

ORDINANCE NO. 4416

ORDINANCE AMENDING CHAPTER 6.04 OF THE MENDOCINO COUNTY CODE REGARDING COUNTY BUSINESS LICENSE REQUIREMENTS

The Board of Supervisors of the County of Mendocino, State of California, ordains as follows:

Section 1: Section 6.04.030 of the Mendocino County Code is hereby amended to read as follows:

Sec. 6.04.030 - Definitions.

The following words and phrases when used in this Chapter shall be construed as follows:

- (a) The word "person" shall mean any natural person, firm, partnership, trust, estate, association, corporation, company, or organization of any kind. Where a principal acts through an agent, the word "person" shall include both such principal and agent.
- (b) The word "business" includes professions, trades, occupations, vocations, enterprises, establishments, each and every activity identified in section 6.04.050(a)-(g) of this Chapter, and each and every activity which is conducted for the purpose of earning in whole or in part a profit or livelihood, whether or not a profit or livelihood actually is earned thereby, whether paid in money, goods, labor, or otherwise.
- (c) The word "merchandise" shall mean any goods, wares, merchandise, products, or chattels of any description.
- (d) The term "sell" or "sale" shall include offer for sale, solicit a sale, expose for sale, have in possession for sale, exchange, barter, trade, or any transaction in which merchandise is given for joining or making a contribution to any organization or business.
- (e) The phrase "fixed place of business" means any permanent warehouse, building, or structure located within the unincorporated area of the County of Mendocino, owned in fee or leased, at which the owner or lessee carries on a legitimate permanent business in good faith and at which stocks of merchandise are produced, stored, or kept in quantities usually carried and reasonably adequate to meet the requirements of the business or, if the business is one of performing services, where such services are performed. "Fixed place of business" does not mean tents, temporary stands, or other temporary structures, or permanent structures occupied pursuant to a temporary arrangement for a period of less than thirty (30) days.
- (f) The term "itinerant business" includes any person soliciting the sale of any merchandise or service door-to-door or the operation of a roadside vending stand.
- (g) A person shall be deemed to "transact" or "operate" a business if that person owns, or otherwise conducts or carries out the activities of such business, or solicits, negotiates, or engages in any itinerant business.
- (h) "Contractor" or "Building Contractor" includes the provisions of home improvement services at off-site locations to be consistent with Chapter 20 of the Mendocino County Code.
- (i) The term "yard sale" consists of the sale of items normally found within the home. Yard sales shall be conducted no more than six (6) days within a one (1) year period and no more than two (2) consecutive days at any one time.
- (j) A "secondhand dealer," as used in this Chapter, means and includes any person, co-partnership, firm, or corporation whose business includes buying, selling, trading, taking in pawn, accepting for sale on consignment, accepting for auctioning, or auctioning secondhand tangible personal property.

Section 2: Section 6.04.040 of the Mendocino County Code is hereby amended to read as follows:

Sec. 6.04.040 - License Requirement.

It shall be unlawful for any person to transact or operate any business in the unincorporated territory of Mendocino County without possessing a valid and current Mendocino County Business License for such business issued by the Tax Collector.

Section 3: Section 6.04.050 of the Mendocino County Code is hereby amended to read as follows:

Sec. 6.04.050 - License Fee and Category Types.

The Board of Supervisors shall set license fees in an amount that covers all administrative costs for license issuance. The license fee shall be based on a flat rate set by Resolution passed by the Board of Supervisors.

(a) RETAIL MERCHANT/SERVICE. For the business of selling any goods, wares, or merchandise for any purpose other than resale in the regular course of business. For any business selling or furnishing services of any kind to consumers.

(b) WHOLESALE MERCHANT. For the business of selling any goods, wares, or merchandise to any person engaged in the business of reselling said merchandise in the regular course of business.

(c) FOOD FACILITY. For the business of operating any facility that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption.

(d) MOTEL/HOTEL/RENTAL. For the business of renting any structure which is designed for occupancy by transients for dwelling, lodging, or sleeping purposes including, but not limited to, any hotel, inn, tourist home, rooming house, apartment house, dormitory, public or private club, mobile home, house trailer, or any similar structure thereof.

