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ORDINANCE NO. _____

AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, ADDING CHAPTER 7.02 TO THE MONTEREY COUNTY CODE TO IMPLEMENT BUSINESS LICENSES FOR CERTAIN DESIGNATED BUSINESSES

County Counsel Summary

This ordinance adds Chapter 7.02 to the Monterey County Code to provide for necessary regulations of certain lawful businesses being conducted within the unincorporated area of Monterey County and to set the procedure for the administration of business licenses, which is in the interest of the public health, safety, and welfare of the people of Monterey County. This ordinance authorizes the Board of Supervisors to adopt fees for the licenses and also provides for enforcement and penalties for violations of this ordinance.

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. Chapter 7.02 is added to the Monterey County Code to read as follows:

Chapter 7.02 BUSINESS LICENSES

Sections:

- 7.02.010 Purpose.**
- 7.02.020 Definitions.**
- 7.02.030 Time of procurement and term.**
- 7.02.040 Business licenses required for certain designated businesses.**
- 7.02.050 Businesses requiring licenses.**
- 7.02.060 Separate license required for each place of business.**
- 7.02.070 Fictitious names.**
- 7.02.080 Land use regulations.**
- 7.02.090 Form of application.**
- 7.02.100 Application, renewal, and required fee payment.**
- 7.02.110 Information to be shown in licenses.**
- 7.02.120 License display.**
- 7.02.130 Right of entry.**
- 7.02.140 Licenses nontransferable**
- 7.02.150 Grounds for refusal and appeal.**
- 7.02.160 Grounds for revocation and appeal.**
- 7.02.170 Penalty for violation.**

7.02.010 Purpose

The purpose of this Chapter is to provide for necessary regulation of certain lawful businesses being conducted within the unincorporated area of Monterey County, in the interest of the public health, safety, and welfare of the people of the Monterey County. Business license fees charged under the provisions of this Chapter shall be revenue-neutral such that they may not exceed the reasonable costs of providing for registration and licensing services. No business license fee charged under the provisions of this Chapter shall be construed as a business license tax.

7.02.020 Definitions

A. For the purposes of this Chapter, the following terms shall be defined as follows:

“Applicant” means the individual, partnership, association, limited liability company, or corporation that will operate and conduct a business for which a license is required pursuant to the provisions of this Chapter.

“Business” means the operation or carrying on of any activity, whether for profit or gratuitously, for which a license is required by this Chapter. "Business" also means the soliciting of orders and the delivery of goods at a fixed physical location and those that are operated on a mobile basis.

“County” means the County of Monterey.

“Fixed place of business” means any establishment, store, office or central place for carrying on regular activities.

“Medical Cannabis Business” means any type of business licensed by the State of California under section 19300.7 of the California Business & Professions Code, which includes the following state license classifications: Type 1, Type 1A, Type 1B, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B, Type 4, Type 6, Type 7, Type 8, Type 10, Type 10A, Type 11, and Type 12.

“Person” and “party” mean person, party, firm, association, corporation, partnership or profession for which a business license must first be procured.

B. Wherever the principal is designated in this Chapter, it shall include clerks, agents, servants, representatives and employees; it being the intention to license the business and not separate any individual acts or activities which are integral parts of a business.

7.02.030 Time of procurement and term.

A. Business licenses required by this Chapter shall be procured before the commencement of business or, if the business is in operation and a license possessed, prior to the expiration of such license.

B. Unless otherwise specifically provided, the license period shall be for one (1) year and shall commence September 1 of each year and expire August 31 of the following year. Applicable fees will be prorated if a business is started within the annual license period.

7.02.040 Business registration and license required for certain designated businesses.

Every person conducting or carrying on a business as defined in this Chapter anywhere in the unincorporated area of the County shall register by obtaining a business license. It is unlawful for any person to maintain, conduct, operate, or carry-on within the unincorporated area of the County any business defined in this Chapter, unless such person has a valid license for such business.

7.02.050 Businesses requiring licenses.

Business licenses shall be required to operate or maintain the following businesses:

A. Medical Cannabis Businesses.

7.02.060 Separate license required for each place of business.

A separate license is required for each separate place of business even though the businesses are owned or operated by the same person. Where a combination of two (2) or more classes of businesses as herein classified are carried on at the same fixed place of business by the same owner and under one (1) management, only one (1) license shall be required.

7.02.070 Fictitious names.

A. A license may be issued pursuant to this Chapter to a corporation duly authorized to transact business in this state, or to a person operating under a fictitious name who has complied with all of the provisions of Section 17900 *et seq.* of the Business and Professions Code. Otherwise, all such licenses shall be issued in the true name of the individual or individuals applying therefor.

B. Except as provided in subsection A. of this section, no business so licensed may operate under any false or fictitious name.

C. A license issued to a corporation shall designate such corporation by the exact name that appears in the articles of incorporation of such corporation.

7.02.080 Land use regulations.

A. The Treasurer-Tax Collector shall not issue any license to carry on any business at a specific location where such business is inconsistent with the land use regulations of the County.

