Office of the City Manager

SUPPLEMENTAL AGENDA MATERIAL

Meeting Date: **July 1, 2014**

Item Number:

Item Description: **Medical Cannabis Ordinance Revisions and Dispensary Selection Analysis**

Submitted By: **Zach Cowan, City Attorney**

"Good of the City" Analysis:
The analysis below must demonstrate how accepting this supplement/revision is for the "good of the City" and outweighs the lack of time for citizen review or evaluation by the Council.

The Council continued this matter from June 17th to July 1st in order for staff to draft amendments to the ordinances and selection process that reflected its direction on June 17th.

Consideration of supplemental or revised agenda material is subject to approval by a two-thirds vote of the City Council. (BMC 2.06.070)

A minimum of **42 copies** must be submitted to the City Clerk for distribution at the Council meeting. This completed cover page must accompany every copy.

Copies of the supplemental/revised agenda material may be delivered to the City Clerk Department by 12:00 p.m. the day of the meeting. Copies that are ready after 12:00 p.m. must be delivered directly to the City Clerk at Council Chambers prior to the start of the meeting.

Supplements or Revisions submitted pursuant to BMC § 2.06.070 may only be revisions of the original report included in the Agenda Packet.

Office of the City Manager

ACTION CALENDAR
July 1, 2014

To: Honorable Mayor and Members of the City Council

From: Christine Daniel, City Manager

Submitted by: Zach Cowan, City Attorney

Subject: Medical Cannabis Ordinance Revisions and Dispensary Selection Process

RECOMMENDATION

- Adopt first reading of an Ordinance amending the Berkeley Municipal Code (BMC) Sections 12.26.030 and 12.26.150 with changes directed by the Council on June 17, 2014;
- Adopt first reading of an Ordinance amending the BMC by creating a new Chapter 12.27, with changes directed by the Council on June 17, 2014;
- Adopt a resolution establishing a ranking process for the selection of additional medical cannabis dispensaries in Berkeley, including changes added in response to Council concerns; and
- Refer to the Planning Commission an amendment to BMC Section 23E.16.070 to increase the number of dispensaries permitted from four to six.

FISCAL IMPACTS OF RECOMMENDATION

See June 13, 2014 staff report.

SUMMARY

On June 17, 2014 the Council considered the proposed ordinance amendments and selection criteria, gave staff direction as to additional changes, and continued this matter to July 1, 2014.

The changes directed by the Council are included in the amendments to Chapter 12.26 (Attachment 1), the proposed new Chapter 12.27 (Attachment 2), and the proposed selection criteria (Attachment 3).

All changes proposed to Chapter 12.26 are shown in redlining. However, for clarity, all changes to Chapter 12.27 (Attachment 2) that the Council has already reviewed, including the alternate language from the Medical Cannabis Commission, are shown in regular type, and only the changes proposed in response to the Council's direction on June 17th are shown in redlining.

The Council should review the proposed amendment to section 12.27.030.G in particular to make sure that it correctly reflects the Council's intent.

CURRENT SITUATION AND ITS EFFECTS

See preceding section.

RATIONALE FOR RECOMMENDATION

The Council directed that the amendments in the attached documents be made.

ALTERNATIVE ACTIONS CONSIDERED

Not applicable.

CONTACT PERSON

Zach Cowan, City Attorney, (510) 981-6998

Attachments:
1. Ordinance Amending Sections 12.26.030 and 12.26.150 of the Berkeley Municipal Code
2. Ordinance Adding Chapter 12.27 (Medical Cannabis Dispensaries and Collectives) to the Berkeley Municipal Code
3. Resolution Adopting the Ranking/Allocation Process for Medical Cannabis Dispensaries

ORDINANCE - N.S.

AMENDING SECTIONS 12.26.030 AND 12.26.150 OF THE BERKELEY MUNICIPAL CODE DEFINING MEDICAL CANNABIS COLLECTIVES AND DISPENSARIES

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Section 12.26.030 of the Berkeley Municipal Code is amended to read as follows:

12.26.030 Definitions.

A. "Cannabis" shall have the same meaning as the definition of "Marijuana" provided in California Health and Safety Code Section 11018 at this time, but if that definition is amended by state law in the future, as amended. Currently, under Health and Safety Code Section 11018, "marijuana means all parts of the plant cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination."

B. "Qualified patient" shall have the same meaning as provided in California Health and Safety Code Section 11362.7.~~mean a person who has a written or oral recommendation or approval from a licensed medical doctor to use cannabis for medical purposes.~~

C. "Primary caregiver" shall have the same meaning as provided in California Health and Safety Code Section 11362.7.~~mean the individual person or persons designated by a qualified patient, provided that said individual person or persons has consistently assumed responsibility for the housing, health, or safety of the qualified patient.~~

D. ~~1.~~"Medical cannabis collective" or "Collective" shall mean an ~~cooperative,~~ affiliation, association, or collective of persons comprised exclusively and entirely of qualified patients and the primary caregivers of those patients, the purpose of which is to collectively provide for or assist in the cultivation and distribution of Medical Cannabis to its members. *Collectives* may have more than one location. Each location of a Collective shall be subject to the regulations in Section 12.27.120. ~~education, referral, or network services to qualified patients, and to facilitate or assist in the cultivation and manufacture or acquisition of medical cannabis for qualified patients. Except as permitted by Section 12.26.130 or Title 23, m~~Medical cannabis collectives shall not be located in commercial or manufacturing districts, and shall only be allowed in residential districts, and only to the extent they are ~~as~~ incidental to residential use. A Collective may be organized as any statutory business entity permitted under California law, provided it operates in a Not-For-Profit manner as defined in Chapter 12.27.

E. ~~2.~~ "Medical cannabis cooperative" or "Cooperative" means a "cooperative" under the Food & Agricultural Code or the Corporations Code that is comprised exclusively and entirely of qualified patients and the primary caregivers of those patients, the purpose of which is to provide for cultivation and distribution of Medical Cannabis to its members. If a Cooperative is not operating an authorized Dispensary, it is subject to the rules governing Collectives.

~~E~~F. "Medical cannabis dispensary" or "Dispensary" shall mean an ~~authorized~~ establishment operated by a Cooperative or Collective ~~California nonprofit public benefit or mutual benefit corporation organized under Part 2 or Part 3 of Division 2 of the Corporations Code,~~ that is authorized under Chapter 12.27 and Title 23~~any medical cannabis collective that is allowed under Section 12.26.130~~ to dispense medical cannabis at a non-residential location. ~~Such a~~A ~~d~~Dispensary may also provide other incidental services to its members, cultivate, acquire, bake, store, process, test, and transport medical cannabis. In dispensing ~~medical c~~Cannabis to its qualified patients or their primary caregivers, a ~~d~~Dispensary may be reimbursed for the cost of its services and materials.