(e) CONTRACTOR. For the business of any person who contracts for a project with another person, who with respect to such work is required to be licensed by the State as a contractor to perform services such as to construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building, highway, road, railroad, project, development, improvement, or other structures therewith.

(f) ITINERANT/GAMBLING/JUNK/RECYCLING/SECONDHAND DEALER. For the business of negotiating or soliciting the sale or purchase of any merchandise or service door-to-door or along the roadside conducted by any person. For the business of operating any gambling establishment or conducting any game of chance, or operating any recycling or junk business such as soliciting the sale or purchase of any junk, scrap, wrecked autos, machinery, or other used merchandise. For the business of buying, selling, trading, taking in pawn, accepting for sale on consignment, accepting for auctioning, or auctioning secondhand tangible personal property.

(g) MULTIPLE-SELLERS LICENSE. For the business of managing, organizing, or conducting a facility, location or site, whether indoors or out of doors, where persons may independently sell their own merchandise, whether new or used, with or without the payment of a fee or commission to the person conducting the business. Such a license shall not be required for a conventional month-to-month or long-term commercial lease.

(h) MISCELLANEOUS. For any person that is conducting any type of business, not described in a category above, and not explicitly exempt from obtaining a business license.

Section 4. Section 6.04.070 of the Mendocino County Code is hereby amended to read as follows:

Sec. 6.04.070 - Administration and Collection.

(a) **ISSUING OFFICER.** All business licenses required by this Chapter shall be issued by the Tax Collector upon completion of the Business License application, all pertinent special requirements, and payment of the proper fee in lawful money of the United States or presentation of Veteran's honorable discharged military documents (DD214).

(b) **TERM OF LICENSE.** Unless otherwise specifically provided, the license period shall be one of the following: (1) The period of the annual license shall commence March 1 of each year and expire February 28 (February 29, when applicable) of the following year or (2) The period of the annual license shall commence on September 1 of each year and expire August 31 of the following year. License fees for businesses requiring special permits or approvals may be prorated in the amount of 50% to coincide with special requirements.

(c) **NUMBER OF LICENSES REQUIRED.** A separate license is required for each separate fixed place of business even though the businesses are owned or operated by the same person. Where a combination of two (2) or more classes of businesses as herein classified are carried on at the same fixed place of business by the same owner and under one (1) management, only one (1) license shall be required. A separate itinerant business permit shall be required for each natural person engaged in any itinerant business even though any two (2) or more of such natural persons are employed by the same person or are associated together in the same business.

(d) **COLLECTION OF FEES: DELINQUENT PENALTIES.** The License fee imposed hereby for the full minimum term of the license shall constitute a debt due and payable in advance at the office of the Tax Collector without demand, upon the transaction of any business for which a license fee is required hereby; and if such license is not procured and paid for on or before the first day of the month of the term for which such license may issue, the same shall become delinquent and fifty percent (50%) of the annual fee amount shall be added thereto and immediately become due and payable as a penalty and shall be collected by the Tax Collector before a license shall be issued. The County Counsel and Tax Collector are hereby authorized to institute legal action in the name of the County of Mendocino for the collection of any and all license fees and delinquent penalties due hereunder and not paid.

(e) **ACCOUNTING.** The Tax Collector shall deposit all Business License Fees to the proper fund in the County Treasury. The original copy of each license issued by the Tax Collector shall bear the county seal. All duplicate copies of each license issued shall be available to the County Auditor at all times for auditing purposes.

(f) **TRANSFERABILITY.** No business license granted under the provisions of this Chapter shall be transferable to another location, another person, or entity. A change of ownership does not require additional approval from the Department of Planning and Building Services, if applicable, provided the new business is of identical use intensity as the previous establishment and the prior owner conducted business at the same location within the previous six (6) month period. Excluded from this section are single unit rentals or vacation home rentals located within the jurisdiction of the "Mendocino Town Plan" that shall not be transferable at any time without new approval from the Department of Planning and Building Services.

