



City of Encinitas

Development Services Department
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REGISTRATION/APPLICATION PROCEDURES FOR A COMMERCIAL CANNABIS RETAIL BUSINESS LICENSE

These Procedures apply solely to cannabis Retail Applicants. Procedures for other cannabis business types will be made available in a separate document.

NUMBER OF PERMITS

During this Registration/Application Process the City of Encinitas (City) will be allowing up to four (4) Retail cannabis business licenses.

APPLICABLE REGULATIONS

Information regarding the Commercial Cannabis Business (CCB) licensing process can be found on the City's website at encinitasca.gov/cannabis and includes the following:

- Registration/Application Procedures
- City of Encinitas Municipal Code (EMC Chapter 9.25 – Cannabis Activity)
- City of Encinitas Municipal Code (EMC Chapter 30.09 – Zoning Use Matrix)
- Cannabis Retail Business License Registration Forms
- Downtown Encinitas Specific Plan
- North 101 Corridor Specific Plan
- Encinitas Ranch Specific Plan
- Cardiff-by-the-Sea Specific Plan

The procedures contained in this document (hereafter referred to as “Procedures”) constitute the CCB Registration/Application Process for Retailers and implement the Encinitas Municipal Code (EMC) Chapter 9.25.

Businesses submitting Registration/Application materials (hereafter referred to as “Applicants”) should monitor the City's web page for any additional information, FAQs, or updates. It is the responsibility of the Applicant to stay informed of updates.

AMENDMENTS TO REGISTRATION/APPLICATION FORMS

Applicants will not be allowed to make amendments to their Registration/Application materials, or to supplement their Registration/Application forms, except as otherwise specifically permitted in these procedures, as posted on the City's website as a clarification update, or as authorized in writing by the City Manager or designee.

CITY'S RESERVATION OF RIGHTS

The City reserves the right to amend or rescind any and/or all Registrations/Application materials, with or without cause or reason. In addition, the City reserves the right to request and obtain additional information from any Applicant in order to conduct a complete review of the Registration/Application forms, or an investigation into the truthfulness of the statements set forth therein.

PHASE I – REGISTRATION PROCESS

Registration Period
OPENS – January 17, 2022
CLOSES – February 18, 2022

Pursuant to EMC Chapter 9.25, the City will conduct a CCB Registration Process (Phase I) to determine which Applicants will be given preference to obtain a Retail Cannabis Business License. The Registration Process will include the following:

- Submittal of Registration materials by Applicants.
- Review of Registration materials for completeness.
- Verification of compliance with zoning and sensitive-use requirements.
- Criminal background check(s) of proposed CCB owners and representatives.
- Preference criteria review and ranking.
- Completion of public lottery for eligible Applicants who meet the highest number of criteria for preference.

REGISTRATION SUBMITTAL PROCESS

Prior to submitting Registration materials to the City, Applicants are encouraged to review the Registration package in its entirety to ensure that it is complete and accurate. Applicants must respond to all requirements outlined in the Procedures described herein. Applicants must submit all required Registration materials together in one complete comprehensive Registration package. The Registration package must be submitted through the City of Encinitas Customer Self Service (CSS) online portal. Registration materials must be received by 5:00 p.m. on February 18, 2022.

The Registration package must include all the following documents (with original signatures where required):

1. Cannabis Business License Registration Form;
2. Financial Responsibility, Indemnity and Consent to Inspection Terms Agreement;
3. Agreement on Limitations of City's Liability and Indemnification to City;
4. Preference criteria supporting documentation;
5. Background check confirmation documentation; and
6. Geographic Barrier Form (if necessary).

All materials must be submitted on CSS in a PDF format, in the order specified below.

PDF File #1	Cannabis Business License Registration Forms; Financial Responsibility, Indemnity and Consent to Inspection Terms Agreement; and Agreement on Limitations of City’s Liability and Indemnification to City. All copied documents shall display required signatures to be deemed complete.
PDF File #2	Preference Criteria Supporting Documentation.
PDF File #3	Background Check confirmation documentation (all required documents for each owner and responsible person). Upon submission of the online background application, Applicants will receive an email confirmation. This confirmation needs to be printed, scanned, and included within PDF File #3.
PDF File #4	Geographic Barrier Form (if necessary).

During Phase I, Applicants will have 30 days to submit complete Registration materials and deliver them to the City. At the conclusion of the Registration period, the City will perform a preliminary review of Registration materials for completeness. The preliminary review will not consider any of the information provided in “Section I – Preference Criteria” of the Registration forms. Applicants who are missing information from their Registration materials (excluding information identified in “Section I – Preference Criteria”) will be notified by email if their Registration materials are found to be missing minor requirements (for example, signatures/dates on forms, proof of payment receipts, scanned copies of licenses/permits, incorrect formatting, etc.). Notifications will be sent to the primary point of contact identified on the Registration forms. The Applicant may be granted five days from the date of the email to submit the required supplemental information.