~~F~~G. "Medical cannabis organization" includes both ~~Medical cannabis c~~Collectives and Cooperatives~~and Medical cannabis dispensaries~~.

Section 2. That Section 12.26.150 of the Berkeley Municipal Code is amended to read as follows:

12.26.150 Violations of square footage limitations not punishable as public offenses – public nuisance.

A. Notwithstanding anything to the contrary, violations of square footage limitation in Section 12.26.040.D shall not be punishable as public offenses to the extent that doing so would conflict with state law. (Ord. 7161-NS § 5, 2010)

B. Violations of this Chapter are hereby declared to be public nuisances and shall be subject to Chapters 1.24 and 1.26.

Section 3. Posting.

Copies of this Bill shall be posted for two days prior to adoption in the display case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way. Within fifteen days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

ORDINANCE - N.S.

ADDING A NEW CHAPTER 12.27 TO THE BERKELEY MUNICIPAL CODE REGULATING MEDICAL CANNABIS DISPENSARIES AND COLLECTIVES

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That a new Chapter 12.27 is added to the Berkeley Municipal Code to read as follows:

Medical Cannabis Dispensaries and Collectives

Article I	**General**
12.27.010	**Applicability**
12.27.020	**Definitions**
Article II	**Dispensaries**
12.27.030	**Eligibility requirements**
12.27.040	**Information requirements**
12.27.050	**Operating Standards**
12.27.060	**Signage**
12.27.070	**Product safety and quality**
12.27.080	**Medical cannabis for low income Members**
12.27.090	**Records**
12.27.100	**Ranking and allocation procedure and criteria**
12.27.110	**Confidentiality of information**
Article III	**Collectives**
12.27.120	**Limitations on Collective operations**
12.27.130	**Operating standards for all Collectives**
12.27.140	**Large Collectives**
Article IV	**Enforcement**
12.27.150	**Authority of City Manager**
12.27.160	**Abatement of violations**
12.27.170	**Fees**
12.27.180	**Severability**

Article I General

12.27.010 Applicability

A. This Chapter applies to Medical Cannabis Dispensaries ("Dispensaries") and Collectives as defined in Section 12.26.030.

B. The three existing Dispensaries permitted as of January 1, 2012, under Berkeley Municipal Code section 12.26.130 shall have a grace period of 12 months from the effective date of this ordinance to comply with it. Any such Dispensary that substantially complies with this ordinance by that time may continue to operate and shall not be required to participate in the ranking and allocation process under 12.27.100. Any such dispensary that does not substantially comply with this ordinance by that date shall cease operation, but may apply to operate under Berkeley Municipal Code section 12.27.100 on the same basis as any other applicant.

12.27.020 Definitions

For purposes of this Chapter, the definitions in Section 12.26.030, as well as the following definitions, shall apply.

A. "Active Ingredients" means, in the case of dried cannabis flowers, extractions or infusions, delta-9-tetrahydrocannabinolic acid, delta-9-tetrahydrocannabinol, cannabidiolic acid, cannabidiol, and any cannabinoid or propyl cannabinoid derivative when present in amounts greater that .5% by dry weight, and any mono- or sesquiterpenoid present in an amount exceeding .3% of a product's dry weight.

B. "Batch" means:

1. a discrete quantity of dried Medical Cannabis that is all from the same crop grown in the same location and harvested in the same manner and at the same time;
2. a discrete quantity of other Medical Cannabis Product that has been prepared or processed in the same manner.

C. "Cannabis By-Products" means delta-8-THC and cannabinol when present in amounts greater than .2% of a product's dry weight

D. "Cultivate" and "Cultivation" mean activities related to the growing, harvesting, drying, curing, processing, manicuring and production of Medical Cannabis, and may include testing, manufacturing and preparation of Edibles, as long as the predominant use is cultivation of Medical Cannabis.

E. Medical Cannabis.

1. "Medical Cannabis" means Cannabis, as defined in Section 12.26.030.A, that is intended or used for medicinal purposes in compliance with state law.
2. "Medical Cannabis Product" is any non-edible product that contains Medical Cannabis.

3. “Edible Medical Cannabis Product” (or “Edible”) is edible product that contains Medical Cannabis. Edible Medical Cannabis Products shall not be considered food for purposes of implementation of the California Retail Food Code (Health & Safety Code §§ 113700 *et. seq*.) or the California Sherman Food and Drug and Cosmetic Act (Health & Safety Code §§ 109875 *et. seq.*).

F. “Member” means a qualified patient or primary caregiver as defined in California law who is also a member of a Collective or Dispensary pursuant to its rules and consistent with California law.

G. “Not-for-Profit” means that an organization receives compensation only for the reasonable costs of its operation, including reasonable compensation for products and services provided to Members to enable them to use Medical Cannabis pursuant to Health and Safety Code Sections 11362.7 *et seq*.; reasonable compensation for employees; reasonable out-of-pocket expenses incurred in providing those products or services, or both. Reasonable out-of-pocket expenses may include, but are not necessarily limited to, reasonable expenses for Member services and education, rent or mortgage, utilities, construction, furniture, maintenance, analytic testing, security, professional service costs, regulatory compliance costs, debt service, and reserves.

H. “Principal” means any person that has direct or non-delegated indirect authority over the management or policies of a Dispensary or the Medical Cannabis Organization (MCO) that operates it.

I. “Protected Health Information” means documentation of a Member’s medical history or condition other than a physician’s recommendation, an identification card issued pursuant to Health and Safety Code Section 11362.7 *et seq*., or the written designation of a primary caregiver by a qualified patient or identification card holder. Protected Health Information shall not include information conveyed by a Member to a Dispensary regarding such Member’s medical condition, information conveyed by a Member to a Dispensary regarding efforts to ameliorate or otherwise address symptoms associated with such Member’s medical condition, or information regarding Cannabis or Medical Cannabis Products provided to a Member.

Article II Dispensaries

12.27.030 Eligibility requirements

A. No person may be allowed to have any position with a Dispensary other than that of Member if he or she has been convicted of:

1. homicide;
2. within the preceding 10 years, any serious or violent felony listed in Penal Code Section 1192.7(c) or Section 667.5(c);
3. within the preceding 10 years, any violation of Penal Code Sections 243 through 247, except for subdivision (a) of Section 243;

4. within the preceding 10 years, any offense under subdivisions (d) or (e) of Section 11357 or Section 11361, or Articles 1, 3, 5, 6, or 7 of Chapter 6 of Division 10 of the Health and Safety Code; or

5. within the preceding 5 years any felony violation of Health and Safety Code Section 11358, Section 11359 or Section 11360.

