

## Chapter 17.140

### MEDICAL CANNABIS DISPENSARIES USE PERMIT CRITERIA AND PROCEDURES



#### 17.140.010 Findings

The City Council adopts the ordinance codified in this chapter based upon the following findings:

(A) 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).

(B) The intent of Proposition 215 was to enable persons residing in the State of 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.

(C) 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 and other governing bodies to adopt and enforce rules and regulations consistent with the Program.

(D) To protect the public health, safety, and welfare, it is the desire of the City Council to modify the City Code consistent with the Program, regarding the location and operation of medical cannabis dispensaries.

(E) It is the City Council’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.

(F) It is the City Council’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 non-medical purposes; or (3) allow any activity relating to the cultivation, distribution, or consumption of cannabis that is otherwise illegal.

(G) Pursuant to California Health and Safety Code Section 11362.71 et seq., the State Department of Health through the state’s counties, is to be responsible for establishing and maintaining a voluntary medical cannabis identification card program for qualified patients and primary caregivers.

(H) 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.

(I) This chapter is found to be categorically exempt from environmental review pursuant to CEQA Guidelines Section 15061(b) (3) in that the Council finds and determines that there is nothing in this chapter or its implementation that could foreseeably have any significant effect on the environment.

(J) That this chapter is compatible with the general objectives of the general plan and any applicable specific plan, in that this use would be conditionally permitted in commercial and industrial districts, being similar to other permitted and conditionally permitted uses, such as pharmacies and medical clinics, and in that the use will be subject to strict review and conditions.

(K) That this chapter is compatible with the public convenience, general welfare and good land use practice, in that medical marijuana dispensaries address a medical need in the community, and in that the use will be subject to rigorous review and conditions.

(L) That this chapter will not be detrimental to the public health, safety and general welfare, in that uses will be subject to careful review, that because of the small area and population of Sebastopol, lack of experience with this use, and potential for adverse effects, dispensaries would be limited in number, and would be subject to strict operating requirements, limiting potential negative effects.

(M) That this chapter will not adversely affect the orderly development of property, in that there would be absolute limits on the number of dispensaries, dispensaries would be subject to a careful review process, and strict operating requirements would be imposed.

#### **17.140.020 Purpose and Intent.**

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

#### **17.140.030 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 permit under this chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of a dispensary.

(B) “City” means the City of Sebastopol.

(C) “City Manager” means the City Manager of the City of Sebastopol or the authorized representative thereof.

(D) “Drug paraphernalia” shall have the same definition as California Health and Safety Code Section 11362.5, and as may be amended.

(E) “Identification card” shall have the same definition as California Health and Safety Code Section 11362.5 et seq., and as may be amended.

(F) “Medical cannabis dispensing collective,” 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.

(G) "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.

(H) "Permittee" means the person (1) to whom a dispensary permit is issued and (2) who is identified in California Health and Safety Code Section 11362.7, subdivision (c) or (d), or (e) or (f).

(I) "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.

(J) "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.

(K) "Physician" shall include licensed medical doctors (M.D.) and doctors of osteopathic medicine (D.O.) as defined in the California Business and Professions Code.

(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) "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 Santa Rosa Junior College and any other college or university.

(O) "Youth-oriented facility" means elementary school, middle school, high school, public park, and any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or; the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors. This shall not include a daycare or preschool facility that provides supervision of eight or fewer minor children, or children less than 10 years of age, and shall not include open space areas of the Laguna Wetlands Preserve, or the Town Plaza.

#### **17.140.040 Dispensary Permit 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 City the operation of a dispensary unless the person first obtains and continues to maintain in full force and effect a dispensary Use Permit from the City as required in this chapter.

**17.140.050 Term of Permits and Renewals Required.**

(A) Use Permits issued under this chapter shall expire two years following the date of their issuance.

