

8/15/2017

Local Nonprofit Temporary License

Much has been said about preserving the Small Farmer. The process of regulation is complicated and difficult especially since the rules keep changing. One of the concerns while developing regulation on a local level is the uncertainty of the final regulations the State will develop and making sure that the local regulations do not conflict with the State's. This mechanism allows the local governments to tailor licenses for nonprofits to suit local needs as a feasibility study and help fine tune these needs as it pertains to these new industry regulations.

EXHIBIT A

SB 94 the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), Section 61, Article 26070.5 the California State feasibility study implementing temporary licenses for nonprofit entities.

EXHIBIT B

Email from Assemblyman Tom Lackey's office verifying the local government's authority to create the temporary license for nonprofits.

EXHIBIT C

Summary of the State's program and Overview of the proposed Temporary Licenses for Mendocino County.

EXHIBIT D

Self Certification Checklist as required by AB 1616 Cottage Kitchen amended to include Cannabis products.

EXHIBIT E

Application as required by AB 1616 Cottage Kitchen amended to include Cannabis products.

EXHIBIT F

Current instructions for applying for a Cottage Industry Use Permit in Mendocino County.

It is assumed that once the forthcoming Overlays and the Exceptions Provision are in place that this process will be simplified.

I am available for any questions, comments, or support. Please feel free to contact me.

Paul Hansbury

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(3) Other than limited amounts of ~~marijuana~~ *cannabis* used for display purposes, samples, or immediate sale, storing all finished ~~marijuana~~ *cannabis* and ~~marijuana~~ *cannabis* products in a secured and locked room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss.

(k) A retailer shall notify the licensing authority and the appropriate law enforcement authorities within 24 hours after discovering any of the following:

(1) Significant discrepancies identified during inventory. The level of significance shall be determined by the bureau.

(2) Diversion, theft, loss, or any criminal activity pertaining to the operation of the retailer.

(3) Diversion, theft, loss, or any criminal activity by any agent or employee of the retailer pertaining to the operation of the retailer.

(4) The loss or unauthorized alteration of records related to cannabis or cannabis products, registered qualifying patients, primary caregivers, or retailer employees or agents.

(5) Any other breach of security.

(l) Beginning January 1, 2018, a licensee may sell cannabis or cannabis products that have not been tested for a limited and finite time as determined by the bureau. The cannabis and cannabis products must have a label affixed to each package containing cannabis or cannabis products that clearly states "This product has not been tested as required by the Medicinal and Adult-Use Cannabis Regulation and Safety Act" and must comply with any other requirement as determined by the bureau.

SEC. 60.

Section 26070.1 is added to the Business and Professions Code, to read:

26070.1.

Cannabis or cannabis products purchased by a customer shall not leave a licensed retail premises unless they are placed in an opaque package.

SEC. 61.

Section 26070.5 of the Business and Professions Code is amended to read:

26070.5.

(a) The bureau shall, by January 1, 2018, 2020, investigate the feasibility of creating one or more classifications of nonprofit licenses under this section. The feasibility determination shall be made in consultation with the relevant licensing agencies and representatives of local jurisdictions which issue temporary licenses pursuant to subdivision (b). The bureau shall consider factors including, but not limited to, the following:

(1) Should nonprofit licensees be exempted from any or all state taxes, licensing fees and regulatory provisions applicable to other licenses in this division?

(2) Should funding incentives be created to encourage others licensed under this division to provide professional services at reduced or no cost to nonprofit licensees?

(3) Should nonprofit licenses be limited to, or prioritize those, entities previously operating on a not-for-profit basis primarily providing whole-plant-marijuana *cannabis* and-marijuana *cannabis* products and a diversity of-marijuana *cannabis* strains and seed stock to low-income persons?