B. A Dispensary may only be operated by a Cooperative or Collective, and shall operate in a Not-for-Profit manner.

C. No Principal of any Dispensary may be a Principal for any other Dispensary in Berkeley.

12.27.040 Information requirements

Every Dispensary shall provide the following information to the City, and shall update it annually and whenever there is any material change.

A. A description of the Dispensary and its location, which shall include such information as the City may require that demonstrates compliance with applicable provisions of this Chapter.

B. The name, address and 24-hour contact information for each Principal, including a photocopy of at least one primary form of photo identification, such as a California Drivers License or US Passport. This information shall also include any aliases, maiden or married names or other former legal names.

C. Proof of each Principal's status as a qualified patient or primary caregiver.

D. For each Principal, a signed consent for the City to conduct a background check, including criminal history.

E. Proof of the nature of the Dispensary's organizational status, such as articles of incorporation, by-laws, partnership agreements, and other documentation as may be appropriate or required by the City.

12.27.050 Operating Standards

Dispensaries shall comply with Health and Safety Code Sections 11362.7 *et seq.* and any other state laws that may be adopted concerning Medical Cannabis, the Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, and Chapter 12.26 and Title 23 of the Berkeley Municipal Code, and any other applicable City laws or regulations, and shall pay all applicable state or local taxes. Dispensaries shall also comply with the operating standards set forth in this Section.

A. Membership.

1. Dispensaries may consist only of Members.

2. Dispensaries may only obtain Medical Cannabis from, and supply Medical Cannabis to, their Members.

3. No person other than a Member may Cultivate Medical Cannabis on behalf of a Dispensary.

4. The scale of Cultivation by or on behalf of a Dispensary shall be proportional to its Member load.

5. Dispensaries may not admit any person as a Member without first verifying his or her status as a qualified patient or primary caregiver as defined by state law, and shall immediately cancel the membership of any person who diverts Medical Cannabis for non-medical use or in any manner not permitted by this Chapter, Chapter 12.26 or California law.

6. Physicians' recommendations shall be verified prior to granting membership and at least every twelve (12) months thereafter, and a physical or digital record shall be kept of such verification. No Medical Cannabis may be dispensed except to a Member and pursuant to a recommendation that is no more than twelve (12) months old, unless the recommendation expressly states that it has a longer term or does not expire.

7. No physician recommendations for Medical Cannabis may be provided on site.

8. All prospective members must be advised in writing, prior to accession to membership, as follows: "WARNING: Medical cannabis products including edibles are not tested by local, state or federal governmental agencies for health, safety, or efficacy. There may be health risks associated with the consumption of these products."

B. Non-diversion. Dispensaries shall take all practicable steps necessary to prevent and deter diversion of Medical Cannabis to non-Members. Dispensaries must limit access to Medical Cannabis, Medical Cannabis Products and Edibles to authorized personnel only, and must maintain an inventory management system that:

1. Accounts for all Medical Cannabis, Medical Cannabis Products and Edibles;

2. Tracks each Batch of Medical Cannabis, Medical Cannabis Products and Edibles received by the Dispensary from its source, including each Batch's approximate content of Active Ingredients and Cannabis By-Products as a percentage of weight;

3. Retains all information listed in paragraphs 1 and 2 above for a period of at least 120 days from receipt of the Batch; and

4. Is capable of producing a summary showing the information necessary to verify non-diversion.

C. Dispensing.

1. Dispensaries may not dispense to any person who is not a Member, and may not dispense without first verifying membership.

2. Dispensaries may not provide more Medical Cannabis to an individual than is necessary for that person's personal medical use, and may not dispense more than one ounce of dried Cannabis per day per qualified patient as defined in state law; provided that:

a. if a qualified patient has a physician's recommendation that this quantity does not meet his or her medical needs, the qualified patient or his or her primary

caregiver may possess, and the Dispensary may dispense to him or her, an amount of Medical Cannabis consistent with those needs;

b. a Dispensary may provide more than one ounce of dried Medical Cannabis if the excess amount is low concentration Medical Cannabis that would not normally be sold for consumption, and is only used for preparation of Medical Cannabis Products by a Member; or

c. a qualified patient needs a greater quantity due to a planned absence from the area.

3. Dispensaries may not distribute free samples for promotional purposes outside of the Dispensary premises.

4. If a Member has an identification card issued pursuant to Health & Safety Code Section 11362.71 or 11362.735, a Dispensary shall use the number from that card to ensure compliance with this subdivision.

D. Members and employees.

1. All employees and volunteers must be Members who are at least 18 years of age.

2. Dispensaries may not admit any person under 18 years of age to membership without written authorization of a parent or legal guardian. Any Member under 18 years of age shall be accompanied by a parent or legal guardian at all times that such person is at the Dispensary.

E. Security.

1. Dispensaries shall provide adequate security and lighting on-site to ensure the safety of persons and protect the premises from theft at all times. Lighting shall be of sufficient intensity to illuminate all areas of the lot.

2. Dispensaries must maintain security guards and camera coverage of their entire grounds to an extent sufficient to ensure the safety of persons and deter crime. Cameras must be maintained in good condition, and use a format approved by the City Manager, which is of adequate quality, color rendition and resolution to allow the ready identification of any individual committing a crime. The cameras shall be in use 24 hours per day, seven (7) days per week. The areas to be covered by the security cameras include, but are not limited to, dispensing areas, storage areas, cultivation areas, all doors, parking lots, and any other area determined by the City Manager. Surveillance footage must be retained for a period of 90 days and made available to the Berkeley Police Department for purposes of investigation of alleged crimes, promptly upon request without the necessity of a warrant or subpoena. Retention and maintenance of security camera recordings shall comply with Section 12.27.110.

3. Dispensaries must be equipped with an alarm system that is operated and monitored by a security company licensed by and in good standing with the California Department of Consumer Affairs. Alarms shall be maintained and in good working condition at all times.

4. In order to prevent unauthorized entry during non-business hours, a Dispensary shall either secure all exterior windows and roof hatches from the inside with bars, retractable, folding or sliding metal gates, or metal rollup or accordion doors, or provide at least one security guard during those hours.

5. Any security guards employed by Dispensaries shall be licensed and possess a valid Department of Consumer Affairs “Security Guard Card” at all times. Security personnel may not be armed.