(g) **MULTIPLE-SELLERS LICENSE.** The holder of a Multiple-Sellers license shall maintain at all times and display to any person, upon request, a list containing the names and addresses of the persons selling merchandise under their supervision or control and a general description of the merchandise offered by each such person. Within seven (7) days of the conduct of any business under a Multiple-Sellers license, the holder of the license shall furnish to the Tax Collector a copy of such list and shall pay to the Tax Collector a fee to be set by Resolution of the Board of Supervisors.

Section 5. Section 6.04.080 of the Mendocino County Code is hereby amended to read as follows:

Sec. 6.04.080 - Special Requirements.

(a) DEPARTMENT OF PLANNING AND BUILDING SERVICES APPROVAL. The Department of Planning and Building Services approval is required prior to the issuance of any new business license where the fixed place of business is situated in the unincorporated area of Mendocino County. No person shall be licensed under this Chapter to carry on any type of business activity at a location or within a structure where such activity is prohibited by zoning and/or building standards.

Application Process

The Department of Planning and Building Services' staff shall review all applicable business license applications pursuant to Title 18 and Title 20 of the Mendocino County Code and recommend approval of such applications where the proposed use, site and building, if any, are consistent with all applicable provisions of the County Code.

(b) HEALTH DEPARTMENT APPROVAL. It is unlawful for any person to operate any food facility, including, but not limited to restaurant, grocery store, concession, or business where food is prepared and stored for purpose of human consumption, at the retail level, to the public in the unincorporated territory of Mendocino County without possessing a valid Permit to Operate issued by the Mendocino County Health Department and a Mendocino County Business License issued by the Tax Collector. The Health Department may make investigations of any food facility at any time, without the necessity of an application being made, even when it appears that such food facility is complying with all the aforementioned laws. Only one (1) Permit to Operate per calendar year shall be required for each food facility, excepting where there is a transfer of a business within the calendar year for which a business license was approved and issued.

Application Process

The Mendocino County Health Department shall upon application from any retail food facility for a business license make an investigation to determine if such food facility is complying with California Retail Food Code. Such investigation shall be completed and a Permit to Operate issued or denied within fifteen (15) days after the application is filed with the Health Department. In the event of denial of its Permit to Operate, the Health Department shall serve upon the food facility by delivering to any owner, manager, or employee thereof or by mailing postage prepaid to address of such food facility, its written notice withholding its Permit to Operate and stating the reasons therefore. If the failure to comply with California Retail Food Code is of such a nature as can be corrected, the notice shall state what measures shall be taken to comply with such laws. Following such denial, the Health Department shall not be required to make any further investigation until notified that the conditions causing the denial have been corrected. Such notice shall constitute a new application.

(c) CALIFORNIA DEPARTMENT OF HEALTH SERVICES APPROVAL. It is unlawful for any person to engage, at the wholesale level, in the manufacturing, packing, labeling, or holding (warehousing) of processed food products prepared and stored for purpose of human consumption, in the unincorporated territory of Mendocino County, without verification of a Processed Food Registration obtained by the California Department of Health Services.

(d) SHERIFF'S OFFICE APPROVAL - ITINERANT BUSINESS PERMIT. Itinerant Business Permits are of two types: (1) Door-to-Door and (2) Roadside Vendor. It shall be unlawful for any person to transact any itinerant business as defined herein in the unincorporated territory of Mendocino County without possessing a valid Mendocino County Itinerant Business Permit issued by the Sheriff and without possessing or operating under a Mendocino County Business License issued by the Tax Collector.

Disqualifying Acts

The following persons are disqualified from applying for, possessing, displaying or using in any way an Itinerant Business Permit issued pursuant to this Chapter: (1) any person who has been convicted of any felony constituting a violent crime falling within Part 1 of the California Penal Code: Title 8 (Crimes Against Persons); Title 9 (Crimes Against The Person Involving Sexual Assault, and Crimes Against Public Decency and Good Morals); or Title 13 (Crimes Against Property); (2) any person who has been convicted of any of the aforementioned crimes and who at the time of application remains on probation or parole for that offense; (3) any person who has knowingly made any false statement in applying for a permit.

