

## Title 6 – Business License and Regulations

### Chapter 6.36 – 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 Chapter 10A.17 *Medical Cannabis Cultivation Ordinance* and Chapter 20.243 *Medical and Adult Use Cannabis Facilities*.

“Business License Division” means the Office of the Tax Collector.

“Cannabis Facilities Business License” means a revocable, limited-term grant of permission to operate a cannabis processing, manufacturing, testing, dispensing, retail sales, distributing, and/ or microbusiness 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. ~~Includes adult use and medical as defined in 20.243A~~ Cannabis Facilities Business License shall be required for both an Adult Use Cannabis Facility or a Medical Cannabis Facility, as those terms are defined in Section 20.243.050.

“Cannabis facility” means either an Adult Use Cannabis Facility or a Medical Cannabis Facility, as those terms are defined in Section 20.243.050.

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

- (A) 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 Cannabis Facilities Business License for such business issued by the Mendocino County Tax Collector (Tax Collector).
- (B) Cannabis facilities shall be required to comply with other provisions of the Mendocino County Code, including but not limited to, Chapters 10A.17, 20.242, and 20.243, as applicable.
- ~~(A)(C)~~ Persons applying for a Cannabis Facilities Business License shall obtain and a valid California State license required under MCRSA and AUMA ~~as soon as~~ such State licenses become available.
- ~~(B)(D)~~ A person who obtains a Cannabis Facilities Business License under this Chapter 6.36 for a cannabis ~~business facility~~ shall not be required to obtain a separate business license under Chapter 6.04 for the same activity.
- (E) 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.
- ~~(C)(F)~~ Cannabis facilities in existence prior to January 1, 2017, that had an approved County business license under Chapter 6.04 may continue to operate under that business

license until that license is scheduled to be renewed, at which time the cannabis facility shall apply for a license under this Chapter 6.36.

#### **6.36.030 – 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. Cannabis facility business licenses shall be issued for the following facility types, as more particularly defined and described in Chapter 20.243:

- (A) Processing Facilities.
- (B) Manufacturing Facilities.
- (C) Testing Laboratories and Research Institutions.
- (D) Medical Cannabis Dispensaries.
- (E) Adult Use Cannabis Retailers.
- (F) Distribution Facilities.
- (A)(G) Adult Use Cannabis Microbusinesses.

#### **6.36.040 – Administration.**

- (A) ISSUING OFFICER. All business licenses required by this Chapter shall be issued by the Tax Collector upon completion and approval of a Cannabis Facility Business License application, assuming 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. 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 place of business even if the businesses are owned or operated by the same person. If more than one facility type ~~of activity~~ is being conducted at one location, a separate license is required for each activity-facility type.
- (D) BOARD OF EQUALIZATION PERMIT. A State of California Board of Equalization (Board of Equalization) Seller's Permit is required to collect and remit sales tax to the Board of Equalization if the applicant intends to sell medical or adult use cannabis and/or cannabis products between license types or sell directly to qualified patients, primary caregivers, or adult use customers.
- (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. ~~Whenever any error is made in preparing any license, both the original and duplicate copy shall be marked "VOID" and both such voided original and duplicate copy shall be retained. All duplicate copies of each license issued shall be available to the County Auditor at all times for auditing purposes.~~

- (F) No County employee responsible for implementing or enforcing the provisions of this Chapter may have a direct or indirect financial interest in a cannabis facility or be employed by, or volunteer at, a cannabis facility.

#### 6.36.050 – Location.

Cannabis facilities may be located in the unincorporated ~~portion areas~~ of Mendocino County in conformance with Chapters 10A.17 of the Mendocino County Code, as well as the provisions of the Mendocino County Zoning Code, including but not limited to Chapters 20.242, and 20.243 of the Mendocino County Zoning Code.

~~A cannabis facility shall be located in a permanent building in conformance with Mendocino County Building Code for a commercial building, and shall not be located in a dwelling unit, recreational vehicle, cargo container, motor vehicle, or other similar personal property.~~

#### 6.36.060 – Application Procedure.

- (A) The Business License Division shall refer the application to the Department of Planning and Building Services, the Division of Environmental Health, and other departments or divisions as necessary, to verify that the application is in compliance with County Code provisions and that the applicant has valid County license(s), permit(s), and/or other approvals, as required, prior to issuing any County Cannabis Facility Business License. The Business License Division shall charge the applicant all fees required under the Master Fee Schedule for these referrals.

- (1) All County cannabis facility business licenses are provisional until a valid State of California license, as required under MCRSA or AUMA, is verified.

a. A copy of the State license issued pursuant to MCRSA or AUMA must be filed with the Tax Collector within 15 days of issuance.

- (2) If a cannabis facility is denied a state license under MCRSA or AUMA, the provisional local County Cannabis Facility Business License will become invalid.

- (B) Within ten (10) days of filing a complete 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 or shall complete a LiveScan criminal history inquiry at a location certified and approved by the Department of Justice (DOJ) and Federal Bureau of Investigation (FBI). 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 in advance to the Sheriff. LiveScan criminal history

inquiries completed at a certified and approved LiveScan location shall have the results sent to the Sheriff.