(b) Any local jurisdiction may issue temporary local licenses to nonprofit entities primarily providing whole-plant-marijuana *cannabis* and-marijuana *cannabis* products and a diversity of-marijuana *cannabis* strains and seed stock to low-income persons so long as the local-jurisdiction: *jurisdiction does all of the following:*

(1) Confirms the license applicant's status as a nonprofit entity registered with the California Attorney General's Registry of Charitable Trusts and that the applicant is in good standing with all state requirements governing nonprofit-entities; *entities.*

(2) Licenses and regulates any such entity to protect public health and safety, and so as to require compliance with all environmental requirements in this-division; *division.*

(3) Provides notice to the bureau of any such local licenses issued, including the name and location of any such licensed entity and all local regulations governing the licensed entity's-operation; and; *operation.*

(4) Certifies to the bureau that any such licensed entity will not generate annual gross revenues in excess of two million dollars (\$2,000,000).

(c) Temporary local licenses authorized under subdivision (b) shall expire after 12 months unless renewed by the local jurisdiction.

(d) The bureau may impose reasonable additional requirements on the local licenses authorized under subdivision (b).

(e) (1) No new temporary local licenses shall be issued pursuant to this section after the date the bureau determines that creation of nonprofit licenses under this division is not feasible, or if the bureau determines such licenses are feasible, after the date a licensing agency commences issuing state nonprofit licenses.

(2) If the bureau determines such licenses are feasible, no temporary license issued under subdivision (b) shall be renewed or extended after the date on which a licensing agency commences issuing state nonprofit licenses.

(3) If the bureau determines that creation of nonprofit licenses under this division is not feasible, the bureau shall provide notice of this determination to all local jurisdictions that have issued temporary licenses under subdivision (b). The bureau may, in its discretion, permit any such local jurisdiction to renew or extend on an annual basis any temporary license previously issued under subdivision (b).

SEC. 62.

Section 26080 of the Business and Professions Code is amended to read:



Paul Hansbury <funguyfungi@gmail.com>

Non-profit local license

10 messages

Townsend, Tim <Tim.Townsend@asm.ca.gov>
To: "lovingly.legally@gmail.com" <lovingly.legally@gmail.com>

Wed, Aug 2, 2017 at 5:10 PM

Hi Paul,

As mentioned over the phone, local governments have full authority to create local licenses for non-profits. They have full discretion over the fees and local taxes that they will charge for licensing activities in their jurisdiction. If a local government wanted to have lower fees and taxes for non-profits, that would well be within their authority.

Starting January 1, 2018, a non-profit would still need to obtain a state license, the cheapest most likely being a cottage cultivation license, and the state taxes and fees would apply. By 2020, the Bureau of Cannabis Regulation will look at the feasibility of creating a state license for non-profits.

Here are the regulations being proposed for manufacturers. I didn't see any restrictions on residential facilities but wasn't able to read through the whole thing.

https://www.cdph.ca.gov/Documents/OMCS_Initial_Text_DPH-17-004.pdf

Best,

Tim Townsend

Capitol Director

Office of Assemblyman Tom Lackey (AD-36)

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Paul <Lovingly.Legally@gmail.com>
To: John McCowen <mccowen@co.mendocino.ca.us>

Tue, Aug 8, 2017 at 1:44 PM

The Mendocino County Nonprofit Temporary License

Pursuant to SB 94 the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), Section 61, Article 26070.5 Mendocino County is pleased to become a participant in the California State feasibility study implementing temporary licenses for nonprofit entities.

These temporary licenses will be issued with the understanding (as outlined in MAUCRSA) that **the State bureau may impose reasonable additional requirements on the temporary local licenses authorized under this ordinance.**

Additionally:

- (1) No new temporary local licenses shall be issued after the date the State bureau determines that creation of nonprofit licenses under this division is not feasible, or if the bureau determines such licenses are feasible, after the date a State licensing agency commences issuing State nonprofit licenses.
- (2) If the State bureau determines such licenses are feasible, no temporary license issued under this ordinance shall be renewed or extended after the date on which a licensing agency commences issuing State nonprofit licenses.
- (3) If the State bureau determines that creation of nonprofit licenses under this division is not feasible, the bureau shall provide notice of this determination to all local jurisdictions that have issued temporary licenses. The State bureau may, in its discretion, permit any such local jurisdiction to renew or extend on an annual basis any temporary license previously issued under this section.

Nonprofit entities should be (but are not required to be) primarily providing whole plant cannabis and cannabis products and a diversity of cannabis strains and seed stock to low income persons.

