving moral turpitude, or 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.
- (B) Minors.
 - (1) It is unlawful for any licensee, operator, or other person in charge of any dispensary to employ any person who is not at least 18 years of age.
 - (2) Persons under the age of 18 shall not be allowed on the premises of a dispensary unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or guardian.
 - (3) The entrance to a dispensary shall be clearly and legibly posted with a notice indicating that person under the age of 18 are precluded from entering the premises unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or guardian.
- (C) Operating Hours. Dispensaries may operate between the hours of 9:00 a.m. to 9:00 p.m. up to seven days per week unless the reviewing authority imposes more restrictive hours due to specific considerations for a particular location. The basis for any restriction on hours shall be specified in any license issued.
- (D) Dispensary Size and Access.
 - (1) Dispensary size shall be limited, as deemed appropriate and necessary, to best serve patient needs within the intent of this chapter and reduce potential adverse impacts that might otherwise occur on surrounding neighborhoods, businesses and demands on County services. The County may limit the number of patients at a particular location if there is shown to be adverse impacts to the surrounding neighborhoods, businesses and demands on County services due to the number of patients being served.
 - (2) A dispensary shall not be physically increased in size (i.e., floor area or buildings utilized) without a prior approval amending the existing dispensary license.
 - (3) The entrance into the dispensary shall be locked at all times with entry strictly controlled; e.g., a buzz-in electronic/mechanical entry system is required. A viewer shall be installed in the door that allows maximum angle of view of the exterior entrance.
 - (4) Security personnel shall be employed to monitor site activity, control loitering and site access.
 - (5) Only dispensary staff, primary caregivers, qualified patients and persons with bona fide purposes for visiting the site shall be permitted at a dispensary.
 - (6) Potential patients or caregivers shall not visit a dispensary without first having obtained a valid written recommendation from their physician recommending use of medical cannabis.
 - (7) Only a primary caregiver and qualified patient shall be permitted in the designated dispensing area with dispensary personnel. All other authorized visitors shall remain in the designated waiting area in the front entrance/lobby.

(E) Dispensary Supply. A dispensary may possess no more than eight ounces of dried cannabis per qualified patient or primary caregiver, and maintain no more than six mature or 12 immature cannabis plants per qualified patient or primary caregiver. However, if a qualified patient or primary caregiver has a physician's recommendation that this quantity does not meet the qualified patient's medical needs, the dispensary may possess an amount of cannabis consistent with the patient's needs.

(F) Dispensing Operations.

- (1) A dispensary shall dispense medical cannabis to meet monthly medication needs of qualified patients, similar to typical pharmacy operations. The dispensary shall strongly discourage daily or weekly visits by patients as a routine practice. The dispensary may offer incidental services, such as delivery of medical cannabis to members who are qualified members and testing of cannabis for potency, molds, fungi, and other contaminants.
- (2) A dispensary shall only dispense to qualified patients or caregivers with a currently valid physician's approval or recommendation in compliance with the criteria in California Health and Safety Code Section 11362.5 et seq.
- (3) Prior to dispensing medical cannabis, the dispensary shall obtain and maintain verification from the recommending physician that the individual requesting medical cannabis is a qualified patient.
- (4) A dispensary shall not have a physician on-site to evaluate patients and provide a recommendation for medical cannabis.
- (5) Patient records shall be maintained on-site and verified as needed, which is determined to be at least every 12 months or upon expiration of the verification on file if it expires sooner than 12 months with the qualifying patient's physician or doctor of osteopathy.
- (6) Information on prior years' operations, including the results of independent financial audits confirming compliance with the requirements of this section, shall be provided annually to the review authority, as required in this chapter. The operator shall adjust the operations as necessary to address issues.

(G) Consumption Restrictions.

Cannabis shall not be consumed on the premises of the dispensary by any member of the public, including a qualified patient. The term "premises" includes the actual building, as well as any accessory structures, parking areas, or other surroundings within 200 feet of the dispensary's entrance. Dispensary employees who are qualified patients may consume cannabis within the enclosed areas of the building in designated spaces outside the presence of members of the public and provided that such consumption is by vaporization or oral consumption and not smoking.

(H) Retail Sales and Cultivation Prohibited.

- (1) No cannabis shall be cultivated on the premises of the dispensary, except in compliance with Health and Safety Code Section 11362.5 et seq.
- (2) Except as provided in subsection (3) below, no dispensary shall conduct or engage in the commercial sale of any product, good or service. The term "commercial sale" does not include the provision of medical cannabis on terms and conditions consistent with this chapter and applicable law.
- (3) No dispensary shall sell or display any drug paraphernalia or any implement that may be used to administer medical cannabis unless specifically authorized in its license. An applicant may request that up to 150 square feet be authorized to display or sell devices for administration of medical cannabis which may only be sold to qualified patients or primary caregivers or to sell

other related products to qualified patients if the sale of such products is a use approved by the County Administrator to be in compliance with the County's zoning code and any other applicable state or local regulations.