Should you receive an email from the City, we ask that you confirm receipt of it immediately. If the City does not receive confirmation from your primary contact within two days, it may, but is not required to, make an attempt to notify the primary contact by phone in case the email went into the recipient’s spam folder unnoticed. Should this be the case, you will not be provided additional time to complete the curing process. Applicants must monitor all incoming or spam email carefully to ensure receipt of City communications and compliance with deadlines. Applicants may not submit any additional information other than what was requested to cure the minor requirements.

The City reserves the right to reject Registration materials that are missing major components (for example a proposed location, property owner authorization), and will notify the Applicant by email that they have been disqualified due to major inadequacies of their Registration packet.

REGISTRATION FEE

All Applicants will be required to submit a Registration fee of \$6,527.83. This amount will offset the cost to the City to review Registration materials and administer the Registration process. Payment must be made through the City of Encinitas Customer Self Service (CSS) online portal. Registration fees are non-refundable once the City has begun reviewing the Registration materials.

In addition to the Registration fee, there will be a separate Background Check Fee of \$300 per business owner and responsible person, charged upon online submission of the request for

background check service. Additional information on the background check requirement is provided further below.

CRIMINAL BACKGROUND CHECK

All business owner(s) and responsible person(s) associated with the proposed CCB must undergo a criminal history background check to verify that the owner(s) and responsible person(s) have not been convicted of a serious or violent felony. Owners who do not meet the criminal history eligibility requirements will be disqualified. The City of Encinitas has contracted with HdL Companies to perform the criminal background investigation on the City's behalf. To initiate the background investigation process, owners and responsible persons shall complete the form provided in the link below:

https://hdlcompanies.formstack.com/forms/bc_encinitas.

The initial background check fee for each owner shall be \$300.00. Upon submitting the background investigation form and paying the required fee, Applicants will receive email confirmation from HdL Companies verifying that the form was received. The confirmation email will include the name of the person requesting the background check, as well as the name of the CCB. Applicants shall include a copy of the confirmation email in the Registration package for each individual required to undergo a background check, to serve as verification that the background investigation process has been initiated.

Please note – the background check confirmation email is separate and distinct from the background check receipt, which includes information on the method of payment and amount charged. In order to confirm that all owners and responsible persons submitted a background investigation form, businesses shall attach the background check confirmation email, which includes identifying information for the person requesting the background check service.

ZONING AND SENSITIVE USE BUFFER REQUIREMENTS

Upon closing of the Registration period, including the granting of any five-day extensions, the City of Encinitas Development Services Department will initiate a review of all relevant zoning and sensitive use buffer requirements.

Pursuant to EMC Chapter 9.25, Retailers shall maintain a 1,000-foot separation from sensitive uses, including day care centers, playgrounds and schools. Pursuant to state law, Retailers shall maintain a 600-foot separation from youth centers. By default, the Development Services Department will measure the buffer distance in GIS as a straight line from the closest property line of the cannabis premise to the closest property line of the sensitive use, or the closest boundary line of a playground.

Measure H allows an exception to the straight-line measurement methodology if there are natural topographical barriers and constructed barriers such as freeways, flood control channels, or railroad tracks without pedestrian or automobile crossings that would impede direct physical access between the uses. In such cases, the separation distance shall be measured as the most direct route around the barrier in a manner that establishes direct access. Businesses requesting such exception shall submit a Sensitive Use Topographical and Constructed Barrier Form (Geographic Barrier Form) as part of the Registration packet. City staff will conduct an initial review of the Geographic Barrier Form, and the City reserves the right to request

additional documentation and/or materials supporting the request. Ultimately, the City will make the final determination on whether the identified geographic barrier qualifies as a natural topographical or constructed barrier pursuant to Measure H.

Failure to submit a Geographic Barrier Form shall result in the City measuring buffer distances in GIS as a straight line from the closes property line of the cannabis premise to the closest property line of the sensitive use, or the closest boundary line of a playground. Businesses may not request a change in sensitive-use distance measurement methodology after the close of the Registration process.