In order to be considered for these temporary licenses the applicant must:

- (1) Be confirmed that the license applicant's status as a nonprofit entity registered with the California Attorney General's Registry of Charitable Trusts and that the applicant is in good standing with all state requirements governing nonprofit entities.
- (2) Demonstrate that they will protect public health and safety, and so as to require compliance with all environmental requirements in the Mendocino County Ordinance.
- (3) Understand that all applicant information collected by the County will be given to the State bureau.
- (4) Certify that licensed entity will not generate annual gross revenues in excess of two million dollars (\$2,000,000).
- (5) Understand that temporary local licenses shall expire after 12 months unless renewed by Mendocino County.

Applicants granted a Temporary Nonprofit license would be exempted from any and all County taxes, licensing and regulatory fees and some regulatory provisions applicable to other licenses as outlined in this ordinance.

Applicants granted a Temporary Nonprofit license must obtain a State license (when available) and must pay all applicable State Taxes and Fees.

COTTAGE CANNABIS MANUFACTURING

California Cottage Cannabis farmers have been producing infused edibles, concentrates, tinctures, topicals, etc. for generations. With the passage of Proposition 64, and the large scale cultivation that has begun, the price of cannabis is expected to fall leaving the small farmer with few options. Giving the small farmer the ability to produce value added products from their crop may be an answer.

In 2013, AB 1616 was signed into law permitting Cottage Kitchens.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201120120AB1616

Frequently asked questions are here.

https://www.acgov.org/aceh/documents/AB01616FAQs_CCDEH_English.pdf

Using the regulations adopted by AB 1616 as a guideline, the applicant must describe, in detail, their products and methods of manufacture. The attached Checklist and Application will help in the narrative.

It is incumbent on the applicant to familiarize themselves and adhere to the State regulations regarding Cannabis Manufacturing.

https://www.cdph.ca.gov/Documents/OMCS_Initial_Text_DPH-17-004.pdf

Cottage Cannabis Manufacturing licensees may only use the cannabis that has been grown by the licensee pursuant to their Type 1CI license.

However, as part of their fundraising program, Nonprofit Type 1CI licensees may accept donations (or for a substantially reduced price) of cannabis that has been scheduled for remediation provided the licensee has demonstrated that they are using manufacturing methods that are capable of the remediation. These Nonprofit Type 1CI licensees may not receive material that has been remediated.

For this license (A-Type and M-Type), only non-volatile solvents may be used.

Exceptions for this license (CCM only) are listed below.

A) Ethanol, while considered a volatile solvent, may be used if the applicant can demonstrate that it is being used in a non-volatile way and that appropriate safety measures have been established and are adhered to.

Examples of this include:

- 1) Passive soaking to perform extraction (i.e. tinctures)
- 2) Cleaning/sterilization of equipment, machinery, surfaces, etc.
- 3) Use of equipment that is:
 - a. UL listed (or certified by another recognized agency)
 - b. Closed loop system
 - c. Non-pressurized

B) If the licensee holds a Nonprofit M-Type 1CI license, and is dispensing to an individual patient, the milligrams of THC per package may be increased to 5,000 milligrams of THC per package regardless of delivery system. This shall be limited to 1 (one) package per transaction.

C) Since this is, by definition, a Home Business, licensees with Class K permitted residences are allowed to participate.

COTTAGE CANNABIS DISTRIBUTION/TRANSPORTATION

The Cottage Cannabis farmer will produce comparatively small batches of cannabis and/or cannabis products. In an effort to keep their products competitive, the Type 1 CI licensee shall be able to distribute their products to appropriate outlets/dispensaries thereby maintaining/developing their relationships with the outlets/dispensaries without the additional costs associated with impersonal third party distributors.

Accurate records of inventory shall be kept by the licensee and reported via Track and Trace program.

Test results performed by a certified testing laboratory shall be maintained.

Before leaving the premises, a transfer manifest shall be produced indicating the batch from which the product(s) were taken as well as quantities.

Should the outlet/dispensary not accept the entire or any of the transported products, the products must be returned to stock and must be recorded using the Mendocino Track and Trace program.