- (4) A dispensary shall not cultivate, distribute or sell medical cannabis for a profit.
- (5) A dispensary shall not pay any supplier(s) of medical cannabis more than the costs incurred for cultivation and preparation.
- (6) A dispensary shall meet all the operating criteria for the dispensing of medical cannabis as is required pursuant to California Health and Safety Code Section 11362.5 et seq.

(I) Operating Plans.

- (1) Floor Plan. A dispensary shall have a lobby waiting area at the entrance to receive clients, and a separate and secure designated area for dispensing medical cannabis to qualified patients or designated caregivers. The primary entrance shall be located and maintained clear of barriers, landscaping and similar obstructions so that it is clearly visible from public streets, sidewalks or site driveways.
- (2) Storage. A dispensary shall have a suitable locked safe on premises, identified as a part of the security plan, for after-hours storage of medical cannabis.
- (3) Minimum Staffing Levels. The premises shall be staffed with at least one person during hours of operation who shall not be responsible for dispensing medical cannabis.
- (4) Odor Control. A dispensary shall have an air treatment system that ensures off-site odors shall not result.
- (5) Security Plans. A dispensary shall provide adequate security on the premises, as approved by the County Administrator, including lighting and alarms, to insure the safety of persons and to protect the premises from theft.
- (6) Security Cameras. Security surveillance cameras shall be installed to monitor all entrances and exterior of the premises to discourage loitering, crime, illegal or nuisance activities.
- (7) Security Video Retention. Security video shall be maintained for 7 days.
- (8) Alarm System. A professionally monitored robbery alarm system shall be installed and maintained in good working condition.
- (9) Emergency Contact. A dispensary shall provide the County Administrator with the name, phone number and facsimile number of an on-site community relations staff person to whom one can provide notice if there are operating problems associated with the dispensary. The dispensary shall make every good faith effort to encourage neighborhood residents to call this person to try to solve operating problems, if any, before any calls or complaints are made to the County.

(J) Signage and Notices.

- (1) The building entrance to a dispensary shall be clearly and legibly posted with a notice indicating that smoking, ingesting or consuming cannabis on the premises or in the vicinity of the dispensary is prohibited.
- (2) Signs on the premises shall not obstruct the entrance or windows.
- (3) Address identification shall comply with County Code and Fire Department illuminated address signs bulletin.
- (4) Business identification signage shall be approved in accordance with the County's sign permit process and any other applicable ordinances with the additional requirement that signs shall not contain any logos or information that identifies, advertises or lists the specific products or services

offered by the dispensary.

- (K) Employee Records. Each owner or operator of a dispensary shall maintain a current register of the names of all employees currently employed by the dispensary, and shall disclose such registration for inspection by any County officer or official for purposes of determining compliance with the requirements of this section.
- (L) Patient Records. A dispensary shall maintain records of all patients and primary caregivers using only the identification card number issued by the county, or its agent, pursuant to California Health and Safety Code Section 11362.71 et seq., as a protection of the confidentiality of the cardholders, or a copy of the written recommendation from a physician or doctor of osteopathy stating the need for medical cannabis.
- (M) Staff Training. Dispensary staff shall receive appropriate training for their intended duties to ensure understanding of rules and procedures regarding dispensing in compliance with state and local law, and properly trained or professionally-hired security personnel.
- (N) Site Management.
 - (1) The operator of the establishment shall take all reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours if directly related to the patrons of the subject dispensary.
 - (a) "Reasonable steps" shall include calling the sheriff in a timely manner; and requesting those engaging in objectionable activities to cease those activities, unless personal safety would be threatened in making the request.
 - (b) "Nuisance" includes but is not limited to disturbances of peace, open public consumption of cannabis or alcohol, excessive pedestrian or vehicular traffic, illegal drug activity, harassment of passerby, excessive littering, excessive loitering, illegal parking, excessive loud noises, especially late at night or early in the morning hours, lewd conduct or police/sheriff detentions and arrests.
 - (2) The operator shall take all reasonable steps to reduce loitering in public areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours.
 - (3) The operator shall ensure that the hours of operation shall not be a detriment to the surrounding area.
 - (4) The operator shall provide patients with a list of the rules and regulations governing medical cannabis use and consumption within the County and recommendations on sensible cannabis etiquette.
- (O) Trash, Litter, Graffiti.
 - (1) The operator shall clear the sidewalks adjoining the premises plus 10 feet beyond property lines along the street as well as any parking lots under the control of the operator as needed to control litter, debris and trash.
 - (2) The operator shall remove all graffiti from the premises and parking lots under the control of the operator within 72 hours of its application.
- (P) Compliance with Other Requirements. The operator shall comply with all provisions of all local, state or federal laws, regulations or orders, as well as any condition imposed on any permits issued pursuant to applicable laws, regulations or orders.
- (Q) Confidentiality. The information provided for purposes of this section shall be maintained by the County Administrator as confidential information, and shall not be disclosed as public records unless

pursuant to a writ of mandate or subpoena issued by a court of competent jurisdiction.

