

## **Title 6 – Business License and Regulations**

### **Chapter 6.36 – Medical Cannabis Facilities**

#### **6.36.010 – Definitions.**

Unless otherwise defined in this Chapter, the terms and phrases used in this Chapter shall have the same definitions as provided in Chapters 10A.17 *Medical Cannabis Cultivation Ordinance* and 20.243 *Medical Cannabis Facilities*.

#### **6.36.020 – Requirement for Medical Cannabis Facility Business License.**

- A. “Business” shall include all activities engaged in or caused to be engaged in within the unincorporated area of the County, including any commercial or industrial enterprise, trade, profession, occupation, vocation, calling, or livelihood, whether or not carried on for gain or profit, but shall not include the services rendered by an employee to his or her employer.
- B. It shall be unlawful for any person to transact any business in the unincorporated area of Mendocino County for which a license fee is imposed or for which a license is required by this Chapter without possessing a valid and current Mendocino County Medical Cannabis Facilities Business License for such business issued by the Tax Collector and a valid State license required under Medical Cannabis Regulation and Safety Act (MCRSA) (as soon as State licenses become available for issuance.)
- C. The business license requirement set forth in this chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state or local law.
- D. A business license issued pursuant to this section does not provide any exception, defense or immunity from other laws, nor does it create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution or possession of medical cannabis.

#### **6.36.030 – Form of License.**

“Business License” or “County License” means a revocable, limited-term grant of permission to operate a medical cannabis processing, manufacturing, testing, dispensing, distributing, delivering and transportation business within the County. The business license shall be in the form prescribed by the Tax Collector and must contain, at a minimum, the licensee's name, the business name, type of business, location of business, commencement and expiration dates of the license, and fee remitted.

#### **6.36.040 – Administration.**

- A. ISSUING OFFICER. “Business License Division” means the Office of the Mendocino County Tax Collector. All business licenses required by this Chapter shall be issued by the Tax Collector upon completion and approval of a Medical Cannabis Facility Business License application, all pertinent requirements are met, and payment of the proper fee in lawful money of the United States.

- B. TERM OF LICENSE. A license issued pursuant to this chapter shall be valid for twelve (12) months from the date of issuance. The license shall be renewed annually.
- C. NUMBER OF LICENSES REQUIRED. A separate license is required for each separate place of business even though the businesses are owned or operated by the same person. If more than one activity is being conducted at one location, a separate license is required for each type of activity.
- D. BOARD OF EQUALIZATION PERMIT. A Board of Equalization Seller's Permit and collect and remit sales tax to the Board of Equalization is required if applicant intends to sell directly to qualified patients or primary caregivers.
- 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.
- F. No County employee responsible for implementing or enforcing the provisions of this section may have a direct or indirect financial interest in a medical cannabis facility or be employed by or volunteer at a medical cannabis facility.

#### **6.36.50 – Location.**

- A. Medical cannabis facilities may be located in the unincorporated portion of Mendocino County in conformance with Chapter 20.243 of the Mendocino County Zoning Code.
- B. A medical cannabis facility may not be located within one thousand (1,000) feet of a youth-oriented facility, a school, a park, or any church or residential treatment facility as defined herein.
- C. A medical cannabis facility shall be located in a permanent building that meets Mendocino County Building Code for a commercial building, and shall not be located in dwelling unit, recreational vehicle, cargo container, motor vehicle or similar personal property.

#### **6.36.060 – Application Procedure.**

- A. The Business License Division shall coordinate a review of the application and required physical inspections by the appropriate County departments and other public agencies to determine whether the proposed business will comply with all public health and safety and other applicable requirements including, without limitation, sheriff, fire, health, water, sewer, building, safety and zoning requirements.
- B. The County department or public agency shall provide a recommendation on the application to the license division after its review and after applicable physical inspections are completed.
- C. The reviewing County department or other public agency may include conditions for the operation of the medical cannabis facility with its recommendation. Any such conditions shall automatically become a condition of the business license.
- D. The license division shall verify that the applicant has valid County license(s), permit(s) and/or other approvals, as required, prior to issuing any County business license.

- a. All County medical cannabis facility business licenses are provisional until valid state required license under MCRSA is verified.
    - i. A copy of the State license issued pursuant to MCRSA must be filed with the Tax Collector within 5 days of issuance.
  - b. If a medical cannabis facility is denied a state license under MCRSA the local County business license will become invalid.
- E. Within 10 days of filing a complete medical cannabis business license application with the Business License Division, each business owner, partner, and operator/manager (if they are not the owner) are required to have a LiveScan criminal history inquiry. Each business owner, partner, operator/manager (if they are not the owner) shall provide the Sheriff with written permission authorizing the Sheriff to complete a LiveScan criminal history inquiry to determine if a criminal history record exists for the person. The reasonable costs of a LiveScan criminal history inquiry and review done by the Sheriff pursuant to this section shall be the responsibility of the business owner, partner, and operator/manager and shall be paid to the Sheriff in advance.
- F. The Sheriff's deputy or employee charged with the duty of making the inquiry shall determine whether the business owner, partner, and operator/manager has any criminal convictions that would disqualify an applicant pursuant to State Business and Professions Code Chapter 3.5, Article 4, section 19323. A failed LiveScan is a LiveScan report that includes any felony conviction within the past 10 years and/or reflects that the applicant or owner is currently on parole or probation related to a felony conviction. Felony convictions for cannabis-related offenses prior to January 1, 2016 will not result in a failed LiveScan, unless the offense involved sales to a minor.