6. All Medical Cannabis, Medical Cannabis Products and Edibles, except for limited amounts used for display purposes, samples or immediate sale, shall be securely stored at all times, and the entrance to all storage areas shall be locked and under the control of staff.

7. Dispensaries shall make transactions with payment methods other than cash whenever feasible. All cash received, except that needed for retail customer transactions shall be kept in a secure receptacle such as a drop safe or other type of safe.

F. Neighborhood compatibility.

1. Dispensaries shall be operated to ensure neighborhood compatibility, and shall take all steps necessary to ensure that Members do not create neighborhood disturbances. Such measures shall include, but not be limited to, providing a security guard to patrol the area surrounding the Dispensary during all hours of operation.

2. Dispensaries shall provide the Police Department and all residents and property owners within 100 feet with the current name, phone number, secondary phone number and e-mail address of an on-site community relations staff person to whom notice of any operating problems associated with the establishment may be reported. This information shall be updated as necessary to keep it current. Dispensaries shall encourage neighbors to call this person to try to solve any operating problems.

3. All Dispensaries shall have an on-site manager responsible for overall operation at all times they are open, and shall provide the Police Department with contact information for all such persons, including telephone number and e-mail address. Dispensaries shall also provide the Police Department with the current name and phone numbers of at least one 24-hour-on-call manager. This information shall be updated as necessary to keep it current.

4. Dispensaries shall take all reasonable steps to discourage and correct objectionable conditions that constitute a public or private nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties. Such conditions include, but are not limited to: smoking; creating a noise disturbance; loitering; littering; and graffiti.

5. Dispensaries shall ensure all graffiti is removed from property and parking lots under their control within 72 hours of its appearance.

6. Dispensaries shall operate only between the hours of 9:00 a.m. and 9:00 p.m.

G. Consumption of Medical Cannabis, Tobacco and Alcohol.

1. Smoking of Medical Cannabis is prohibited at Dispensaries and within 50 feet of Dispensaries on the public right of way. For purposes of this subdivision, the term “smoking” does not include the use of an electronic and/or battery-operated device, the use of which may resemble smoking, which can be used to deliver an inhaled dose of Medical Cannabis, including but not limited to any device manufactured, distributed,

marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor.

2. Sale or consumption of tobacco is prohibited at Dispensaries.

3. Sale, service and consumption of alcoholic beverages at Dispensaries is prohibited, and Dispensaries shall prohibit any person in possession of an alcoholic beverage from entering or remaining on the premises.

4. This subdivision does not prohibit the testing of Medical Cannabis Products by staff of a Dispensary or the use of tinctures or topical Medical Cannabis Products that do not have intoxicating effects.

H. Accessibility. Dispensaries shall comply with all physical accessibility requirements that would be applicable to a newly-constructed building, except that pre-existing Dispensaries permitted under Ordinance No. 6826 – N.S. shall not be required to comply with such requirements as long as they remain in the same location as when this Chapter became effective, except as may be required by other laws.

I. Termination of Membership.
A Dispensary shall terminate the membership of any Member of whom it is aware who purposely or repeatedly violates the limitations in this Section or who operates a motor vehicle after ingesting any Medical Cannabis Product at that Dispensary. Prompt termination of membership under this subdivision shall be considered in any enforcement proceeding against a Dispensary.

12.27.060 Signage

A. A sign shall be posted at the entrance to any Dispensary that includes the following language:

> This Dispensary only provides medical cannabis to its members, who must have ~~Only individuals with~~ legally recognized California Medical Cannabis Identification Cards or a verifiable, written recommendation from a physician for medical cannabis ~~may obtain cannabis from medical cannabis dispensaries~~.

The required text shall be of sufficient size to be easily read from a distance of five feet.

B. A sign shall be posted in a conspicuous location inside the structure at the location advising:

> This Dispensary is registered in accordance with the laws of the City of Berkeley. The sale of marijuana and the diversion of marijuana for non-medical purposes are violations of State law. The use of marijuana may impair a person's ability to drive a motor vehicle or operate heavy machinery.

C. A sign or signs shall be posted in a location or locations conspicuous from all sales areas inside the structure that state:

> WARNING: Medical cannabis products including edibles are not tested by local, state or federal governmental agencies for health, safety, or efficacy. There may be health risks associated with the consumption of these products.

The required text shall be of sufficient size to be easily read from a distance of five feet.

12.27.070 Product Safety, Quality Assurance and Labeling

Medical Cannabis and Medical Cannabis Products and Edibles shall be tested, and specified compounds shall be quantitated, as set forth in this Section.

A. The following compounds shall be quantitated as set forth in the following table, using equipment and methodologies with limits of detection for all compounds no greater than 0.1% by weight, or 1~~0~~ mg/g.

Constituent	**Equipment/Methodology**
THCA	HPLC[1], or GC[2] with derivatization
THC	HPLC, or GC with derivatization
CBDA	HPLC, or GC with derivatization
CBD	HPLC, or GC with derivatization
CBN	HPLC, or GC with derivatization
[1] High-performance liquid chromatography [2] Gas chromatography	

B. The quantitative information required by subdivision A shall be printed on labels for all Medical Cannabis, Medical Cannabis Products and Edibles as set forth in the following table.

Product type	**Label information**
Cannabis (flowers, leaf and concentrates)	% by weight and mg/g
Edibles (other than beverages)	mg/package or mg/serving if applicable; nutritional and allergen information as required by the CDPH for cottage foods
Capsules/pills	mg/capsule
Oils, butters, tinctures (for internal	weight/volume

consumption)	mg/g
Topicals (external application)	mg/g or mg/mL, as applicable
Beverages	mg/container and mg/serving, if applicable; nutritional and allergen information as required by the CDPH for cottage foods.

C. Medical Cannabis, Medical Cannabis Products and Edibles shall be tested for contaminants as set forth in the following table. Medical Cannabis, Medical Cannabis Products and Edibles that contain more than the permissible levels may not be provided to any Member or any other person, and shall either be destroyed or returned to their source(s).