- (R) Display of License. Every dispensary shall display at all times during business hours the license issued pursuant to the provisions of this chapter for such dispensary in a conspicuous place so that the same may be readily seen by all persons entering the dispensary.
- (S) Reporting and Payment of Fees. Each licensee shall file a sworn statement with the County Administrator indicating the number of patients served by the dispensary within the previous calendar year.

Section: 6.85.050 Application preparation and filing.

- (A) Application Filing. A complete application submittal packet shall be submitted including all necessary fees and all other information and materials required by the County and this chapter. All applications for licenses shall be filed with the County Administrator, using forms provided by the County, within the filing period that is established by the County Administrator, 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) Eligibility for Filing. Applications may only be filed by the owner of the subject property, or person with a written authorization from the owner to file an application for the intended use.
- (C) Filing Date. The filing date of any application shall be the date when the County receives the last submission of information or materials required in compliance with the submittal requirements specified herein.
- (D) Effect of Incomplete Filing. Upon notification that an application submittal is incomplete, the applicant shall be granted an extension of time to submit all materials required to complete the application within 30 days. If the application remains incomplete in excess of 30 days the application shall be deemed withdrawn and new application submittal shall be required in order to proceed with the subject request, unless an extension. 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.
- (E) Effect of Other Permits or Licenses. The fact that an applicant possesses other types of state or County permits or licenses does not exempt the applicant from the requirement of obtaining a Dispensary License.
- (F) Submittal Requirements. Any application for a license shall include the following information.
 - (1) Applicant(s) Name. 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;
 - (2) Applicant(s) Mailing Address. The address to which notice of action on the application is to be mailed;
 - (3) Previous Addresses. Previous addresses for the past five years immediately prior to the present address of the applicant;
 - (4) Verification of Age. 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 five years immediately preceding the date of the application;

- (8) Tax History. The dispensary business tax history of the applicant, including whether such person, in previously operating in this or another city, county or state under license has had a business license revoked or suspended, 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 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. Number of employees, volunteers, and other persons who will work at the dispensary;
- (12) Statement of Dispensary Need. A statement and/or information to establish the need for the additional dispensary to serve qualified patients in the area;
- (13) Plan of Operations. A plan of operations describing how the dispensary will operate consistent with the intent of State law and the provisions of this chapter, including but not limited to:
 - (a) Ensuring cannabis is not purchased or sold by the dispensary in a manner that would generate a profit.
 - (b) Controls that will assure medical cannabis will be dispensed to qualifying patients or caregivers only.
 - (c) Controls that will ensure limitations on number of patients are adhered to.
 - (d) Controls that will ensure access to dispensary premises is adequately monitored and restricted to pre-approved qualified patients and caregivers.
 - (e) Method for ensuring that a qualified patient's physician is not recommending cannabis for less than medically appropriate reasons;
- (14) Written Project Description. A written description summarizing the proposed dispensary use size, number of patients, characteristics and intent;
- (15) Written Response to Dispensary Standards. The applicant shall provide a comprehensive written response identifying how the dispensary plan complies with the each of the standards for review in this chapter, specifically the limitation on number and size, limitation on location, and operating requirements sections;
- (16) Written Response to Criteria for Review Section. The applicant shall provide a written response indicating how each of the criteria for review has been satisfied;
- (17) Security Plan. A detailed security plan outlining the proposed security arrangements for insuring the safety of persons and to protect the premises from theft. The plan shall include installation of security cameras, a robbery alarm system monitored by a licensed operator, and a security assessment of the site conducted by a qualified professional;
- (18) 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;
- (19) Site Plan. A sketch or diagram showing exterior configuration of the premises, including the outline of all structures, parking 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;

- (20) 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 800 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;
- (21) 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;
- (22) County Authorization. Written authorization for the County, its agents and employees to seek verification of the information contained within the application and to enter the property to inspect the premises, conduct monitoring, and process the application;
- (23) Statement of Owners Consent. A statement in writing by the applicant that he or she certifies under penalty of perjury that the applicant has the consent of the property owner and landlord to operate a dispensary at the location;
- (24) Applicants Certification. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct;
- (25) Other Information. Such other identification and information as deemed necessary by the County Administrator to demonstrate compliance with this chapter and County Codes, including operating requirements established in this chapter.

