



MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY
BRIAN C. CRAWFORD, DIRECTOR

PUBLIC CONVENIENCE AND NECESSITY FACT SHEET

DEFINITION AND APPLICABILITY

The State Department of Alcoholic Beverage Control (ABC) will refer applications for certain types of alcoholic beverage licenses to the County for a public convenience or necessity (PCN) determination. The PCN determination allows the County to determine whether issuance of a license would result in a public convenience or necessity to the local community. The referral will be made to the Community Development Agency in cases where the ABC finds that there is an undue concentration of similar licenses in the area for which an application for a new license or a license transfer has been made. According to Section 23958.4 of the California Business and Professions Code, an undue concentration exists when the premise for which a license is proposed is located in an area where any of the following conditions exists: (1) the crime reporting district for the area has a 20 percent greater number of reported crimes than the average number of reported crimes for the entire jurisdiction of the local law enforcement agency; or (2) the ratio of licenses in the census tract to the census tract population exceeds the ratio of licenses in the County to the total population of the County.

The County's authority to make PCN determinations is limited to specific types of off-sale licenses (where alcoholic beverages in sealed containers are sold for off-site consumption), such as grocery stores, liquor stores, and take-out-only restaurants, and on-sale licenses (where alcoholic beverages are sold for consumption on the premises), such as bars. The license categories include: (1) Type 20 (off-sale beer and wine); (2) Type 21 (off-sale general); and (3) all on-sale retail licenses EXCEPT Type 43 (on-sale beer and wine for train), Type 44 (on-sale beer and wine for fishing party boat), Type 45 (on-sale beer and wine for boat), Type 46 (on-sale beer and wine for airplane), Type 53 (on-sale general for train and sleeping car); Type 54 (on-sale general for boat), Type 55 (on-sale general for airplane), Type 56 (on-sale general for vessels of more than 1,000 tons burden); and Type 62 (on-sale general bona fide public eating place intermittent dockside license for vessels of more than 15,000 tons of displacement). PCN determinations for applications for all other types of licenses are made by the license applicant. These include applications for a non-retail license, a retail on-sale bona fide eating place license (such as a restaurant), a retail license issued for a hotel, motel, bed and breakfast, or other lodging establishment, and a retail license issued in conjunction with a beer manufacturer's license or a winegrower's license.

TIME FRAME FOR PROCESSING

Generally, action is taken on a PCN application within four weeks from the date when the application is deemed complete. In cases where the underlying use of the property for which the license is sought requires a separate land use permit, such as a Use Permit or Coastal Permit, the PCN determination will be rendered concurrently with the land use permit, normally within four weeks from the date the land use permit application is deemed complete.

CRITERIA FOR PCN DETERMINATION

The following criteria will be used in determining whether a PCN determination can be made for a proposed alcoholic beverage license: (1) whether the proposed use for which the alcoholic beverage license is sought is consistent with the Economic Element of the Marin Countywide Plan and any applicable community plan; (2) whether the proposed use for which the alcoholic beverage license is sought would result in a detriment or nuisance to the public health, safety, or welfare for those residing or working in the surrounding community, including nuisances relating to noise, littering, loitering, and crime; (3) whether the proposed use for which the alcoholic beverage license is sought serves an unmet or underserved need or population within the surrounding community or provides a convenience to that population; and (4) whether the proposed use for which the alcoholic beverage license is sought places significant burdens on the delivery of public safety-related services, such as those pertaining to crime and fire protection.

APPLICATION PROCESS

- STEP 1** SUBMIT APPLICATION AT ZONING COUNTER - The submittal requirements for a PCN determination are listed later in the fact sheet. Please check with the public information planner if you have any questions regarding any of these items. Incomplete or unclear applications will not be accepted for processing.
- STEP 2** STAFF APPLICATION PROCESSING - A planner will be assigned to process your PCN application. He/she will transmit your application and any other pertinent materials to other public agencies, such as the Sheriff and Fire Departments.
- STEP 3** PUBLIC NOTICE - At least ten days prior to making the PCN determination, a notice of the pending action will be mailed to all persons whose names and addresses are shown on the latest equalized assessment roll maintained by the County as owners of real property within a distance of 300 feet from the property for which the alcoholic beverage license is sought. The notice will state the date that the determination will be rendered, the location of the property, and a description of the proposed PCN application.
- STEP 4** ACTION - The Community Development Agency Director (Director) will render all PCN determinations except when the Director determines that substantial controversy exists or when the Director's determination is appealed, in which instance the Marin County Board of Supervisors will serve as the final decisionmaker. In cases where the PCN application is processed concurrently with a land use permit, the PCN determination will be rendered by the decisionmaker for the land use permit. The final determination on the PCN will be provided to the State Department of Alcoholic Beverage Control.
- STEP 5** APPEAL - The action on a proposed PCN determination by the Director is final unless an appeal is received by the Planning Department within five working days from the determination date. The Marin County Board of Supervisors will act on the appeal to sustain, modify, or overrule a PCN determination. The Planning Commission will act on an appeal for a PCN determination as part of an appeal of a land use permit decision that was made concurrently with the PCN determination.

SUBMITTAL REQUIREMENTS

1. A letter of determination from the State Department of Alcoholic Beverage Control indicating that a PCN determination is required from the local jurisdiction for the proposed alcoholic beverage license. In addition, please submit a written description of the type and nature of the existing and proposed uses for which the alcoholic beverage license is proposed. Include the types of services/products that are to be provided, the hours of business, the number of employees, and any other information pertinent to the determination of whether a PCN will be served by the license.
2. Filing fee and any other additional information as may be required by the Director.

FOR FURTHER INFORMATION

Please visit the Marin County Community Development Agency's public information counter at the Civic Center - Room 308, San Rafael, California, Monday through Friday (closed holidays), 8:00 a.m. – 4:00 p.m., or call (415) 499-6269. Call the California Department of Alcoholic Beverage Control's Santa Rosa District Office at (707) 576-2165 for more information on the alcoholic beverage licensing requirements.