#### **6.36.070 – Issuance of License.**

Upon the receipt of an application for a Medical Cannabis Facility license and the license fee, the Agency shall issue a license unless substantial record evidence demonstrates one of the following bases for denial:

- A. The application is incomplete or inaccurate; or
- B. The application seeks authorization for a Medical Cannabis Facility by a Person for which or who a suspension is in effect pursuant to Section 6.36.140 of this Chapter; or by a Person which or who has had a license revoked pursuant to Section 6.36.140 of this Chapter.
- C. Determination by the County that the application or the facility is not in compliance with the provisions of this chapter.
- D. The applicant provides false or misleading information to the County.
- E. The failure or refusal of a licensed facility to comply with any of the provisions of this Chapter.
- F. The failure or refusal to carry out the policies and procedures or comply with the statements provided to the County with the application of the facility.

The failure or refusal to cooperate fully with an investigation or inspection by the County.

#### **20.243.080 – Business License Renewal.**

A business license renewal application and renewal fee must be submitted at least forty-five (45) days before the expiration of the License. Failure to submit a renewal application prior to the expiration date of a license will result in the automatic expiration of the Permit on the expiration date. A license may not be renewed if any violations of or non-compliance with the License, these regulations, Chapter 10A.17, Chapter 20.243, or the Mendocino County Code occurred during the previous year or currently exist. Permit renewal is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations currently in place and may require the submittal of additional information to ensure that new standards are met.

#### **6.36.090 – Display of License.**

A County medical cannabis facility shall post its business license and any other authorization to conduct business in a conspicuous place within the establishment.

#### **6.36.100 – Fees for License.**

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.

#### **6.36.110 – Licenses Nontransferable.**

No license granted under this Chapter shall be transferable to any other person or removable to any other location.

#### **6.36.120 – Track and Trace.**

(A) The Mendocino County Executive Office, in consultation with the Agricultural Commissioner, Tax Collector and Planning and Building, shall establish a track and trace program for reporting the movement of medical cannabis items throughout the distribution chain that utilizes a unique identifier pursuant to Section 11362.777 of the Health and Safety Code and secure packaging and is capable of providing information that captures, at a minimum, all of the following:

1. The licensee receiving the product.
2. The transaction date.
3. The cultivator from which the product originates, including the associated unique identifier, pursuant to Section 11362.777 of the Health and Safety Code.

(B) The County Executive Office shall create an electronic database containing the electronic shipping manifests which shall include, but not be limited to, the following information:

1. The quantity, or weight, and variety of products shipped.
2. The estimated times of departure and arrival.
3. The quantity, or weight, and variety of products received.

4. The actual time of departure and arrival.
5. A categorization of the product.
6. The unique identifier pursuant to Section 11362.777 of the Health and Safety Code issued by the County for all licensees involved in the shipping process, including cultivators, transporters, distributors, and dispensaries.

**6.36.130 – License Violation.**

- A. VIOLATION OF MEDICAL CANNABIS FACILITIES LAWS. It shall be a violation of a Medical Cannabis Facilities license for a Person or his or her agent or employee to violate any local, state, or federal medical cannabis facilities related law.
- B. LICENSE COMPLIANCE MONITORING. The County anticipates that compliance checks of each Medical Cannabis Facility will be conducted at least two (2) times during each twelve-month period by the Agency. County shall not enforce any medical cannabis facilities minimum-age law against a person who otherwise would be in violation of such law because of the person's age (hereinafter "youth decoy") if the violation occurs when:
  1. The youth decoy is participating in a compliance check supervised by a law enforcement official, a code enforcement official, or any peace officer; or
  2. The youth decoy is participating in a compliance check funded or supervised in part by County or, funded or supervised in any part by the California Department of Health Services.

**6.36.140 – Suspension, Termination or Revocation of License.**

(A) The Medical Cannabis Facility Business License of any person who has done some act which would disqualify such person from obtaining such license or permit or who has transacted or operated the business in any manner contrary to any law, ordinance, chapter, rule, or regulation shall be revoked by the Board of Supervisors of Mendocino County after a finding made by said Board that said person was guilty of such an act after hearing such evidence thereon as any interested person may present at a public hearing held at least ten (10) days prior to the meeting at which action on such revocation takes place. Any person whose Medical Cannabis Facility Business License has been revoked shall be disqualified from obtaining any Medical Cannabis Facility Business License at any time following such revocation unless the Board of Supervisors, shall by an order entered in its minutes, waive such disqualification. The Board of Supervisors may delegate its authority hereunder to the Tax Collector and Sheriff.