Contaminant	**Testing methodology**	**Permissible amount**
Pesticides	GC-MS[1], Elisa[2]	100 ppb (total of all pesticides)[3]
Microbiological contaminants	• AOAC[4] 986.33 • AOAC 997.02 (Milk and Dairy Standards) • AOAC 991.14 • PCR[7] or Petrifilm • PCR or Petrifilm • PCR or Petrifilm	• APC[5] <100,000 CFUs[6] (Plating only), • Yeast/Mold= APC<10 CFUs(Plating only) • Coliform ≤ 1,000 CFUs (Plating only) • Pseudomonas ≤ 1,000 CFUs • Salmonella = 0 CFU • E.coli = 0 CFU (PCR)
Residual flammable solvents (concentrates only)	Head space analysis	400 ppm (total of all solvents)[8]

1 Gas chromatography-mass spectrometry
2 Enzyme-linked immunosorbent assay
3 Parts per billion
4 Association of Analytical Communities
5 Aerobic plate count
6 Colony-forming unit
7 Polymerase chain reaction
8 Parts per million

D. Baked goods, such as cookies and brownies, shall be exempt from testing for contaminants. These products are still subject to testing for potency, as required for the label information in Section 12.27.070.B, and must use medical cannabis that has been tested for contaminants.

E. Dispensaries shall maintain a written or computerized log documenting:

1. the date, type, and amount of Product tested;
2. the source(s) of any contaminated Medical Cannabis, Medical Cannabis Product or Edibles;
3. the report containing the results of the testing, including the name and level of the substance detected; and
4. the disposition of the Medical Cannabis, Medical Cannabis Product or Edible from which the contaminated sample was obtained, including the amount and the date and manner of disposition.

Such logs shall be maintained for at least one year and made available to the City upon request.

F. Packaging and Labeling for Medical Cannabis and Medical Cannabis Products.

1. Medical Cannabis and Medical Cannabis Products that is made available to members shall be contained in packaging that bears labels containing the following information, in addition to any other information that a Dispensary may choose to provide or that may be required by law:
    a. the name and contact information for the Dispensary;
    b. the weight;
    c. the quantity of compounds as set forth in subdivision B;
    d. the date of manufacture or production; and
    e. a complete list of ingredients.
2. Scales and weighing mechanisms must be able to weigh to within 1/100th of a gram, shall be maintained in good working order and shall be subject to annual inspection by either the Alameda County Department of Agriculture/Weights and Measures or a licensed scale company.

G. Preparation, Packaging and Labeling of Edibles.

1. Edibles. Edibles shall be limited to those items approved in the California Homemade Food Act, Chapter 6.1 (commencing with Section 51035) of Part 1 of Division 1 of Title 5 of the Government Code.
2. Compliance with State Food Safety Requirements. A Dispensary that prepares, dispenses, or in any manner distributes Edible Medical Cannabis Products must comply with the relevant provisions of all State and local laws specified by the City Manager regarding the preparation, distribution, labeling and sale of food, even if those laws are not directly applicable to Edibles. Any facility used by a Dispensary to produce Edibles shall be constructed, operated and inspected in accordance with the applicable building code and applicable food safety requirements.
3. Preparation of Edibles.
    a. Individuals involved in the production or distribution of Edibles containing Medical Cannabis shall thoroughly wash their hands before commencing production and before handling the finished product. Gloves must be worn when packaging edible products containing Medical Cannabis.

b. In order to reduce the likelihood of foodborne disease transmission, individuals who are suffering from symptoms associated with acute gastrointestinal illness or are known to be infected with a communicable disease that is transmissible through foodstuffs are prohibited from preparing edible products containing Medical Cannabis until they are free of that illness or disease, or are incapable of transmitting the illness or disease through foodstuffs. Individuals who have sores or cuts on their hands must use gloves when preparing and handling edible products containing Medical Cannabis.

c. Edibles that are produced or distributed at a Dispensary may only be prepared by a Member of that Dispensary and, if prepared in Berkeley, shall only be prepared in a facility permitted and inspected for the production of food by a government agency, such as a commercial kitchen or a facility operating in accordance with the California Homemade Food Act.

d. Certified Food Handler. A Member who produces Edible Medical Cannabis Products must be a State certified food handler. The valid certificate number of such Members must be on record at each Dispensary where the edible product is distributed, and a copy of the certificate kept either on-site, or made available during inspections if kept off-site.

e. Hand-washing Facilities. Hand-washing facilities shall be adequate and convenient and be furnished with running water at a suitable temperature. Handwashing facilities shall be located in the facility in Edible preparation areas and where good sanitary practices require employees to wash and/or sanitize their hands, and provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices.

4. Packaging of Edibles.

a. All Edibles shall be individually wrapped at the original point of preparation. Labeling shall be distinctly and clearly legible on the front of the package and must include: (i) a warning if nuts or other known allergens are used; (ii) a warning that the item is a medication containing Medical Cannabis and the total weight (in ounces or grams) and amount of Active Ingredients in the package; (iii) the date of manufacture; (iv) a statement that the contents are not a food product; and (v) information indicating any caloric impact on the patient. The package label must have a warning clearly legible emphasizing that the product is to be kept away from children.

i. Labels of Edibles that are not tested for contaminants (baked goods) shall include a statement that the cannabis used in the product was tested for contaminants.

b. Packaging of Edibles shall be opaque, and may not make it appear as if the Edible is a food product. Packaging that makes the product attractive to children or imitates candy is not allowed.

c. Packaging of edibles shall be tamper-evident.

5. Producers of Edibles that are not tested for contaminants shall maintain a written or computerized log documenting:

a. The source of the cannabis used in each batch of product;

b. The contaminant testing date; and

c. The testing facility for the cannabis

H. Definitions

For purposes of this Section, the following terms are defined as set forth below.

1. Compound(s) means any or all of the following chemicals, as the context requires:

a. "THC" or "Δ9-THC" means Δ^9-tetrahydrocannabinol, (−)-(6aR,10aR)-6,6,9-trimethyl-3-pentyl-6a,7,8,10a-tetrahydro-6H-benzo[c]chromen-1-ol.

b. "THCA" or "Δ9-THCA" means the acid form of THC

c. "CBD" or "Cannabidiol" means 2-[(1R,6R)-6-isopropenyl-3-methylcyclohex-2-en-1-yl]-5-pentylbenzene-1,3-diol.

d. "CBDA" or "Cannabidiolic acid" means the acid form of CBD.

e. "CBN" or "Cannabinol" means 6,6,9-trimethyl-3-pentyl-benzo[c]chromen-1-ol

2. "Concentrate" means any oil or butter into which any Compound has been infused or otherwise dissolved.

3. "Contaminant" means any pesticide, residual solvent or microbiological organism or product thereof.

4. "Solvent" means any substance in which another substance is dissolved, forming a solution.

5. "Tincture" means an extract of Cannabis or solution of such, typically made with alcohol.

12.27.080 Medical cannabis for low income Members

A. At least 2~~1~~% (by weight) of the annual amount of Medical Cannabis provided by a Dispensary to all Members, shall be provided at no cost to very low-income Members. This amount shall be calculated every six months, based on the amount dispensed during the immediately preceding six months. Medical Cannabis provided under this Section shall be the same quality on average as Medical Cannabis that is dispensed to other members.