M-TYPE 1CI LIMITED RETAIL

There are occasions where an individual patient requires a specialty medicine that the qualified M-Type 1CI licensee is capable of producing. Such cases necessitate a timely and unconventional delivery due to the nature of dispensaries catering to the general public. Additionally, there are occasions where it may be geographically or physically inconvenient for the patient to obtain the medicine by visiting a retail dispensary where the licensee's products are carried. These licensees may deliver directly to the patient to be solely used by the individual patient.

This is not intended to allow the licensee to perform solely as a delivering dispensary.

Under the above circumstances the licensee must:

- 1) Verify the individual patient's recommendation and record that this has been done.
- 2) Document the removal from inventory all cannabis related products used to produce this medicine using the Track and Trace program.
- 3) Have test results for the inventory used.
- 4) Have documentation of how final product was produced (referencing test results) to show, mathematically, how cannabinoid profile and potency was achieved if a specialty medicine is produced from a previously tested batch.
- 5) Deliver a quantity that is reasonable for the individual patient's condition and record the transaction.

TRACK AND TRACE

The purpose of the Track and Trace program is to document and verify compliance with State and Local regulations regarding cultivation, manufacture, testing, and distribution of cannabis and cannabis products. Once compliance is verified and a license issued this mechanism (along with periodic inspections) is used to monitor the activities of the licensee.

In the case of a Type 1CI license, there are many levels of reporting required that should actually simplify the reporting (and perhaps make it more accurate) as it relates to the chain of custody because the licensee has first hand knowledge of each aspect.

Because of the nature of the license, common sense would dictate that certain formalities may be waived.

- 1) A transfer manifest need not be generated to transfer from one part of the residence to another. However the locations need to be recorded.
- 2) Formal testing for cannabinoid profile and potency for a final product need not be performed if the licensee can demonstrate, mathematically, that the final product was derived from a previously tested batch.

COTTAGE CANNABIS MANUFACTURING (CCM) SELF CERTIFICATION CHECKLIST

The following requirements are the Cottage Cannabis Manufacturing (CCM) regulations and are provided as minimum standards of health and safety for the preparation of approved cottage foods as outlined in the California "Cottage Food Law"(AB1616).
The Cannabis for the manufacture of Cannabis products in the home (CCM) are limited to the Cannabis produced by the Cottage Licensee on the licensed parcel.

CCM Business Name:	Mendocino Cottage Cultivation License Number	
CCM Owner Name	State License Number	
CCM Home Address:	CCM City:	CCM ZIP:
Email address:	Owner Phone:	Owner Cell:
Website (if available):		

Facility Requirements:	Yes	No
1. The CCM is located in a private dwelling where the CCM operator currently resides.	<input type="checkbox"/>	<input type="checkbox"/>
2. All CCM food preparation and will take place in the private kitchen within that home.	<input type="checkbox"/>	<input type="checkbox"/>
3. Besides the kitchen, will there be additional storage or workrooms used for the business within the home?	<input type="checkbox"/>	<input type="checkbox"/>
4. Sleeping quarters are excluded from areas used for CCM food preparation, workrooms, or storage.	<input type="checkbox"/>	<input type="checkbox"/>
a. Specify the room(s) that will be used for additional storage.	<input type="checkbox"/>	
b. What will be stored in the additional storage areas?	<input type="checkbox"/>	
c. Specify room(s) that will be used as workroom(s).	<input type="checkbox"/>	
d. Provide a document stating procedures and safety precautions for manufacturing concentrates.	<input type="checkbox"/>	

Labeling Requirements:	Yes	No
22. A sample of the label for each food items prepared has been submitted to this Department for review and approval. (Submit word or pdf document, the final label for review is not required)	<input type="checkbox"/>	<input type="checkbox"/>
23. I plan to advertise my business on the internet (i.e. website, social media). Once issued, I will indicate on any advertisement that the business has a CCM permit with Mendocino County.	<input type="checkbox"/>	<input type="checkbox"/>

By signing below you are certifying that you meet the requirements of the California Homemade Food Act as it pertains to a Cottage Food Operation. Prior to making any changes, I acknowledge that I must notify Mendocino County Department of Environmental Health of any intended changes to the above statement.