(B) Use Permits may be renewed by the Director of Planning for additional two-year periods upon application by the permittee, unless the permit is suspended or revoked in accordance with the provisions of this chapter.

(C) Applications for renewal shall be made at least 45 days before the expiration date of the permit 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 expiration date shall not stay the expiration date of the permit.

(E) Permits may be revoked or suspended by the City at any time, as provided in this chapter and City Code.

**17.140.060 General Tax Liability.**

An operator of a dispensary shall also be required to apply for and obtain a Business License and a general City tax certificate or exemption as a prerequisite to obtaining a permit pursuant to the terms hereof, as required by the State Board of Equalization. Dispensary sales shall be subject to sales tax consistent with State law.

**17.140.070 Imposition of Fees.**

Every application for a permit or renewal shall be accompanied by an application fee, as established by resolution of the City Council from time to time. This application or renewal fee shall not include fingerprinting, photographing, and background check costs and shall be in addition to any other business license fee or permit fee imposed by this code or other governmental agencies. Fingerprinting, photographing, and background check fees will be as established by resolution adopted by the City Council from time to time.

**17.140.080 Limitations on Number and Size of Dispensaries.**

(A) During the initial 12 months from the effective date of the ordinance codified in this chapter, the Planning Commission may not grant or cause to be granted more than one permit for medical cannabis dispensaries, in compliance with the provisions of this chapter.

(B) After 12 months have lapsed from the effective date of said ordinance, the Planning Commission may consider additional applications for dispensaries and grant up to one additional permit in compliance with all provisions of this chapter.

**17.140.090 Limitation on Location of Dispensary.**

(A) A dispensary may only be located within commercial and industrial designated areas, i.e., those so designated in the General Plan and Zoning map.

(B) A dispensary shall be in a 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 500 feet of a youth-oriented facility, a school, a park except for the Laguna Wetlands Preserve and the Town Plaza, a smoke-shop which sells paraphernalia for consuming drug or tobacco products, or another dispensary; or

(2) Within any residential zoned parcel or primary land use, or any property with an underlying residential or mobile homes general plan land use designation.

(3) On a parcel having a residential unit, or on a parcel directly abutting a residentially-zoned property, unless there are intervening non-residential uses between the dispensary and the residential unit or the residentially-zoned property that the Planning Commission determines sufficient to provide an appropriate separation.

(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 facility, building or structure, or portion of the building or structure, in which the above listed use occurs or is located.

(E) A waiver of the provisions in subsection (C) of this section may be granted if the applicant demonstrates on plans and materials presented for review and the Planning Commission determines that a physical barrier or similar condition exists which achieves the same purpose and intent as the distance separation requirements established herein.

#### **17.140.100 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, volunteer workers, 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 is on probation for a drug offense, or engaged in misconduct related to the qualifications, functions or duties of a permittee. 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 permittee, 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 for the first visit.

(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 for the first visit.

(C) **Operating Hours.** Unless the reviewing authority imposes more restrictive hours due to specific considerations for a particular application, a dispensary shall only be operated within the following days and hours:

- (1) Sunday through Thursday: 7:00 a.m. to 9:00 p.m.
- (2) Friday and Saturday: 9:00 a.m. to 9:00 p.m.
- (3) Christmas Day, New Years Day, Memorial Day, Labor Day, 3<sup>rd</sup> and 4<sup>th</sup> of July and Apple Blossom parade day: closed.

(D) Dispensary Size and Access.

(1) The dispensary size shall not exceed 1,000 square feet exclusive of restroom facilities, unless specifically authorized by the approving authority. 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 City services.

(2) A dispensary shall not be increased in size (i.e., floor area or number of patients) without a prior approval amending the existing dispensary permit.

(3) The entrance into the dispensary building shall be locked at all times with entry strictly controlled; e.g., a buzz-in electronic/mechanical entry system is highly encouraged. A viewer shall be installed in the door that allows maximum angle of view of the exterior entrance.

(4) Dispensary personnel shall 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.