B. For purposes of this Section, income shall be verified using federal income tax returns or other reliable method approved by the City Manager.

C. For purposes this Section, "very low income" shall mean the household income established by the most recent annual City Council resolution that establishes the maximum income levels for qualification for exemption from specified local taxes and fees.

12.27.090 Records

A. General. All Dispensaries shall maintain contemporaneous financial and operational records sufficient to show compliance with this Chapter, Chapter 12.26, and applicable California law, as well as satisfaction of commitments made in the Dispensary's application and during the ranking and allocation process. Such records shall be maintained in a secure location under the control of the Dispensary within the

City of Berkeley, and shall be subject to inspection by the City upon reasonable notice during regular operational hours or by appointment.

B. Finances.

1. Dispensaries shall operate on a Not-for-Profit basis. Sale of Medical Cannabis to cover anything other than reasonable compensation and reasonable out-of-pocket expenses is explicitly prohibited. To the extent they provide goods or services not related to Medical Cannabis, Dispensaries need not operate on a Not-For-Profit basis.

2. Dispensaries shall make their financial records available to the City on an annual basis. Such audited records shall be limited to information necessary for the City to determine the not-for-profit status of the organization and shall include information on staff/principal compensation.

C. Membership. Dispensaries shall keep an accurate roster of Members, which shall include either the State of California Medical Marijuana Identification Card number issued by a county pursuant to Health & Safety Code Sections 11362.7 *et seq*. or a copy of a physician's referral and, if using a primary caregiver, a written authorization from the qualified patient to be represented by such primary caregiver. Such records shall be maintained in a manner that protects the confidentiality of the Dispensary's Members.

D. Operations. Dispensaries shall maintain the following information and make it available to the City within 30 days of the end of each calendar year.

1. The total number of members during the year;
2. The total amount of revenue collected during the year;
3. The consideration paid for each Batch;
4. Monetary and non-monetary contributions from Members;
5. Total monetary and non-monetary distributions to Members other than Medical Cannabis Products or Edibles dispensed for monetary consideration;
6. Salaries and overhead; and
7. A complete list of the types of Medical Cannabis, Medical Cannabis Products and Edibles available, and the prices thereof.

E. Convictions. Dispensaries shall immediately report any conviction of a person subject to Section 12.27.030.A that would cause him or her to be ineligible to have a position other than that of Member.

12.27.100 Ranking and allocation procedure and criteria

The Council may by resolution establish procedures and criteria for accepting applications to operate Dispensaries and determining which, if any, to approve.

12.27.110 Confidentiality of information

A. The City's review of information submitted or maintained pursuant to this Chapter

shall preserve the confidentiality of all information about Principals and Members to the maximum extent consistent with state and local law. The City shall incur no liability for the inadvertent or negligent disclosure of such information. Disclosure of any Principal or Member information to the City for purposes of this Chapter shall not be deemed a waiver of confidentiality. Financial information provided to the City pursuant to Section 12.27.090 shall be deemed to be "financial information" covered by Chapter 7.26.

B. The information required by Section 12.27.040 and recordings from security cameras, shall be confidential and shall not be subject to public inspection or disclosure except to City employees for purposes of law enforcement.

C. In order to protect confidentiality, Dispensaries shall not collect or maintain Protected Health Information. Dispensaries shall maintain membership records and information about members in a manner that ensures that the information will not be disclosed except as required by this Chapter or other laws. If a Dispensary maintains information conveyed by a Member to a Dispensary regarding such Member's medical condition, information conveyed by a Member to a Dispensary regarding efforts to ameliorate or otherwise address symptoms associated with such Member's medical condition, or information regarding Medical Cannabis, Medical Cannabis Products and/or Edibles provided to a Member, such information shall be kept in a manner that is in compliance with the Confidentiality of Medical Information Act. Membership lists shall be available to City employees charged with the administration of this Chapter for inspection on site without a warrant during business hours or by appointment.

Article III Collectives

12.27.120 Limitations on Collective operations

As a use that is incidental to the residential use of property in residential zoning districts, Collectives shall comply with the following operating limitations:

A. A Collective may not generate more than 5 Member trips per day per location, excluding trips by residents of the Collective location.

B. Cash on hand shall be minimized, and no more than $1000 may be retained overnight per location.

C. Collectives may not operate at more than four (4) locations in Berkeley, and may not store or maintain at any site at any time more than a combined total of 10 pounds of dried Medical Cannabis and concentrates, of which no more than 1 pound may be concentrates.

D. Collectives may not have Member visits to obtain Medical Cannabis except for social purposes before 8:00 a.m. or after ~~10~~9:00 p.m.

E. No alcohol may be served for consideration.

F. No consideration may be charged for entry into the Collective or any part of the residence in which the Collective is located, no live entertainment may be provided, and no entertainment of any sort may be provided for consideration.

G. Smoking of Medical Cannabis by non-residents is prohibited in all exterior areas of Collectives and within 50 feet of Collectives on the public right of way.

H. Collectives may not have any exterior display identifying them as such.

I. Establishment and maintenance of a Collective may not involve any changes in utility service or exterior modifications beyond those that would be customary for a residence.

J. Collectives may not have any impacts on adjoining properties, such as, but not limited to, excessive noise, glare, smells, smoke, etc., beyond those that are normal for residential use.

12.27.130 Operating standards for all Collectives

Collectives shall comply with the following provisions of this Chapter.

A. Section 12.27.050, subdivisions A, B and C.

B. Section 12.27.070 subdivisions A-F. Subsection 12.27.070.C shall only apply to collectives with 25 or more members.

C. Section 12.27.090, subdivisions B and D. Subsection 12.27.090.B.2 shall only apply to collectives with 25 or more members.

D. Section 12.27.110, to the extent applicable.

E. Before it may obtain a business license pursuant as required by Chapter 9.04, a Collective must obtain an inspection from the City that any cultivation or processing of Medical Cannabis that it intends to undertake at a given site will not pose a fire hazard.

12.27.140 Reserved.

Article IV Enforcement

12.27.150 Authority of City Manager

A. The City Manager or his or her designee shall have authority to determine the nature of any purported Collective or Dispensary and whether that Collective or Dispensary complies with any of the requirements of this Chapter and to conduct inspections as provided in Chapter 1.16.

B. The City Manager or his or her designee shall have authority to enter onto private property and perform such inspections as may be necessary or convenient to implement and enforce this Chapter, and to adopt regulations to implement this Chapter.