PREFERENCE CRITERIA AND PUBLIC LOTTERY

Following confirmation of zoning and sensitive use buffer requirements, City staff and the Consultant will perform a full evaluation of Registration materials and rank Applicants according to the preference criteria identified in the Section 7(c) of EMC Chapter 9.25. Pursuant to the EMC, preference will be given to Applicants where an owner of the applying organization for a cannabis business license has at least one of the following types of experience:

1. A minimum of twelve (12) consecutive months as an Owner or Responsible Person of a Cannabis Business, within the previous five (5) years, in a jurisdiction permitting such Commercial Cannabis Activity. Pursuant to the EMC, “Responsible Person” is defined as the person who is responsible for the operation, management, direction or policy of the proposed cannabis business. The twelve (12) consecutive months must be of a type substantially similar to that allowed by the City License for which the Applicant is applying; or
2. A minimum of thirty-six (36) consecutive months as an owner with an aggregate ownership of thirty percent (30%) or more in a lawful pharmaceutical business licensed and regulated by a state or the federal government. The thirty-six (36) months of experience demonstrated must be of a type substantially similar to that allowed by the City License for which the Applicant is applying; or
3. A minimum of eighteen (18) consecutive months as an owner with an aggregate ownership interest of twenty percent (20%) or more in a lawful, properly licensed business with an average of four (4) or more employees located within the City, thereby demonstrating a record of experience, familiarity and compliance with City rules and regulations.

Applicants that meet multiple criteria will receive greater preference based upon the number of criteria they meet. Following the publication of preference rankings by the City, Applicants will be provided an opportunity to submit supplemental documentation within five days of the notification to qualify for preference criteria initially deemed inadequate by the City. During this time, Applicants may submit supplemental documentation addressing “Section I – Preference Criteria” of the Registration Form only. Applications are prohibited from amending/supplementing Sections A – H during the five-day window. City staff will review any additional documentation provided, finalize the preference ranking, and schedule a public lottery for Applicants who share the same number of preference criteria. Procedures for the public lottery will be posted by the City upon finalization and publication of Applicant preference criteria rankings.

PHASE II – APPLICATION AND PLAN CHECK PROCESS

The Application Process (Phase II) will open at the conclusion of the public lottery. Phase II is adopted pursuant to EMC Chapter 9.25 Section 7(h)(d), whereby Applicants selected through the public lottery must demonstrate full compliance with all regulations outlined in the EMC prior to obtaining a Business License. The Application Process will include the following components:

- Submittal of Supplemental Application Materials;
- Site Plan Review;
- Building Plan Check;
- Construction and inspection;
- Final pre-license inspection and approval.

If an Applicant selected in the public lottery is unable to comply with the regulations and requirements outlined in EMC Chapter 9.25 within eighteen (18) months of being selected, their selection shall be retracted. If the majority of the delays in the licensing of a CCB are determined to be due to processing, scheduling, or other delays on the part of the City or other relevant authority, beyond the control of the Applicant, the period for compliance shall be extended for the Applicant, proportional to the delays.

SUPPLEMENTAL APPLICATION INSTRUCTIONS

Retail Applicants selected through the public lottery must submit Supplemental Application Materials. The Application package must be submitted through the City of Encinitas Customer Self Service (CSS) online portal.

The Application package must include all the following documents:

1. Cannabis Business License Supplemental Application Form
2. Business Plan
3. Application Fee

All materials must be submitted on CSS in a PDF format, in the order specified below.

PDF File #1	Cannabis Business License Supplemental Application Form
PDF File #2	Business Plan

Applicants who have submitted a complete set of Supplemental Application Materials will be authorized to proceed to the plan check process. Applicants who are missing information from their Supplemental Application Materials will be notified by email. Notifications will be sent to the primary point of contact identified on the Supplemental Application forms.

SUPPLEMENTAL APPLICATION FEE

All Applicants will be required to submit an Application fee of \$4,712.38. This amount will offset the cost associated with time spent by City staff and the Consultant in reviewing Supplemental Application materials and administrating the Application process. Payment must be made

through the City of Encinitas Customer Self Service (CSS) online portal. Application fees are non-refundable once the City has begun reviewing the Application materials.

SUPPLEMENTAL APPLICATION MATERIALS

Supplemental Application Materials for Retail Applicants will be made available on the City website upon the conclusion of the public lottery. Only Applicants selected through the public lottery will be authorized to participate in the Phase II Application Process.

ADDITIONAL INFORMATION

An Applicant may file an appeal to the City Manager within five days of the Applicant receiving a notice that they will not be issued a license. Such appeals shall comply with the requirements of EMC Chapter 6.02. Any decision made by the City Manager to award or not to award a cannabis license shall be final and shall not be subject to further appeal.

NOTE: Being awarded a CCB license does not constitute a land use entitlement and does not waive or remove the requirements of applying for and receiving permits for all construction including: electrical, plumbing, fire, Development Services Department permits or reviews, and any other permits, licenses, or reviews as deemed necessary by the relevant departments or governmental entities in charge of said permits. Nor does the award of a CCB license guarantee that the plans submitted via the CCB application process meet the standards or requirements in the EMC and any other permit requirements from other City departments or agencies.

CONTACT

If you have any questions or would like an update on the status of your application, please contact the Development Services Department at (760) 633-2710 or by email at cannabis@encinitasca.gov.