(8) Restrooms shall remain locked and under the control of management.

(E) Dispensary Supply. A dispensary may possess no more than eight ounces of dried cannabis 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 and avoid daily or weekly visits by patients as a routine practice.

(2) A dispensary shall only dispense to qualified patients or caregivers with:

(a) a currently valid physicians approval or recommendation in compliance with the criteria in California Health and Safety Code Section 11362.5 et seq. and valid official identification, such as a Department of Motor Vehicles driver's license or State Identification Card, or

(b) a currently valid California Medical Marijuana Identification Card or a Patient ID Center Identification Card.

(3) For qualified patients or caregivers without a California Medical Marijuana Identification Card or a Patient ID Center Identification Card, prior to dispensing medical cannabis, the dispensary shall obtain verbal, online, or signed verification from the recommending physician's office personnel 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 and verified as needed, and at least annually verified with the qualifying patient's medical doctor or doctor of osteopathy unless the patient has provided a California Medical Marijuana Identification Card or a Patient ID Center Identification Card.

(6) Information on prior year's operations shall be provided annually, as required in this chapter. The operator shall adjust the operations as necessary to address issues.

(G) Consumption Restrictions.

(1) Cannabis shall not be consumed by patients on the premises of the dispensary. 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 and registered volunteers who are qualified patients may consume cannabis within the enclosed building area of the premises, provided such consumption occurs via oral consumption or vaporization, not smoking.

(2) Dispensary operations shall not result in illegal redistribution of medical cannabis obtained from the dispensary, or use in any manner that violates local, State or City Codes.

(H) Retail Sales and Cultivation.

(1) Except immature nursery stock cannabis plants, no cannabis shall be cultivated on the premises of the dispensary, or as otherwise in compliance with Health and Safety Code Section 11362.5 et seq.

(2) With the approval of the Planning Commission a dispensary may conduct or engage in the commercial sale of specific products, goods or services in addition to the provision of medical cannabis and other items permitted by these regulations on terms and conditions consistent with this chapter and applicable law.

(3) Up to 150 square feet may be utilized for display and sales of devices necessary for administering medical cannabis, including but not limited to rolling papers and related materials and devices, pipes, water pipes, and vaporizers. Such devices may only be provided to qualified patients or primary caregivers and only in accordance with California Health and Safety Code Section 11364.5.

(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.

(7) The provision of locally-grown and organic cannabis is encouraged.

(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 suitable locked storage on premises, identified and approved 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) Odors 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 Chief of Police and reviewed by the Planning Commission, 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 the main entrance and exterior of the premises to discourage loitering, crime, illegal or nuisance activities.

(7) Security Video Retention. Security video shall be maintained for 72 hours.

(8) Alarm System. Professionally monitored robbery alarm and burglary alarm systems shall be installed and maintained in good working condition.

(9) Emergency Contact. A dispensary shall provide the Chief of Police 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 City.

(J) Signage and Notices.

(1) A notice shall be clearly and legibly posted in the dispensary 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 Fire Department illuminated address signs requirements.

(4) Business identification signage shall be limited to that needed for identification only, consisting of a single window sign or wall sign that shall not exceed six square feet in area or 10 percent of the window area, whichever is less. Signs shall comply with all ordinances and not contain any logos or information that identifies, advertises or lists the services offered.

(K) Employee Records. Each owner or operator of a dispensary shall maintain a current register of the names of all volunteers and employees currently working at or employed by the dispensary, and shall disclose such registration for inspection by any City 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. Such records may be maintained on or off-site, and shall be made available for



inspection by any City officer or official for purposes of determining compliance with the requirements of this section.

(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 police 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 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 City 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 City as confidential information, and shall not be disclosed as public records unless pursuant to subpoena issued by a court of competent jurisdiction.