12.27.160 Abatement of violations

A. Violations of this Chapter shall constitute a public nuisance under Chapter 1.26. The City may enforce this Chapter through proceedings under Chapter 1.24, Chapter 1.28, Chapter 23B.64 and any other law or ordinances it deems appropriate.

B. Notwithstanding anything to the contrary, violations of this Chapter shall not be punishable as public offenses to the extent that doing so would conflict with state law.

12.27.170 Fees

The City Council may establish by resolution the fees that shall be charged for administration and implementation of this Chapter. The adoption of such fees shall not prevent the City from recovering enforcement costs not specified in such resolution.

12.27.180 Severability

If any word, phrase, sentence, part, section, subsection, or other portion of this Chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this Chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City Council hereby declares that it would have passed this title, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional.

Section 2. Posting.

Copies of this Bill shall be posted for two days prior to adoption in the display case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way. Within fifteen days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

RANKING/ALLOCATION PROCESS FOR MEDICAL CANNABIS DISPENSARIES

INTRODUCTION

This process is adopted pursuant to and to implement Berkeley Municipal Code Chapter 12.27. The competitive process and criteria below will be used for determining which Dispensaries may fill any unoccupied slots under the City's 4-dispensary cap, adopted in 2010, and codified in Section 12.26.130. As of the adoption of this Process, there were three operating Dispensaries, and one open slot, however additional slots may become available in the future either as a result of attrition or amendment of Section 12.26.130, or for other reasons.

PUBLIC INFORMATION

Applications and associated materials in the possession of the City are public records. While certain information will likely be exempt from disclosure, other information will not be, and some information will necessarily be made public as part of the ranking process. In complying with the Public Records Act, the City will make reasonable efforts to keep sensitive information from being disclosed, but cannot guaranty that information an applicant may want to be kept confidential will not be disclosed. The City will make reasonable efforts to notify applicants whenever requests for disclosure of their information are received. The City shall not in any way be liable for the disclosure of any such records or portions thereof if the disclosure is made pursuant to a request under the Public Records Act, and applicants assume the risk of such disclosure by submitting their applications.

SUMMARY OF PROCESS

The ranking/allocation process shall consist of a single comprehensive application, and four rounds of evaluation, which are summarized below.

Round 1: Application and Determination of Eligibility

Staff will conduct a background and criminal history check and evaluate whether an application demonstrates eligibility under Section 12.27.030.

Each Principal must attain a passing grade on a Medical Cannabis competency test.

Successful applicants whose applications meet these requirements will be forwarded on to Round 2.

Materials submitted by applicants who do not pass the qualification round will be returned to them, and all copies of those materials will be destroyed.

Round 2: Initial Ranking – Minimum Qualifications

Applicants will be ranked based on criteria below.

- Proposed Location(s) of business
- Business Plan
- Neighborhood Compatibility Plan
- Safety and Security Plan

The top 10 applicants would move on to Round 3.

Round 3: Second Ranking – Bonus Points

Points will be awarded based on the categories listed below. The top five applications would move to the Selection process.

- Availability of Professional Services
- Community Benefits
- Enhanced Product Safety
- Environmental Benefits
- Labor & Employment
- Local Enterprise
- Location (final)
- Qualifications of Principals
- Consolidation

Round 4: Selection

The City Council will then make the final decision from among the top five candidates.

DESCRIPTION OF PROCESS

A. Round 1 – Application and Determination of Eligibility

1. Application Requirements

Before accepting applications, the City will give at least 60 days public notice that applications to operate a Dispensary or Dispensaries will be accepted pursuant Chapter 12.27. The notice shall specify a deadline for submission of applications, as well as the number of Dispensaries for which applications will be accepted.

All Applicants will be required to submit an application on a form provided by the City. Applications shall be signed by a Principal under penalty of perjury that she or he has personal knowledge of the information stated in the application and that it is true.

The application shall include such information as the City may require that demonstrates compliance with applicable provisions of Chapter 12.27, as well as the following:

1. The name of a single point of contact for the applicant, who shall be a Principal.

2. All information required by Section 12.27.040.

3. A description of the Dispensary and its proposed location(s), including the address of any proposed facility with proof of ownership, lease, and or letter of owner's willingness to lease. A signed lease is not to be given any additional consideration until Round 3.

4. Plans for alteration of any existing buildings.

5. Business Plan. The business plan must contain as much detail as possible on the day-to-day operation of the Dispensary and how it will conform to applicable state and local laws and the Attorney General's Guidelines. The business plan shall describe: mechanisms for ensuring that the Dispensary will operate on a Not-for-Profit basis; a description of how Medical Cannabis will be tracked and monitored to prevent diversion, such as by verifying the status of recommending physicians and retaining all written recommendations from recommending physicians; a schedule for beginning operation, including a narrative outlining any proposed construction and improvements and a timeline for completion.
   The business plan shall include a budget for construction, operation, maintenance, compensation of employees, equipment costs, utility costs, and other operation and maintenance costs, and shall demonstrate sufficient capital in place to pay startup costs and at least three months of operating costs, as well as a description of the sources and uses of funds. Proof of capitalization shall be in the form of documentation of cash or other liquid assets on hand, Letters of Credit or other equivalent assets. The business plan shall also include a pro forma for at least three years of operation.

6. Neighborhood Compatibility Plan. The application must describe how the Dispensary, including its exterior areas and surrounding public areas, will be managed so as to avoid becoming a nuisance or having impacts on its neighbors and the surrounding community.

7. Location(s). The application must describe the proposed location or locations of the Dispensary, all confronting and abutting uses, transit access and accessibility and nearby sensitive uses.

8. Safety and Security Plan. The application shall include a detailed description of Fire prevention, suppression, HVAC and alarm systems that includes an assessment of the facility's fire safety by a qualified Fire prevention suppression consultant. An appropriate plan will have considered all possible fire, hazardous

material, and inhalation issues/threats and will have both written and physical mechanisms in place to deal with each specific situation.
The security plan shall include a description and detailed schematic of the overall facility security. Applicants shall detail their operational security including but not limited to general security policies for the facility, employee specific policies, training, sample written policies, transactional security, visitor security, 3rd party contractor security, and delivery security. In particular Applicants should address ingress and egress access, perimeter security, product security (at all hours), internal security measures for access (area specific), types of security systems (alarms and cameras), and security personnel to be employed. The security plan shall also include an assessment of site security by a qualified security consultant. Security plans shall not be made public.

During the evaluation period, security plan details that could aid persons who wish to commit security violations shall be considered to be confidential and shall not be released unless ordered by a court.