Application Process

Application for a Mendocino County Itinerant Business Permit shall be made to the Mendocino County Sheriff. The application shall be on a form containing, at a minimum, the following information: the applicant's full name, address, telephone number, date of birth, physical descriptors, driver's license number, type of business to be transacted, names and addresses of all owners of such business, together with the nature of their interest therein, applicant's interest in business, description of applicant's motor vehicle, if used in the itinerant business, address of home office of business, number of associates accompanying applicant, period applicant expects to transact business in Mendocino County.

Criminal History Clearance

The applicant shall submit to a full-face photograph. The applicant shall also submit to LiveScan fingerprinting for purposes of a criminal history clearance through the California Department of Justice and/or the Federal Bureau of Investigation. The Sheriff may issue the applicant a conditional Itinerant Business Permit, which shall be valid for the period of time required for completion of the criminal history clearance, or thirty (30) calendar days, whichever is less. Upon completion of this time period, absent a finding that the applicant has done some act which this Chapter declares will disqualify a person from obtaining such a permit, the applicant may exchange the conditional permit for a regular permit which shall remain valid for a term of one (1) year from the date of issuance unless sooner revoked in the manner specified in this Chapter. If the criminal history clearance finds that the applicant has committed a disqualifying act, said disqualifying act shall be noted on the application and shown to the applicant on demand.

Renewals

Permits for subsequent years to a qualified applicant who has previously been issued a Mendocino County Itinerant Business Permit shall be issued upon submitting such information and pictures, as the Sheriff shall require keeping the applicant's file accurate and up-to-date. The application form shall require applicant to swear under penalty of perjury that the statements made by applicant are true and correct.

(e) SHERIFF'S OFFICE APPROVAL - GAMBLING BUSINESS PERMIT. It shall be unlawful for any person to operate any gambling establishment or conduct any game of chance in the unincorporated territory of Mendocino County without possessing a valid Mendocino County Gambling Business Permit issued by the Sheriff and without possessing or operating under a Mendocino County Business License issued by the Tax Collector. It shall be unlawful for any person who does not have in their possession a valid Mendocino County Business License to act as a card dealer or otherwise to conduct a game of chance unless such person does so in a gambling establishment for which a valid Mendocino County Business License has been issued and has in their possession a valid Mendocino County Gambling Permit issued by the Sheriff.

Disqualifying Acts

No gambling permit shall be issued to any person who has been convicted of any of the disqualifying acts listed in Section 6.04.080(d).

Application Process

Application for a Mendocino County Gambling Business Permit shall be subject to the same conditions as the application for a Mendocino County Itinerant Business Permit. The form of the Gambling Business Permit shall be the same as that of the Itinerant Business Permit, with the exception that wherever the word "Itinerant" appears thereon it shall be changed and the word "Gambling" substituted therefore. The gambling permit issued under this section shall be effective for one year and shall be in the form of an identification card consisting of the applicant's photograph and whatever additional information the Sheriff reasonable deems relevant.

(f) SHERIFF'S OFFICE APPROVAL - RECYCLING OR JUNK BUSINESS DEALERS PERMIT. It shall be unlawful for any person to operate any recycling or junk business in the unincorporated territory of Mendocino County in which any portion of such business consists of the soliciting, the sale or purchase of any junk, scrap, wrecked autos, and machinery or other used merchandise at any place other than the fixed place of business of the solicitor, without possessing a valid Mendocino County Junk Business Dealers Permit issued by the Mendocino County Sheriff and without possessing or operating under a Mendocino County Business License issued by the Tax Collector. Every vehicle engaged in the carrying of recycled materials or junk upon any public highway pursuant to this permit shall display a Mendocino County Recycling or Junk Business Dealers Permit and a Mendocino County Business License or a copy thereof in a place in such vehicle where it is visible from the outside of such vehicle. Every person transporting junk pursuant to this permit upon any public highway in this County shall be required to stop upon the request of any peace officer and submit to an inspection of their license, permit and load and shall be required to produce satisfactory bills of sale for the contents of their load.