Section: 6.85.060 Authority and responsibilities of review authority

The review authority shall have the following authority and responsibilities:

- (A) To perform all of the functions designated by this ordinance;
- (B) To review, approve, conditionally approve, renew, or deny Dispensary License applications in compliance with this ordinance;
- (C) To delegate the responsibilities of the review authority to staff in the Community Development Agency; and
- (D) To perform any other responsibilities assigned by the Board of Supervisors.

Section: 6.85.061 Criteria for review.

The review authority shall consider the following criteria in determining whether to grant or deny a dispensary license:

- (A) That the dispensary license is consistent with the intent of Proposition 215 and related State law, the provisions of this chapter and the County Code, 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 the Sheriff).
- (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 the dispensary has operated successfully in a manner that shows it would comply with the operating requirements and standards specified in this chapter.
- (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 this chapter and any other applicable State or local ordinance.
- (H) That the location is not prohibited by the provisions of this chapter 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 this chapter 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 passerby, 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.
- (O) That any provision of the County Code 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 issues in compliance with those laws has not been violated.

- (P) That the applicant has not violated any local or State law, statute, rule or regulation respecting the distribution, possession, or consumption of cannabis.
- (Q) 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.
- (R) 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.
- (S) That the applicant has not engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.

Section: 6.85.062 Investigation and action on application.

After the making and filing of a complete application for the Dispensary License and the payment of the fees, the County Administrator shall conduct a background check of the applicant and all employees and conduct an investigation of the application, and take action as follows:

- (A) The County Administrator shall refer the application to any other County departments as necessary to complete his or her investigation into the application. The County Administrator may appoint a committee comprised of representatives of County departments that is responsible for reviewing license applications and making an advisory recommendation to the County Administrator on the merit of each application. The committee may also include representatives with knowledge and expertise in areas related to medical cannabis, including, but not limited to, familiarity with California law, the Attorney General's guidelines on Medicinal Cannabis, security, and financial management. The committee shall conduct at least one public workshop to receive testimony about the license applications before making the advisory recommendation to the County Administrator.
- (B) Within 90 days after receipt of a completed application, the County Administrator shall either grant or deny the application in accordance with the provisions of this chapter.
- (C) 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 this chapter. The applicant is responsible for paying a financial deposit to cover all costs incurred by the County in the administration of the Dispensary License, including condition compliance review, and investigation of complaints.
- (D) The County Administrator shall cause a written notice of his or her decision to issue or deny a license to be mailed to the applicant by U.S. mail.
- (E) Notwithstanding the provisions of this section, the County Administrator, in his or her discretion, may refer an application for a license to the Board of Supervisors for a decision within 90 days after the receipt of a completed application.
- (F) That all required application fees have been paid and reporting requirements have been satisfied in a timely manner.

Section: 6.85.063 Appeal from County Administrator's determination.

- (A) An applicant aggrieved by 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.

- (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: 6.85.064 Effect of revocation.

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 or to any corporation in which he shall have any beneficial interest for a period of three years after the action revoking the license.

Section: 6.85.065 Suspension and revocation.

- (A) Any license issued under the terms of this chapter may be suspended 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 including the criteria for review and operating requirements sections, or conflicts with State law.
- (B) Except as otherwise provided in this chapter, no license shall be revoked or suspended 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.
- (D) The licensee may appeal the County Administrator's decision to suspend or revoke the license 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.
- (E) 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: 6.85.066 Transfer of Licenses.

- (A) A licensee shall not operate a dispensary under the authority of a dispensary permit at any place other than the address of the dispensary stated in the application for the permit.
- (B) A licensee shall not transfer ownership or control of a dispensary or transfer a dispensary permit to another person unless and until the transferee obtains an amendment to the permit 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 permit.
- (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: 6.85.070 Violations.

- (A) It is unlawful for any person, individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability company or combination of the above in whatever form or character to violate any provision or fail to comply with any of the requirements of this chapter.
- (B) A violation of this chapter shall be punished in accordance with the County Code.

Section: 6.85.071 Remedies cumulative.

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.

Section: 6.85.072 Separate offense for each day.

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.

Section: 6.85.073 Public nuisance.

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.

Section: 6.85.074 Criminal penalties.

Any person who violates, causes, or permits another person to violate any provision of this chapter commits a misdemeanor.

Section: 6.85.075 Civil injunction.

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.

Section: 6.85.076 Administrative remedies.

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: 6.85.077 Severability.

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: 6.85.078 Judicial review.

Judicial review of a decision made under 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.