9. Environmental Benefits. The application must describe any proposed "green" business practices relating to energy and climate, water conservation, and materials and waste management. Specific "green" practices that are encouraged are:
   a. maximizing energy efficiency;
   b. where applicable, applying for and using available PG&E programs for free technical assistance for design and construction of building shell, tenant improvements, building systems and processes;
   c. using renewable energy;
   d. reducing transportation emissions (e.g., use of biofuels, electric vehicles);
   e. using green building measures;
   f. any other efforts to reduce or offset any greenhouse gas emissions
   g. reuse and remediation of Brownfield sites;
   h. water conservation, including recycling and on-site treatment, if permitted
   i. developing a zero waste plan for operations;
   j. minimizing packaging and using recycled content, recyclable and reusable materials, throughout the supply chain;
   k. implementing a reuse plan for materials used;
   l. providing a prediction of and implementing an operational phase waste stream broken down by refuse, recycled materials and composted materials by volume;
   m. using organic fertilizers and pest control measures; and
   n. minimizing use of hazardous or toxic substances and preventing them from entering the soil, air or water.

10. Community Benefits. The application shall describe benefits that the Dispensary would provide to the local community. Examples of such benefits are:
   a. providing re-entry jobs and job training to the unemployed;
   b. contributing to/supporting domestic violence prevention programs;

c. contributing to/supporting Parks and Recreation Centers, libraries, or funding for arts, culture, and environmental programs;
d. contributing to/supporting Children/Youth programs and intervention services;
e. contributing to/supporting substance abuse education and rehabilitation programs;
f. funding foreclosure prevention and foreclosure abatement programs, including eviction defense following foreclosure; ~~and~~
g. provision of high quality Medical Cannabis to low income Members;
h. any other neighborhood improvements.

11. Enhanced Product Safety. The application shall state how the Dispensary will ensure enhanced consumer safety by testing for biological and chemical contaminants, specified by the City Manager pursuant to state or federal standards for food, drugs or tobacco.

12. Labor and Employment. The application shall describe to what extent the Dispensary will adhere to heightened pay and benefits standards and practices, including recognition of the collective bargaining rights of employees. Specific practices that are subject to consideration include the following:
    a. providing compensation to and opportunities for continuing education and training of employees/staff (applications should provide proof of the Dispensary's policy and regulations);
    b. being a "card check-neutral" facility;
    c. having obtained pre-existing recognition from a certified labor union;
    d. being party to a collective bargaining agreement with a certified labor union; and
    e. providing a "living wage" to facility staff and employees. Wage scale should be provided in writing for all levels of employment at the facility. "Living Wage" shall mean 200% of the minimum wage mandated by California or Federal law, whichever is greater.

13. Local Enterprise. The application shall state the extent to which the Dispensary will be a locally managed enterprise whose Principals reside within Berkeley and/or the following adjacent cities: Albany, Kensington, Oakland and Emeryville.

14. Availability of Professional Services. The application shall state the extent to which the Dispensary will provide professional services related to the use of Medical Cannabis to Members, whether on- or off-site. Such services may include, but are not necessarily limited to, medical or technical consulting, referrals to providers of such services, mental health services, alternative health care to the extent permitted by state law, diet and nutritional advice, and similar types of services, but shall not include recommending the use of Medical Cannabis.

15. Qualifications of Principals. The application shall include information concerning any special business or professional qualifications or licenses of principals that would add to the number or quality of services that the Dispensary would

provide, especially in areas related to Medical Cannabis, such as scientific or health care fields.

2. Determination of Eligibility

Staff will undertake background and criminal history checks, verify whether the applications provide complete and accurate information and demonstrate compliance with the eligibility requirements of Section 12.27.030.

If an application meets these requirements, each Principal will be required to attain a passing grade on a Medical Cannabis competency test to demonstrate a working knowledge of state and local compliance standards.

Applications that include all required information will be considered.

Late and incomplete applications will not be considered.

Applicants who pass the Medical Cannabis competency test and whose applications meet these requirements will be eligible to continue to Round 2.

Determinations in Round 1 will be final and not be subject to appeal.

3. Competitive Ranking Process

Applications that pass Round 1 will be reviewed by a three-person panel of City staff designated by the City Manager. The reviewing panel will evaluate applications in each succeeding round based on how well they satisfy the criteria for that round. In evaluating applications, the reviewing panel shall consider the quality and responsiveness of the application with respect to each of the topics covered. The evaluation and ranking of the applications and allocation of Dispensary slots shall lie within the sole judgment and discretion of the reviewers.

B. <u>Round 2 – Initial Ranking: Minimum Qualifications</u>

In Round 2, the reviewing panel will evaluate each application against the criteria in, and assign points based on, the following table.

Topic	**Maximum Possible Points**
Proposed Location(s)	400
Business Plan	300
Neighborhood Compatibility Plan	400
Safety and Security Plan	400
Total possible	1500

The top 10 applicants will move on to Round 3.

The reviewing panel will rank the remaining applicants by assigning points in each of the categories in the table below. “Consolidation” points shall be awarded for consolidation with one or more of the other top ten applications. The top five applications, based on the total number of points from Rounds 2 and 3 will then move to the Selection process. In the case of a consolidated application, the average number of total points shall be used.

C. Round 3 – Second Ranking: Bonus Points

Topic	Maximum Possible Points
Availability of Professional Services	300
Enhanced Product Safety	200
Environmental Benefits	200
Community Benefits	300
Labor & Employment	300
Local Enterprise	500
Location (final)	500
Qualifications of Principals	500
Consolidation (with applicants that pass Round 2)	150 for each consolidation, maximum of 300
Total possible	2800 (plus up to 300 for consolidation)

D. Round 4 – Selection

Within 45 days after Round 3 is completed, each applicant shall conduct a public meeting in the area or areas proposed for its Dispensary. If no location in the immediate area is available, the applicant shall use a community facility that is as near as possible. Notice of such public meetings shall be on a form approved by the City and shall be provided as set forth in BMC Chapter 23B.32 for Use Permit public hearings. Within 5 days after notice of the public meeting is mailed, an applicant shall provide to the City a copy of the notice of the public meeting, a list of addresses to which it was sent, and an affidavit of mailing. An applicant that does not hold a public meeting within this period of time shall be disqualified.

After the public meetings are completed the applications shall be presented to the Medical Cannabis Commission, which may make a recommendation to the City Council.

The City Council will then establish the final ranking of applications and make its selection from among the top five.

Notice of the public meetings of the Commission and Council shall be provided as set forth in BMC Chapter 23B.32 for Use Permit public hearings.