Owner's Signature

Print Name

Date

COTTAGE CANNABIS MANUFACTURING (CCM) APPLICATION

Mendocino Cottage Cultivation License Number		Date:	
CCM Business Name:		State License Number	
CCM Home Address:		CCM City:	
Owner Name:		CCM ZIP:	
Owner Phone:		Owner Cell:	
Mailing Address (if different than CCM home address):		Mailing City:	
Mailing ZIP:		Mailing ZIP:	
Email Address:		Website:	

1. Categories:

☐ "Class A" (Direct Sales Only) ☐ 'Class B' (Direct & Indirect Sales)

2. Zoning approval:

Initial if you agree to abide by the following: _____

I understand I shall submit proof of approval from the zoning department from the city where I reside. Some cities will issue a letter, application or business license as proof of zoning. Check here ☐ if you live in the unincorporated areas with in the county.

3. Self-Certification Checklist:

☐ Checklist completed

4. Food Processor Course:

☐ ANSI approved Food Handlers Card _____ (provider)

5. Employee:

Initial if you agree to abide by the following: _____

I understand that I may not have more than one full-time equivalent cottage cannabis employee, not including a family member or household member of the cottage cannabis operator, working within the registered or permitted area of a private home where the cottage cannabis operator resides and where cottage cannabis products are prepared or packaged for Class A or Class B sale to consumers.

6. Gross Annual Sales:

Initial if you agree to abide by the following: _____

I understand that I will lose my CCM status and will need to become permitted in a commercial facility if my CCM business exceeds the \$50,000 gross annual sales for the calendar year.

7. Delivery Limitations:

Initial if you agree to abide by the following: _____

I understand that I may accept orders and payments via the internet, mail or phone. However, all "Class A" & "Class B" CCM products must be delivered directly (in person) to the customer. The CCM products may not be delivered via US Mail, UPS, FedEx or using any other indirect delivery method as this is regulated/subject to CDPH registration and state and federal requirements.

12. Owner's Statement: I, _____, agree to grant access to the local health department to conduct an inspection of my cottage cannabis operation (mark one):

☐ "Class A": In the event of a consumer complaint or food-borne illness investigation

☐ "Class B": For regular annual facility inspections and in the event of a consumer complaint or food-borne illness investigation

I, _____ agree to notify the County of Mendocino, Department of Environmental Health prior to modifying my food list, type of operation, and/or method of selling, distributing, or otherwise providing my CCM products to the consumer or retailers, regardless of whether the product is sold, consigned, or given away. The permit application process can be delayed if documents are not submitted with the application. Once the complete packet is submitted, the department will respond within 10 business days. The application packet will expire 30 days from the date the packet is submitted. Failure to response to resubmittal requirements will result in additional charges. There are NO refunds after the packet is submitted. _____ initial

Owner's Signature

Print Name

Date

HOW TO APPLY FOR A COTTAGE INDUSTRY USE PERMIT

MENDOCINO COUNTY PLANNING AND BUILDING SERVICES

What is the purpose of a cottage industry use permit?

Cottage Industries are intended to allow limited commercial or industrial uses conducted by persons who live in a dwelling on the same property. The type, scale and conduct of the activity or use must strictly conform to specified criteria and be conducted in a manner that is compatible with the surrounding neighborhood and does not affect the environment. The requirement for a Use Permit gives the County the ability to review the proposed project to insure that it will be compatible with surrounding land uses and will not adversely affect neighbors or the environment. The public hearing allows neighbors to voice their opinion. **You are advised that a cottage industry, which expands beyond the cottage industries limitations, must be relocated to property with the appropriate zoning.**

What should I do first?

You should review the Cottage Industries section of the County Zoning Ordinance. Cottage Industries are categorized as "Limited" or "General,"¹ depending on the zone in which the use is located. The regulations specify a list of uses that are allowed as Cottage Industries in the zoning district in which your project is located, as well as criteria that the project must comply with. You should also inquire about building permits, health permits, or other permits that may be needed to accomplish the use. You may wish to make an appointment to meet with a staff planner, as well as staff from the Building Division, Environmental Health or other departments to discuss your project.

While allowances for Cottage Industries give a small business a chance to get started, you should be aware that Cottage Industries may not expand beyond the limits specified in the Zoning Ordinance. Prior to the expansion of a Cottage Industry beyond the limits specified, the Cottage Industry would need to be relocated to another property with the proper zoning.