(R) Display of Permit. Every dispensary shall display at all times during business hours the permit 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 permittee shall file an annual statement with the Planning Department indicating the number of patients served by the dispensary within the previous calendar year, and pay all annual permit fees.

(T) Alcoholic Beverages. No dispensary shall hold or maintain a license from the State Division of Alcoholic Beverage Control for the sale of alcoholic beverages, or operate a business on the premises that sells alcoholic beverages. No alcoholic beverages shall be allowed or consumed on the premises.

(U) Dispensaries shall be considered medical office uses relative to parking requirements.

**17.140.110 Application Preparation and Filing.**

(A) Application Filing. A complete Major Use Permit application submittal packet shall be submitted including all necessary fees and all other information and materials required by the City and this chapter. All applications for permits shall be filed with the Planning Department, using forms provided by the City, and accompanied by the applicable filing fee. It is the responsibility of the applicant to provide information required for approval of the permit. 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 lease signed by the owner or duly authorized agent allowing them to occupy the property for the intended use.

(C) Filing Date. The filing date of any application shall be the date when the City 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. The time period for granting or denying a permit 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 City permits or licenses does not exempt the applicant from the requirement of obtaining a dispensary permit.

(F) Submittal Requirements. Any application for a Use Permit 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 therefore, 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 numbers of patients is adhered to.

(d) Controls that will ensure access to dispensary premises is adequately monitored and restricted to pre-approved qualified patients and caregivers.

(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) Accessibility Evaluation. A written evaluation of accessibility to and within the building, and identification of any planned accessibility improvements.

(21) 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 500 feet of the boundaries of the property on which the dispensary permit is requested, and: (a) the property line of any dispensary within 500 feet of the primary entrance of the dispensary for which a permit is requested, (b) the property line of any “smoke shop” within 500 feet of the primary entrance of the dispensary, and (c) the property lines of any school, park, or residential zone or use within 500 feet of the primary entrance of the dispensary;

(22) 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 and comply with all City standards regarding lighting design and installation;

(23) City Authorization. Written authorization for the City, its agents and employees to seek verification of the information contained within the application;

(24) 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;

(25) Applicant’s 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;

(26) Other Information. Such other identification and information as deemed necessary by the City Manager to demonstrate compliance with this chapter and City Codes, including operating requirements established in this chapter.

(G) Renewal. Applications for two-year renewal shall be accompanied by the following minimum information:

(1) The operator shall report the number of patients served and pay applicable fees, as required by this chapter.

(2) The operator shall provide a detailed description of any adjustments and changes proposed or that have occurred in dispensary operations to address issues, or comply with laws.

(3) The operator shall identify any problems encountered during operations and how they have been addressed.

(4) The operator shall identify how the dispensary has managed its operations to comply with the operating requirements of this chapter and with State law.

#### 17.140.120 Criteria for review.

The Planning Commission shall consider the following criteria in determining whether to grant or deny a dispensary permit, and renewals:

(A) That the dispensary permit is consistent with the intent of Proposition 215 and related State law, the provisions of this chapter and the City 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 Police Department).
- (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 or annual renewal 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 permit would not exceed limitations on number of patients and/or permits allowed by this chapter.
- (H) That issuance of a dispensary permit for the size requested is justified to meet needs of residents.
- (I) That issuance of the dispensary permit would serve needs of residents at this location.
- (J) 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.
- (K) 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.
- (L) That no dispensary use, owner, permittee, agent, or employee has violated any provision of this chapter including grounds for suspension, modification or revocation of a permit.
- (M) 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, cannabis use in public, or creation of a public or private nuisance, or interference of the operation of another business.
- (N) 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, cannabis use 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 City Code or condition imposed by a City issued permit, or any provision of any other local, or State law, regulation, or order, or any condition imposed by permits issued 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 permit.

(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 permittee. 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.

(T) That adequate parking will be provided.

#### **17.140.130 Investigation and Action on Application.**

After the making and filing of a complete application for the dispensary permit and the payment of the fees, the Police Department 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 Planning Department shall refer the application to any other City departments as necessary to complete the review of the application.