(B) IMMEDIATE REVOCATION OF BUSINESS LICENSE, NO BOARD HEARING. As of January 1, 2019, the Medical Cannabis Facility Business License shall be immediately revoked upon one or more of the following events occurring.

1. Notification to the County that the State of California has revoked a State license issued pursuant to California Business & Professions Code Sections 19300, et seq. or other applicable state law for a medical cannabis facility.

2. Failure to maintain a valid and current state licenses pursuant to California Business & Professions Code Sections 19300, et seq. or other applicable state law.

**6.36.150 – Administrative Fine.**

- A. **GROUND FOR FINE.** If the Agency finds, based on substantial record evidence, that any unlicensed person, including a person named on a revoked or suspended license, has engaged in operating a medical cannabis facility in violation of this Chapter, the Agency shall fine that Person as follows:
  1. A fine not exceeding one hundred dollars (\$100) for a first violation in any thirty-six (36) month period; or
  2. A fine not exceeding two hundred dollars (\$200) for a second violation in any thirty-six (36) month period; or
  3. A fine not exceeding five hundred dollars (\$500) for a third or subsequent violation in any thirty-six (36) month period.

Each day that such a Person engages in operating a medical cannabis facility shall constitute a separate violation.

- B. **NOTICE OF VIOLATION.** A notice of violation and of intent to impose a fine shall be personally served on, or sent by certified mail to, the Person or Persons subject to the fine. The notice shall state the basis of the Agency's determinations and include an advisement of the right to request a hearing to contest the fine. Any request for a hearing must be in writing and must be received by the Agency within ten (10) calendar days of personal service of the notice on the Person or Persons subject to a fine or within fifteen (15) calendar days if the Person or Persons subject to a fine are served by mail.
- C. **IMPOSITION OF FINE.** If no request for a hearing is timely received, the Agency's determination on the violation and the imposition of a fine shall be final and payment shall be made within thirty (30) calendar days of written demand made in the manner specified above for a notice of violation. If the fine is not paid within that time, the fine may be collected, along with interest at the legal rate, in any manner provided by law. In the event that a judicial action is necessary to compel payment of the fine and accumulated interest, the Person or Persons subject to the fine shall also be liable for the costs of the suit and attorney's fees incurred by the County in collecting the fine.
- D. **NOTICE OF HEARING.** If a hearing is requested pursuant to subsection (b) of this section, the Agency shall provide written notice, within forty-five (45) calendar days of its receipt of the hearing request, to the Person or Persons subject to a fine of the date, time, and place of the hearing in the manner specified above for a notice of violation.
- E. **HEARING DECISION.** The Hearing Officer shall render a written decision and findings within twenty (20) working days of the hearing. Copies of the decision and findings shall be provided to the Person or Persons subject to a fine in the manner specified above for a notice of violation.
- F. **FINALITY OF THE HEARING OFFICER'S DECISION.** The decision of the Hearing Officer shall be the final decision of the County.

- G. APPEAL TO SUPERIOR COURT OF LIMITED JURISDICTION. Notwithstanding the provisions of §1094.5 or §1094.6 of the Code of Civil Procedure, within twenty (20) days after personal service of the Hearing Officer's decision and findings, or within twenty-five (25) days if served by mail, any Person subject to a fine may seek review of the hearing officer's decision and findings by the Superior Court of limited jurisdiction. A copy of the notice of appeal to the Superior Court shall be timely served in person or by first-class mail upon the Agency by the contestant. The appeal shall be heard de novo, except that the contents of the Agency's file in the case shall be received in evidence. A copy of the records of the Agency of the notices of the violation and of the Hearing Officer's decision and findings shall be admitted into evidence as prima facie evidence of the facts stated therein.
- H. FAILURE TO PAY FINE. If no timely notice of appeal to the Superior Court is filed, or the Agency is not timely served with a copy of a notice of appeal, the Hearing Officer's decision and findings shall be deemed confirmed and the fine shall be collected pursuant to subsection (c) of this Section.

#### **6.36.160 – Enforcement.**

The remedies provided by this Chapter are cumulative and in addition to any other remedies available at law or in equity.

- A. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this ordinance shall constitute a violation.
- B. Violations of this ordinance are hereby declared to be public nuisances.
- C. Violations of this ordinance are hereby declared to be unfair business practices and are presumed to at least nominally damage each and every resident of the community in which the business operates.
- D. In addition to other remedies provided by this Chapter or by other law, any violation of this ordinance may be remedied by a civil action brought by the County Counsel or the District Attorney, including, for example, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief.
- E. Any Person acting for the interests of itself, its members, or the general public may bring an action for injunctive relief to prevent future such violations or to recover such actual damages as he or she may prove.