- (C) 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 the applicant pursuant to California Business and Professions Code Section 19323. A LiveScan report will be considered "failed" if the report includes any felony conviction within the past ten (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 committed 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 review of an application for a Cannabis Facility Business License and payment of the license fee and any other fee required by the County for review of the application, the Business License Division shall perform the application review stated in Section 6.36.060 and issue a license unless substantial record evidence demonstrates one of the following bases for denial:

- (A) The application is incomplete or inaccurate.
- (B) Determination by the County that the application or the facility is not in compliance with the provisions of the Mendocino County Code including but not limited to this Chapter and Chapters 10A.17, 20.242, and 20.243.
- (C) Provision of false or misleading information by the Applicant to the County.
- (D) The failure or refusal of a licensed facility to comply with any of the provisions of this Chapter.
- (E) 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.
- (F) The failure or refusal to cooperate fully with an investigation or inspection by the County.

A business license issued pursuant to this Chapter 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 potential criminal liability the person may have for the production, distribution or possession of medical or adult use cannabis.

#### **6.36.080 – Business License Renewal.**

- (A) A Cannabis Facility Business License renewal application and renewal fee must be submitted pursuant to Section 6.36.040(B). Failure to submit a renewal application will result in the automatic expiration of the Cannabis Facility Business License on the expiration date.
- (B) A Cannabis Facility Business License may not be renewed if any of the following occurred during the previous year or currently exist: violations of or non-compliance with the license, these regulations, or any of the provisions of the Mendocino County Code, including, but not limited to, Chapter 10A.17 Medical Cannabis Cultivation Ordinance, Chapter 20.243 Medical and Adult Use Cannabis Facilities Code.

~~(A)(C)~~ Cannabis Facility Business License 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 at the time of the initial or previous application(s) and may require the submittal of additional information to ensure that new standards are met. Renewal applications shall be referred to all relevant departments of the County to determine compliance with the Mendocino County Code.

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

It shall be unlawful for any person who engages in any business for which a Mendocino County Business License is required to fail, or refuse, to post the same in a conspicuous place in their place of business.

#### **6.36.100 – Licenses Nontransferable.**

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

#### **6.36.110 – Track and Trace.**

Cannabis facilities shall be required to enroll in and comply with all requirements of any Track and Trace system adopted and implemented by the County to track the production and distribution of cannabis. Cannabis facilities shall obtain and use unique identifiers from an approved source, maintain them in a readable state, comply with all data entry requirements and pay all required Track and Trace fees. Noncompliance with Track and Trace requirements shall constitute a violation of the Cannabis Facilities Business License.

~~(A) The Mendocino County Executive Office, in consultation with the Mendocino County Agricultural Commissioner, Tax Collector, and Department of Planning and Building Services, shall establish a track and trace program for reporting the movement of cannabis items throughout the distribution chain. The track and trace program shall utilize secure packaging and a unique identifier pursuant to Section 11362.777 of the Health and Safety Code, and shall be 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.~~

~~(A) The County Executive Office shall create and maintain 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)(1) Pursuant to Section 11362.777 of the Health and Safety Code, the unique identifier issued by the County for all licensees involved in the shipping process, including cultivators, distributors, and dispensaries.~~

#### **6.36.120 – License Violation.**

- (A) VIOLATION OF CANNABIS FACILITIES LAWS. It shall be a violation of a Cannabis Facilities Business License for a Person or his or her agent or employee to violate any local, or state, cannabis facilities-related law.
- (B) LICENSE COMPLIANCE MONITORING. The County anticipates that compliance checks of each Cannabis Facility will be conducted at least two (2) times during each twelve (12) month period by the County. The County shall not enforce any 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 the youth decoy is participating in a compliance check:
  - (1) Supervised by a law enforcement official, a code enforcement official, or any peace officer; or
  - (2) Supervised in part by County or the California Department of Health Services.

#### **6.36.130 –Termination or Revocation of License.**

- (A) TERMINATION OF LICENSE FOR FAILURE TO PAY RENEWAL FEES. A Cannabis Facility Business License which is not renewed pursuant to Section 6.36.080 of this Chapter shall automatically be deemed terminated by operation of law.
- (B) REVOCATION OF LICENSE ISSUED IN ERROR. A Cannabis Facility Business License shall be revoked if the Business License Division finds, after notice and opportunity to be heard, that one or more of the bases for denial of a license under Section 6.36.070 of this Chapter existed at the time the application was submitted, or at any time before the license was issued. The revocation shall be without prejudice to the filing of a new application for a Cannabis Facilities Business License.
- (C) REVOCATION OF LICENSE OBTAINED UNDER FALSE PRETENSES. Cannabis Facilities whose licenses were obtained under false pretenses shall have their license revoked. This revocation shall be with prejudice. One calendar year must elapse between any revocation pursuant to this subsection and any subsequent application.
- (D) IMMEDIATE REVOCATION OF BUSINESS LICENSE, NO BOARD HEARING. As of January 1, 2019, the 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 Business License Division finds, based on substantial record evidence, that any unlicensed Person or Persons, including a Person or Persons named on a revoked license, has engaged in operating a cannabis facility in violation of this Chapter, the Business License Division shall fine that Person or Persons 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 cannabis facility shall constitute a separate violation.

(B) **NOTICE OF VIOLATION.** A notice of violation and 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 Business License Division'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 Business License Division 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 Business License Division'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 the specified period of 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 Business License Division 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 Business License Division by the contestant. The appeal shall be heard de novo, except that the contents of the Business License Division's file in the case shall be received in evidence. A copy of the records of the Business License Division 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 Business License Division 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 violations or to recover such actual damages as he or she may prove.