

**Proposed changes to the Berkeley Municipal Code related to
Delivery-Only Dispensaries (Revised)**
April 6, 2017

12.23.020 Definitions

H. 1. "Dispensary" means both Retail Dispensaries and Delivery-Only Dispensaries.

2. "Retail Dispensary" shall mean an organization that is authorized under Chapter 12.27 and Title 23 to dispense Medical Cannabis at a lawfully established non-residential location. A Dispensary may also provide other incidental services to its Members to the extent permitted by state law, such as cultivating, acquiring, baking, storing, processing, testing, transporting and delivering Medical Cannabis. In dispensing Medical Cannabis to its Members, a Dispensary may be reimbursed for the cost of its services and materials. A Dispensary 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](#).

3. "Delivery-Only Dispensary" is a Dispensary that is limited to acquiring Medical Cannabis and delivering it to its Members, and does not have a location to which Members may come to acquire Medical Cannabis or any other good or service.

12.27.115 Delivery-Only Dispensaries – Delivery requirements

A. In addition to the six existing Retail Dispensaries, under Berkeley Municipal Code Section 12.26.130 and any Retail Dispensaries selected under Section 12.27.100, up to 10 Delivery-Only Dispensaries shall be permitted, on a first-come-first-served basis.

B. Delivery-Only Dispensaries shall comply with the requirements of Chapter 12.23 and this Chapter that are applicable to Dispensaries except those that are determined by the City Manager to be inapplicable to Delivery-Only Dispensaries because of the nature of their operation as distinct from Retail Dispensaries.

C. Delivery-Only Dispensaries shall only be allowed under this Section in zoning districts where they are specifically permitted.

D. All Dispensaries that provide delivery services to their members shall comply with the following requirements, as well as all applicable requirements of state law. In the event of a conflict, state law shall prevail.

1. All vehicles used for delivery shall be maintained and operated in a manner and in a condition required by law and applicable regulations.

2. The following persons may not drive delivery vehicles:

a. a person who has been at fault within the two years immediately preceding the application in any motor vehicle accident causing death or personal injury;

b. a person who has been in three or more motor vehicle accidents within the previous 12 months.

c. a person who has been under suspension, revocation or probation within the last five years by the Department of Motor Vehicles for a cause involving the safe operation of a motor vehicle, or has been convicted of any of the following offenses: driving while under the influence, or reckless driving involving bodily injury, or who does not possess a valid driver's license;

3. The following persons may not be involved in making deliveries:

- a. any person who is required to register as a sex offender under Section 290 of the California Penal Code;
- b. any person within the past ten years who has been convicted of any offense involving moral turpitude.

4. Persons involved in making deliveries must have in their possession a copy of the document memorializing the City's approval of the delivery service.

5. Delivery vehicles may not advertise any activity related to Cannabis or advertise the name of the Dispensary.

6. Delivery of the Medical Cannabis shall be directly to the residence or business address of the Member. Deliveries to any other location are prohibited.

7. Deliveries ~~of marijuana~~ may occur only between the hours of 8:00 a.m. and 11:00 p.m.

8. All orders to be delivered shall be packaged by the name or identification number of the Member for whom the delivery is intended.

9. In addition to the requirements of Section 12.27.050 subdivisions A and B, the person responsible for making deliveries shall have a copy of the record of all delivery requests while making deliveries.

10. All Dispensaries that provide delivery service shall maintain at all times Commercial General Liability providing coverage at least as broad as ISO CGL Form 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury with limits of not less than One Million Dollars (\$1,000,000) per occurrence and Comprehensive Automobile Liability (owned, non-owned, hired) providing coverage at least as broad as ISO Form CA 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than One Million Dollars (\$1,000,000). The Commercial General Liability policy shall provide contractual liability, shall include a severability of interest or equivalent wording, shall specify that insurance coverage afforded to the City shall be primary, and shall name the City, its officials and employees as additional insured. Failure to maintain insurance as required herein at all times shall be grounds for immediate suspension of the privilege of providing delivery service.