

## Title 6 – Business License and Regulations

### Chapter 6.36 – Cannabis Facilities Businesses

#### 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*.

“Cannabis Facilities Business License” means a revocable, limited-term grant of permission to operate a cannabis processing, manufacturing, testing, retailing/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. A Cannabis Facilities Business License shall be required for the operation of any cannabis facility, as that term is ~~both an Adult Use Cannabis Facility or a Medical Cannabis Facility, as those terms are~~ defined in Section 20.243.050.

“Cannabis facility” means a structure and/or location where retailing, distributing, processing, testing, manufacturing or delivering cannabis for either medical or adult use is operating, ~~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 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 Treasurer-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.

(C) All cannabis facilities, regardless of where located, shall comply with the following:

(1) A cannabis facility shall not be allowed within six hundred (600) foot radius of a school providing instructions in kindergarten or any grades 1 through 12, day care center, park, church, residential treatment facility, youth-oriented facility or youth center that is in existence at the time the zoning clearance or permit is issued, unless the state licensing authority specifies a different distance. The distance between the above-listed uses and medical or adult use cannabis that is being processed, manufactured, tested, dispensed, retailed or distributed shall be measured in a straight line from the nearest point of the medical cannabis facility to the nearest boundary line of the property on which the facility, building, or structure, or portion of the facility, building, or structure in which the above-listed use occurs is located.

~~(1)~~(2) A cannabis facility shall comply with the general limitations set forth in section 20.243.050.

~~(B)~~(D) Persons applying for a Cannabis Facilities Business License shall obtain a valid California State license required under MCRSA and AUMAMAUCRSA as soon as such State licenses become available.

~~(C)~~(E) A Person who obtains a Cannabis Facilities Business License under this Chapter 6.36 for a cannabis facility shall not be required to obtain a separate business license under Chapter 6.04 for the same activity.

~~(D)~~(F) 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.

~~(E)~~(G) 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 Retailers~~/Dispensaries.
- ~~(E) Adult Use Cannabis Retailers.~~
- ~~(F)~~(E) Distribution Facilities.
- ~~(G)~~(F) ~~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, or a longer period of time at the discretion of the Tax Collector. The license shall be renewed annually.
- (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 is being conducted at one location, a separate license is required for each 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.
- (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 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.

#### 6.36.060 – Application Procedure.

- (A) The Office of the Tax Collector 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 Office of the Tax Collector shall charge the applicant all fees required under the Master Fee Schedule for these referrals.
- (1) All County ~~e~~Cannabis ~~f~~Facility ~~b~~Business ~~l~~licenses are provisional until a valid State of California license, as required under ~~MCRSA or AUMAMAUCRSA~~, is verified.
- a. A copy of the State license issued pursuant to ~~MCRSA or AUMAMAUCRSA~~ 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 AUMAMAUCRSA~~, the provisional local County Cannabis Facility Business License will become invalid.
- (B) Within ten (10) days of filing a complete ~~Cannabis Facility Business License~~ ~~cannabis business license~~ application with the Office of the Tax Collector, 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 not been convicted of a violent felony as defined in Penal Code section 667.5(c) within the State of California, or a crime that would have constituted a violent felony as defined in Penal Code section 667.5(c) if committed in the State of California and is not currently on parole or felony probation. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.~~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 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 Office of the Tax Collector 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*.
- (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 Cannabis Facility Business License~~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.

**6.36.120 –Violations.**

- (A) VIOLATION OF CANNABIS FACILTIES LAWS. It shall be a violation of this Chapter for a Person or his or her agent or employee to violate any local, or state, cannabis facilities-related law.
- (B) LICENSE COMPLIANCE MONITORING. Compliance checks of each Cannabis Facility may be conducted 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 if the violation occurs when the person is participating in a compliance check, and is supervised by a law enforcement official, a code enforcement official, or any peace officer.
- (C) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this Chapter shall constitute a violation of this Chapter.
- (D) Violations of this Chapter are hereby declared to be public nuisances.

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

- (A) TERMINATION OF LICENSE UPON EXPIRATION. A Cannabis Facility Business License expires if not renewed pursuant to Section 6.36.080 of this Chapter. Upon expiration, a Cannabis Facility Business license shall automatically be deemed terminated. Termination based on expiration shall not prevent a Person from submitting a new application for a Cannabis Facilities Business License.
- (B) REVOCATION OF LICENSE AFTER HEARING. The Board of Supervisors of Mendocino County may revoke a Cannabis Facility Business License of any Person after finding that the Person was guilty of some act which would otherwise disqualify such entity from obtaining such license, or after finding that the Person transacted or operated its business in any manner contrary to any law, ordinance, chapter, rule or regulation. The Board of Supervisors may make the finding forming the basis for license revocation after hearing 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 Cannabis Facility Business License is revoked in this manner shall be disqualified from obtaining a Cannabis Facility Business License unless the Board of Supervisors waives such disqualification.
- (C) IMMEDIATE REVOCATION OF LICENSE, NO HEARING. After the State begins issuing licenses for Cannabis Facilities, 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~~26000, et seq. or other applicable state law for a medical cannabis facility.
  - (2) Failure to obtain and maintain a valid and current state licenses pursuant to California Business & Professions Code Sections ~~19300~~26000, et seq. or other applicable state law.

**6.36.140 – Enforcement.**

The remedies provided by this Chapter are cumulative and in addition to any other remedies available at law or in equity. The use of one or more remedies by the County shall not bar the use of any other remedy for the purpose of enforcing the provisions of this Chapter.

~~**6.36.150 – Severability.**~~

~~If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such~~

~~invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The Board of Supervisors of the County of Mendocino hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof independently, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.~~