Application Process

Application for a Mendocino County Recycling and Junk Business Dealers Permit shall be made to the Sheriff. The application shall contain the same information and shall be subject to the same conditions as the application for a Mendocino County Itinerant Business Permit. The form of the Recycling and Junk Business Dealers Permit shall be the same as that of the Itinerant Business Permit, with the exception that wherever the word "Itinerant" appears thereon it shall be changed and "recycling" or "junk" substituted therefore.

(g) SHERIFF'S OFFICE APPROVAL - SECONDHAND DEALER LICENSE. It shall be unlawful for any person to operate a secondhand business in the unincorporated territory of Mendocino County without possessing a valid Mendocino County Secondhand Dealer License issued by the Sheriff and without possessing or operating under a Mendocino County Business License issued by the Tax Collector.

Application Process

The Sheriff shall accept an application for and grant a Secondhand Dealer License to an applicant pursuant to the provisions of California Business and Professions Code Section 21641.

(h) CONTRACTORS STATE LICENSE BOARD APPROVAL. Prior to issuance of a business license for a person to conduct business as a contractor, as defined by Business and Professions Code Section 7026, the Tax Collector shall verify that the person is licensed by the Contractor's State License Board pursuant to Business and Professions Code Section 16100.

(i) LICENSED FIREARMS DEALERS. To lawfully engage in the business of selling, leasing, or transferring firearms, a firearms dealer must possess the following: (1) Valid federal firearms license issued by the Bureau of Alcohol, Tobacco, and Firearms (2) Valid seller's permit issued by the State Board of Equalization (3) Valid certificate of eligibility issued by the Department of Justice. Per Penal Code Section 12071, the Tax Collector must verify the firearms dealer is in compliance prior to the issuance of the business license.

(j) ANIMAL CARE AND CONTROL APPROVAL ON KENNELS. Per Mendocino County Code Section 10.12.020, no person shall conduct a commercial kennel without obtaining a commercial kennel license issued by the Animal Care and Control Division.

(k) TOBACCO RETAILER LICENSE. Prior to issuance of a business license for a retailer selling tobacco products, as defined by Mendocino County Ordinance Number 4135 and Resolution Number 04-204, the Tax Collector shall obtain documentation of a valid Tobacco Retailer License issued by the Department of Public Health.

(l) SOLID WASTE DIVISION APPROVAL. Prior to issuance of a business license for recycling, hauling, or transportation of solid waste and recycling materials, the Director of the Solid Waste Division shall review the application to determine whether a permit is required under the Solid Waste Ordinance, Chapter 9A.04.

Section 6. Section 6.04.090 of the Mendocino County Code is hereby amended to read as follows:

Sec. 6.04.090 - Exemptions.

(a) VETERANS. Pursuant to Business and Professions Code Section 16102, every soldier, sailor or marine of the United States who has received an honorable discharge or a release from active duty under honorable conditions from such service may hawk, peddle, and vend any goods, wares, or merchandise owned by him or her except for spirituous, malt, vinous, or other intoxicating liquor without payment of any license, tax or fee whatsoever provided, however, all such veterans shall nevertheless be required to obtain any and all permits and licenses required by this Chapter, to be issued without charge therefore. All such licenses shall be issued on an annual basis, and no such license shall be issued unless the applicant exhibits to the Tax Collector the original or photo-static copy of a document verifying their honorable discharge (DD214).

(b) CHARITABLE ORGANIZATIONS. No business license is required of any nonprofit organization that is exempted from taxes by Chapter 4 (commencing with Section 23701) of Part 11 of Division 2 of the Revenue and Taxation Code of Subchapter F (commencing with Section 501 of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986), or the successor of either, or to any religious organization that has been granted an exemption from federal income tax by the United States Commissioner of Internal Revenue as an organization described in Section 501 (c)(3) of the Internal Revenue Code or a successor to that section.

(c) SALE OF LOCAL FARMER'S OWN PRODUCE AND ANIMALS. No business license or Itinerant Business Permit or the payment of any fee therefore shall be required of any person for the privilege of selling any animals, crops, or products raised or produced by such person on land situated in Mendocino County. The provisions of this Chapter shall apply to the selling of any animals, crops, or products sold, in their original form, from the production location or at an organized farmers' market. The provisions of this Chapter shall not include offsite roadside vendors.

