



COUNTY OF MENDOCINO CANNABIS DEPARTMENT

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<https://www.mendocinocounty.org/departments/cannabis-department>

DATE: November 13, 2023
TO: Mendocino Cannabis Department Staff
FROM: Steve Dunncliff, Interim Director Mendocino Cannabis Department
RE: Internal Procedure #05 – Denials

PREVIOUS PROCEDURE

None.

PURPOSE

To promote accountability, consistency, equal application, efficiency, and ensure proper due process, the Mendocino County Cannabis Department (hereby "Department") shall define and implement a uniform strategy regarding commercial cannabis cultivation application (hereby "application(s)") denial and denial appeal(s), CCBL Non-Renewal and non-renewal appeals.

DEFINITIONS

Appeal - An application made to the Department to reverse a decision regarding the denial of an initial application or a non-renewal of a CCBL. The due process for an appeal is outlined in Mendocino County Code (hereby "MCC") Sec. 10A.17.126. An appeal form is attached (Attachment 2). An appeal does have to be provided on the department issued form. An internal appeal worksheet is also attached (Attachment 3).

Applications - All phases and types of CCBL applications and renewals, including but not limited to, cultivation and nursery operations, transfers, modifications, etc.

Denial - The Department mechanism to reject a CCBL application based on the failure to meet the requirements of MCC Ch. 10A.17. The due process of an application denial is outlined in MCC Sec. 10A.17.100(D).

Due Process – or "Procedural due process", concerns the procedures that the government must follow before it deprives an individual of life, liberty, or property as outlined in the governing law(s). In the case of the Department and its applicants and CCBL holders, this would include all relevant code sections entitling CCBL applicants and CCBL holders to both accountability measures and the opportunity to be heard regarding Department determinations.

Non-renewal – The Department mechanism to reject a CCBL renewal application or renewal opportunity based on the failure to provide complete renewal application materials, including payment of fees, and/or non-responsiveness (as defined as thirty (30) days of no communication with the Department) from the CCBL holder. The due process of a non-renewal is outlined in MCC Sec. 10A.17.100(D). Any Expired CCBL is subject to non-renewal by the Department.

Cannabis Cultivation Business License or **CCBL** – An issued Cannabis Cultivation Business License for cultivation or nursery operations in Mendocino County.

Service – Presentation of official documents to a Responsible Party by a Department designee in one (1) of the following ways:

1. Personal service of the official documents; or
2. First class mail, postage prepaid, to the Responsible Party's mailing address as shown on the County's last equalized property tax assessment rolls, if such address is available, or otherwise to the last known address of the Responsible Party; or
3. Posting the official documents any real property within the County in which the Department has knowledge that the Responsible Party has a legal interest. This method of service is only effective if service by mail fails, but posting may be done at any time.
4. Alternative Service. If the person being served agrees in writing, service may be accomplished in any agreeable manner, including but not limited to email, or overnight delivery.

The “date of service” shall be the date on which the Document is either personally served, mailed, posted, or in the case of alternative service, the date the County initiates the delivery of the agreed method of service. For the purpose of this definition, "mailed" means deposited for mailing with the United States Postal Service, or placed for collection and mailing by way of the County Department's ordinary business practices through which mail is collected and placed for mailing with the United States Postal Service, with postage prepaid.

The time in which an act is to be performed according to law, which is based on the service date described in this section, shall be extended by five (5) days if the service was provided by either mailing or posting.

The Department shall document the actions described above via the attached Certificate of Service form (Attachment 1).

Termination – The Department mechanism to eliminate an issued CCBL at any time during the permit life, including the renewal period, for failure to meet the requirements of MCC Ch. 10A.17. The due process of a permit termination is outlined in MCC Ch. 10A.17.140(D).

SCOPE

All Divisions within the Department and any authorized contractors performing work on behalf of the Department shall be responsible to this procedure.

PROCEDURE

CCBL Application Denial and Issued CCBL Non-Renewal

Failure of CCBL applicants prior to issuance of a CCBL and CCBL holders applying for renewal to comply with the requirements of MCC 10A.17 as determined by the Department, and/or reasonably communicate with the Department, and/or provide required information to assist the Department in processing applications and/or renewals, and/or file a Notice of Application Stay, will result in the following procedure:

1. Documented outreach from the Department to the CCBL applicant or CCBL holder to establish what proper compliance is in the individual circumstances of the application or CCBL, and to establish a timeline to achieve compliance. This outreach shall include, but is not limited to, phone call and mail, electronic or first-class mail. The department retains discretion on what the appropriate amount of time is to move from step one (1) to step two (2). The decision and information that informs the finding shall be documented by Department staff.

2. Failure by the CCBL applicant or CCBL holder to respond, agree, or comply with step 1 shall then result in the Department issuing CCBL Denial or Non-renewal Notice (Attachment 4) via MCC Sec. 10A.17.100(D) utilizing proper service as described in the definition section of this procedure. The Department shall include a Department approved Denial Appeal Form including the fee amount in the notice.
3. If the Department receives an appeal form, the staff receiving the form shall utilize the internal appeal worksheet document and complete the associated actions to ensure due process. The results of the worksheet and any communication with the appellant shall be documented.
4. If the Department does not receive an appeal form, or the appeal form received is not timely, valid, and/or paid for, and when given the opportunity, the appellant did not remedy the appeal within thirty-five (35) days per MCC 10A.17.126(A) and the additional five (5) days for service by mail if appropriate, then the CCBL application or non-renewed CCBL shall be deemed DENIED. A referral may be made to any relevant Department or Agency with an interest in the location being denied or non-renewed, including but not limited to Mendocino County Code Enforcement, Local or State Law Enforcement, California Department of Fish and Wildlife, and/or the Department of Cannabis Control.

All communication, noticing, and documentation associated with this process shall be documented and retained. The retention schedule shall be in conformance with the County/Department retention policy.

RESPONSIBILITY

Any Department staff or authorized contractors performing any functions described in the scope are responsible to ensure compliance with this procedure and the subsequent revisions of this procedure. For MCD staff, failure to perform within the parameters of this procedure may result disciplinary action up to and including termination. For any contractor providing services on behalf of the County, failure to perform within the parameters of this procedure may result in termination of contracted services and responsibility of any costs incurred by the County.

ATTACHMENTS

1. Certificate of Service
2. Denial or Non-Renewal Appeal Form
3. Internal Appeal Worksheet
4. Denial or Non-Renewal Notice

AUTHORITY

Procedure Approved: _____



Date: _____

11/20/23

Steve Dunicliff, Interim Cannabis Department Director

