

Cannabis Program Questions and Answers

Updated May 29, 2019

1. **Question:** The ordinance states, “Dispensaries shall not be located within one thousand (1,000) feet of another dispensary, unless the adjacent dispensary is a medical dispensary locating next to an adult dispensary or the opposite.” If two applications for dispensaries are received that are located within 1000 feet of each other, and are not immediately adjacent to one another, how will the City determine which applicant is eligible to be approved for a Cannabis Conditional Use Permit?

Answer: Applications will be scored and ranked in Phases 1-3 of the application process. The top 3 applicants for dispensaries will be invited to apply for a Cannabis Conditional Use Permit. If two of the top 3 applicants for dispensaries are within 1000 ft, the application with the highest-ranking score after the first 3 phases of the evaluation process will be invited to submit first for a Cannabis Conditional Use Permit. If the highest scoring application for a dispensary is ultimately not awarded a Cannabis Conditional Use Permit, the second highest scoring application for a dispensary will be invited to apply for a Cannabis Conditional Use Permit.

AMENDED ANSWER

2. **Question:** Can Medical and Adult establishments co-locate in the same tenant space?

Answer: Yes, the Commercial Cannabis Business Activities Ordinance allows for co-location of medical and adult use dispensaries provided they are under the same ownership. The ordinance allows a single permittee to hold both an A-Permit and an M-Permit for the same premises, provided they have an operation plan that can demonstrate how they keep the operations of each separate, as indicated by 19.02.030 Operation Plan:

All applicants must provide a plan of operations that will describe how the dispensary will operate consistent with State Law and the provisions of this Chapter including but not limited controls to ensure medical or Adult cannabis will be dispensed only to qualified adults, qualified patients and primary caregivers.

Additionally, California Code of regulations, Title 16, Division 42. Bureau of Cannabis Control, Section 5026(g). Premises Location. g. states: Nothing in this section shall be interpreted to prohibit two or more licensed premises from occupying separate portions of the same parcel of land or sharing common use areas, such as a bathroom, breakroom, hallway, or building entrance.

~~If two state licensed businesses wish to co-locate in the same building, they can share a common entrance but must otherwise be fully walled off from one another, with the exception of the common areas cited in Section 5026(g) above.~~

3. **Question:** Is there a rubric for the evaluation and scoring of applications or security plans?

Answer: The Commercial Cannabis Business Activities Ordinance establishes that applicants will be evaluated on the specific described categories. See Section 19.08.010 Selection Criteria of the Ordinance.

4. **Question:** Is a martial arts studio considered a youth center?

Answer: No.

5. **Question:** Are there two application fees if applying for both medical & adult retail dispensaries that are co-located/adjacent?

Answer: No. Applicants can submit one application and pay one application fee if your applying to co located an adult use and medical use dispensary.

6. **Question:** Does each physical location (separate address) that a potential Cannabis Business wishes to be considered for require a separate Cannabis Dispensary Permit Application and fees?

Answer: Yes. Each physical address a potential Cannabis Business operator wishes to be considered for will require a separate Cannabis Dispensary Permit Application and applicable fee. Each Application will be evaluated and scored separately and independently of one another based on the proposal and site-specific characteristics.

7. **Question:** In the Ordinance, it states that applicants will be scored in a Neighborhood Compatibility (5 Points) category. The description states: "Applicants which demonstrate neighborhood support with a majority of property owners within 250 feet will receive five points. Applicants who do not demonstrate neighborhood support with a majority of property owners within 250 feet will receive zero points." The question asked was, will the 250 feet be measured from the front door of the proposed establishment or from the property line in which the cannabis establishment is proposed to be located?

Answer: For purposes of evaluating applicants in this category, the 250-foot distance will be measured from the property lines in which the proposed establishment will be located.

8. **Question:** If a property owner approves multiple applicants to submit a Cannabis Dispensary Permit Application for Adult Use at a location on their property, how will the City decide who gets to apply for the Cannabis Conditional Use Permit if both applicants are scored in the top 3?

Answer: See answer to question #1 above.