(d) BANKS. The provisions of this Chapter shall not apply to banks under the provisions of Article 13, Section 27 of the Constitution of the State of California.

(e) INSURANCE COMPANIES. The provisions of this Chapter shall not apply to insurance companies under the provisions of Article 13, Section 28 of the Constitution of the State of California.

(f) SAWMILLS. No business license or fee thereof shall be required under this Chapter for any business of operating any sawmill, shingle mill, lath mill, or planing mill, or any other manufacturing plant converting timber or rough lumber into another form where a fee for such business is being paid under Mendocino County Code, Title 6, Chapter 6.12.

(g) COUNTY FAIR BUSINESSES. Any business which operates in Mendocino County exclusively during the term of any county fair sponsored by the Mendocino County Board of Supervisors, including the Anderson Valley Apple Show and Fair, also known as the Mendocino County Fair and Apple Show, and which operates

exclusively on the grounds of said fair shall be exempt from the payment of any and all fees imposed by this Chapter; provided, however, that all such businesses shall, nevertheless, be required to obtain any and all permits and licenses required by this Chapter.

(h) **HOME-BASED BUSINESS.** Any person who operates a business not requiring the assistance of any other person, and who operates said business entirely upon the premises of his or her home or living unit, and who derives from said business no more than two thousand five hundred dollars (\$2,500.00) gross revenue per year, shall be exempt from the requirement to obtain a Mendocino County Business License.

(i) **DOMESTIC-TYPE BUSINESS.** Any person who operates a business providing services of a type normally viewed as domestic and typically performed in a household, such as washing and ironing clothes or small family day care providing day care for eight or fewer children, and who does not require in the operation of said business the assistance of any other person, shall be exempt from the requirements to obtain a Mendocino County Business License.

(j) **YARD SALES.** Any person who operates a yard sale as defined in this Chapter shall be exempt from the requirements of this Chapter.

(k) **COUNTY CONTRACTORS.** Any person that enters into a contract to provide goods or services to the County is exempt from obtaining a Mendocino County Business License, but such exemption is limited to the business activities related to the contract with the County. This exemption does not apply to a person with a fixed place of business in the unincorporated territory of Mendocino County.

(l) Each person who transacts or operates a business shall not be required to obtain a Mendocino County Business License if that person owns, or otherwise conducts or carries out the activities of a business that already possesses a current and valid Mendocino County Business License; this exemption does not eliminate the additional requirements for a person to obtain a permit or license pursuant to 6.04.080, if applicable, such as an Itinerant Business Permit.

(m) Any person whom the County is not authorized to license under the terms of any law or constitution of the United States or the State of California.

Section 7. Section 6.04.110 of the Mendocino County Code is hereby amended to read as follows:

Sec. 6.04.110 - License or Permit: Posting and Exhibiting.

It shall be unlawful for any person who transacts or operates any business for which a Mendocino County Business License is required to fail, or refuse, to post the same in a conspicuous place at the location of their business' fixed place of business. In the case of a person having no fixed place of business, it shall be unlawful for any person transacting or operating that business to fail or refuse to exhibit a copy of the Mendocino County Business License under which they are operating, along with any applicable permit or license required pursuant to 6.04.080, to any County employee who demands to see the same.

Section 8. Section 6.04.120 of the Mendocino County Code is hereby amended to read as follows:

Sec. 6.04.120 - Penalties.

Violation of this ordinance is declared to be an infraction, and may be punished as prescribed in Government Code Section 25132.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this 2nd day of October, 2018, by the following roll call vote:

AYES: Supervisors McCowen, Croskey, Gjerde, and Hamburg
NOES: None
ABSENT: Supervisor Brown

WHEREUPON, the Chair declared the Ordinance passed and adopted and **SO ORDERED**.

ATTEST: CARMEL J. ANGELO
Clerk of the Board

DAN HAMBURG, Chair
Mendocino County Board of Supervisors

Deputy

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

APPROVED AS TO FORM:
KATHARINE L. ELLIOTT, County
Counsel

BY: CARMEL J. ANGELO
Clerk of the Board

Deputy