(B) Following provision of complete application materials and inter-departmental review, the Planning Department shall schedule the Use Permit for Planning Commission review. The Commission shall either grant or deny the application in accordance with the provisions of this chapter.

(C) In approving a dispensary permit, the Planning Commission may impose conditions, restrictions or require revisions to the proposal to comply with the purpose and intent of this chapter.

(D) The Planning Department shall cause a written notice of the Commission decision to issue or deny a permit to be mailed to the applicant by U.S. mail.

#### **17.140.140 Appeal from Planning Commission Determination.**

(A) An applicant aggrieved by the Planning Commission's decision to issue or deny a permit may appeal such decision to the City Council by filing an appeal pursuant to Chapter 17.320 of the Municipal Code.

#### **17.140.150 Effect of denial.**

When the Planning Commission shall have denied or revoked any permit provided for in this chapter and the time for appeal to the Council shall have elapsed, or, if after appeal to the Council, the decision of the Planning Commission has been affirmed by the Council, no new application for a permit shall be accepted from the applicant and no such permit 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 denying or revoking the permit.

#### **17.140.160 Suspension and Revocation.**

(A) Consistent with Chapter 17.250, any permit issued under the terms of this chapter may be suspended or revoked by the Planning Commission when it shall appear to the Commission that the permittee has violated any of the requirements of this chapter or the dispensary is operated in a manner that violates the provisions of this chapter, including the criteria for review and operating requirements sections,

or conflicts with State law. The Planning Director shall place the matter of Use Permit suspension or revocation on the Commission agenda at the direction of the City Attorney.

(B) Except as otherwise provided in this chapter, no permit shall be revoked or suspended by virtue of this section until written notice of the intent to consider revocation or suspension of the permit has been served upon the person to whom the permit was granted at least five 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 permit. 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 permit.

(C) If any person holding a permit or acting under the authority of such permit under this chapter is convicted of a public offense in any court for the violation of any law which relates to his or her permit, the City Manager may revoke such permit forthwith without any further action thereof, other than giving notice of revocation to the permittee.

#### **17.140.170 Transfer of Permits.**

(A) A permittee 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 permittee 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 Director of Planning stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the Planning Department in accordance with this all provisions of this chapter accompanied by a fee for a Dispensary Administrative Permit Review in an amount equal to that for a Minor Use Permit, and after Police Department background checks, the Planning Director determines in accordance this chapter that the transferee would be entitled to the issuance of an original permit.

(C) No permit may be transferred when the Planning Director has notified the permittee that the permit has been or may be suspended or revoked.

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

#### **17.140.180 Time Limit for Filing Applications Upon Annexation.**

Any dispensary that was legally established in the County and which is subsequently annexed into the City must apply for and obtain a dispensary permit in compliance with the provisions of this chapter within 90 days from date of annexation. Continued operation of a dispensary without a permit more than 90 days after annexation shall constitute a violation of this chapter, unless an extension of the 90 day period is approved by the Director of Planning upon the applicant's demonstration of reasonable grounds to do so.

#### **17.140.190 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 subject to the enforcement and penalties specified in Municipal Code Chapter 17.340.

17.140.200 Remedies cumulative.

All remedies prescribed under this chapter shall be cumulative and the use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions hereof.

17.140.210 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.

17.140.220 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 City.

17.140.230 Criminal penalties.

Any person who violates, causes, or permits another person to violate any provision of this chapter shall be subject to the penalties set forth in Municipal Code Chapter 17.340.

17.140.240 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 City Manager, create a cause of action for injunctive relief.

17.140.250 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 Sebastopol Municipal Code.

17.140.260 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.

**17.140.270 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 1994.6 which shall be applicable for such actions.

**17.140.280 Effective Date.**

This ordinance shall take effect thirty days after its adoption.