9. **Question:** Section 19.08.010 (C) Final Ranking. states that Qualified applicants from the initial ranking may amend and combine their applications to optimize their scores. What will the process be to "amend and combine" applications?

Answer: Following Phase 3 of the application review process, all scores and ranking will be issued to applicants. Qualified applicants will be allowed five (5) business days to "amend and combine" their applications with other Qualified applicants to optimize scores. Following this five (5) business day period, a subsequent ten (10) day application review period will take place. Following the additional (10) day application review period final scores will be issued, and top scorers invited for the Cannabis Conditional Use Permit phase.

10. **Question:** If a potential cannabis activities business wishes to include both Dispensary and Cultivation uses in their business location, are they allowed?

Answer: If both Dispensary and Cultivation uses area allowed per the zoning at a location, then it is possible that both uses could be permitted; however, an applicant will need to submit both a Dispensary and a separate Non-Dispensary Application in order for both uses to be considered.

11. **Question:** The Ordinance states, “A business plan that demonstrates prior successful business operations (which need not be Cannabis business related) at a similar scale of annual revenue for at least two years and / or capitalization sufficient to insure at least **one year** of operation will receive five points. A business plan without such demonstration will receive 0 points.” The Dispensary and Non-Dispensary Permit Application instructions asks for: “A description of the source(s) of capital and use(s) of capital funds. The budget must demonstrate sufficient capital in place to pay startup costs and at least **three months** of operating costs.” Is the capitalization demonstration requirement one year or three months?

Answer: The Commercial Cannabis Business Activities Ordinance requirement for capitalization sufficient to ensure at least one year is the standard in which applications will be evaluated.

12. **Question:** Are Cannabis Dispensaries required to be more than 600-feet from parks?

Answer: No. The Ordinance does not address parks as a land use in which a 600-foot buffer pertains. The Ordinance states, “No new Cannabis Premise shall be located within 600 feet of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the license is issued.” Parks are noted as part of the Finding of Public Convenience or Necessity that may be required for areas of undue concentration of on-site consumption permits though.

13. **Question:** Who are considered “Principal Employees” for purposes of background checks and Live Scans?

Answer: All owners, operators and employees of a proposed Dispensary are required to submit for a Live Scan and Background Check. All owners, operators and employees known at the time of submission of a Cannabis Dispensary Permit Application will need to meet this requirement. Any owner, operator or employee added to a permitted Cannabis Business will be required to obtain a Live Scan and Background Check as well.

AMENDED ANSWER

14. **Question:** Can two separate companies be awarded the same licenses if one of their owners is the same person? For example, Company A and Company B are both partially owned by John Doe, but the remainder of the owners for each company are different; can Company A and B be awarded retail licenses?

Answer: As long as they are two distinct legally formed corporations the Ordinance defines them as separate owners. Under the example provided, the answer would be no. Guidance on this answer is provided by The CALIFORNIA CODE OF REGULATIONS, TITLE 16, DIVISION 42, BUREAU OF CANNABIS CONTROL, Chapter 1. ALL BUREAU LICENSEES, Article 1. Division Definitions, § 5003.

Designation of Owner. As to the specific question posed paragraph (c) states that, “When an entity is an owner in a commercial cannabis business, all entities and individuals with a financial interest in the entity shall be disclosed to the Bureau and may be considered owners of the commercial cannabis business. For example, this includes all entities in a multi-layer business structure, as well as the chief executive officer, members of the board of directors, partners, trustees and all persons that have control of a trust and managing members or non-member managers of the entity. Each entity disclosed as having a financial interest must disclose the identities of persons holding financial interests until only individuals remain.”

15. **Question:** What percentage of ownership interest must an individual have in a cannabis business to be considered an Owner?

Answer: Guidance on this answer is provided by The CALIFORNIA CODE OF REGULATIONS, TITLE 16, DIVISION 42, BUREAU OF CANNABIS CONTROL, Chapter 1. ALL BUREAU LICENSEES, Article 1. Division Definitions, § 5003. Designation of Owner.