How do I apply for a cottage industry use permit?

Submit the required number of Use Permit application forms to the Department of Planning and Building Services along with the appropriate filing fee. As part of the application process, you will be required to submit the appropriate number of copies of the following:

- ✓ Application forms.
- ✓ Plot Plan, Location Map and a filing fee.

How long does it take to process a cottage industry use permit?

The process takes approximately 4 to 6 months from the time you submit a complete application to the day of the public hearing.

What happens after I apply?

Preliminary Review of Application. Planning staff will review your application for completeness. If the application is deemed incomplete; that is, all information is not submitted or is found inadequate, you will be notified by mail as to what additional information is required.

If the application is deemed complete, it will be assigned to a project coordinator who will be your contact through completion of the project. The application will be referred to various agencies, which may request additional information or request that conditions of approval be attached to your Use Permit.

¹ There is no distinction in the Coastal Zone as to "limited" or "general"

Environmental Review. The Use Permit application requires preliminary environmental review by the project coordinator to determine if the project would cause any environmental impact. You may be required to submit additional information regarding noise, water availability, etc.

Staff Report. Once all information is submitted and responses from agencies are received, the project coordinator will prepare a staff report and schedule the Use Permit for a public hearing. You will receive a copy of the staff report. Notice of the public hearing will be provided to the neighbors and interested agencies.

Who will take action on my cottage industry use permit?

Your application will be considered during a public hearing by the Zoning Administrator. In controversial or unusually complex cases, the application may be heard by the Planning Commission or Board of Supervisors.

You will be notified by mail of the time and place that the Zoning Administrator or other hearing body will consider your application. You or a representative should be present at this hearing. In addition, public notice of the hearing for your application will be published in a local newspaper and owners of property within 300 feet will be notified of the application and hearing date.

What can I do to give my application the best chance of approval?

- ✓ Talk to your neighbors in advance to discuss your project with them.
- ✓ Show how the project will comply with the criteria in the Zoning Ordinance for the type of Cottage Industry you have applied for.
- ✓ When planning your project, consider how you can complete it in such a way that it harmonizes with its surroundings and does not disrupt the neighborhood by creating undue noise, traffic, etc.
- ✓ You must convince the decision-maker(s) that your project should be approved. When you submit your application, provide the best information possible supporting your request.
- ✓ Attend the public hearing so that you can speak for your project and respond to questions posed by those who may be worried about how your land use might affect them.

What happens during the public hearing on my application?

The staff report prepared for your application will be presented and summarized by County staff.

You will be provided an opportunity to describe your project and address any issues raised in the staff report.

Members of the public will be given an opportunity to express positive or negative comments regarding your application.

The Zoning Administrator, or if referred, the Planning Commission or Board of Supervisors, will consider the staff report, comments from you and the public, and take action on the application.

Can the decision on my application be appealed?

During the 10-day appeal period after the public hearing, you or any interested party may appeal the decision to the Board of Supervisors. Even if your application is approved, you may still appeal any of the conditions that are attached to the permit. **Appeals must be filed in writing, accompanied by a filing fee and are submitted to the County Executive Office.**

If an appeal is filed, the project coordinator will prepare a written report and recommendation to the Board of Supervisors. Notification of the Board of Supervisors' hearing will be provided in the same manner as the Zoning Administrator or Planning Commission's hearing.

Approved Use Permits for projects in the Coastal Zone may be appealable to the California Coastal Commission within 10 working days following the Coastal Commission's receipt of Notice of Final Action on the project.

When does a cottage industry use permit expire?

If you do not make use of the Permit within two years from the date of approval, the Use Permit becomes invalid.

An expiration date may be placed on your Use Permit as a condition of approval. Prior to the expiration date, you will need to apply for a Use Permit renewal. Use Permits may also be scheduled for modification or revocation if conditions of approval have not been met.

What happens after my cottage industry use permit is approved?

In most instances, a Cottage Industry Use Permit is only the first step in establishing a business or use. You are required to comply with conditions of the Use Permit over the life of the permit, and may be required to obtain other permits or clearances such as a County Business License, State resale license, building change of occupancy permit, etc.