B. Resource Management Agency – Planning zoning clearance is required prior to the issuance of any new business license where the fixed place of business is situated in the unincorporated area of the County.

7.02.090 Form of application.

Every application for a business license required by this Chapter shall be signed by the applicant and shall contain the following:

A. The name and mailing address of the applicant. If the applicant is a corporation, the name shall be exactly as set forth in its articles of incorporation. If the applicant is a partnership, the name and address of each general partner shall be stated. If one or more of the partners is a corporation, the provisions of this Section as to a corporate applicant apply. The names of all other persons having an interest in the enterprise shall be listed;

B. If the applicant is a corporation, the name and mailing address of an officer who is duly authorized to accept the service of legal process;

C. The applicant's social security number if an individual, or the corporate number if the applicant is a corporation;

D. The driver's license or identification card if the applicant is an individual;

E. The telephone number of the applicant;

F. The name under which the applicant will be doing business;

G. The exact nature of the business;

H. The exact location of the business or the route or territory to be covered if no fixed place of business;

I. The residence of the applicant or, if a corporation, the principal place of business;

J. The name and address of the owner of the premises;

K. The name and address of the lessee of the premises;

L. A copy of the current sales tax permit issued by the State of California Board of Equalization as required by Revenue and Taxation Code Section 6066;

M. A copy of all applicable permits and licenses required by the State of California to engage in the business;

N. A copy of all applicable permits and licenses required by the County to engage in the business; and

O. Per Labor Code section 3711, proof of workers compensation insurance or exemption thereto.

7.02.100 Application, renewal and required fee payments.

A. All business licenses required by this Chapter shall be issued by the Office of the Treasurer-Tax Collector upon completion of the business license application, including copies of required state and County documents as described herein in Section 7.02.090 A. through O., and the payment of the proper fees.

B. All business licenses required by this Chapter shall be obtained annually and be valid from the date of issue to August 31, and prior thereto, application shall be made for renewal of the license. All renewal applications must be received by the Treasurer-Tax Collector by August 1 of each year. New licenses issued during any period after September 1, will be issued for the remainder of the annual license period up to August 31, at a pro-rated cost based on the date of issuance and the immediately pending annual renewal period beginning on August 1.

C. Every application or renewal of a business license shall be accompanied by a nonrefundable fee, as adopted by the Board of Supervisors, in order to reimburse the County for actual costs of reviewing and acting upon the application.

D. In addition to any application or renewal fee, each business shall pay an annual license fee, as adopted by the Board of Supervisors, for the administration of the business license, including monitoring and enforcing compliance with terms of the business license.

E. The Board of Supervisors may enact such other fees as may be necessary to recover the County's costs of inspection and corrective actions in relation to the licenses.

7.02.110 Information to be shown in licenses.

The business license shall be in the form prescribed by the Treasurer-Tax Collector and must contain, at a minimum, the licensee's name, the business name, the type of business, the location of the business, commencement and expiration dates of the license, and the fee remitted.

7.02.120 License display.

A. Every licensee having a fixed place of business shall display the valid license in a conspicuous place in such place of business.

B. Every licensee not having a fixed place of business shall carry such license on their person at all times while during any actions related to the conduct of carrying on the licensed business, and shall exhibit it, whenever requested, to any person.

7.02.130 Right of entry.

It shall be the duty of all peace officers, appropriate code enforcement officials, and other designees of the Treasurer-Tax Collector to exercise due diligence in the enforcement of this Chapter, and to that end they shall be permitted, at any reasonable time and place, to enter all types and classes of business establishments regulated by this Chapter.

7.02.140 Licenses nontransferable.

No license granted under the provisions of this Chapter shall be transferable or removable to another location, another person, or entity.

7.02.150 Grounds for refusal and appeal.

A. The Treasurer-Tax Collector must refuse to issue a license for any of the following reasons:

1. For fraudulent representations in the application;
2. For failure to furnish all information required by the application; and
3. For failure to pay the required license fees.

B. The Treasurer-Tax Collector's denial of a license application is a final action that is not subject to any further administrative remedy. The only legal remedy available to appeal the Treasurer-Tax Collector's action is to file a petition for writ of mandate in superior court under California Code of Civil Procedure 1085.

C. Upon rejection of any license application, all annual license fees received in connection therewith shall be refunded to the applicant. The application fee shall not be refunded.

7.02.160 Grounds for revocation and appeal.

A. The Treasurer-Tax Collector must revoke a license issued under this Chapter for any of the following reasons:

1. For violation of any conditions of the license;
2. For violation of any provisions of this Chapter;

3. If such license was obtained by fraud; and
4. For conducting business in an unlawful manner, or in such a manner as to be a nuisance to the health, safety or welfare of the public.

B. The Treasurer-Tax Collector's revocation of a license is a final action that is not subject to any further administrative remedy. The only legal remedy available to appeal the Treasurer-Tax Collector's action is to file a petition for writ of mandate in superior court under California Code of Civil Procedure 1085.

C. Upon revocation of any license, no part of the fee paid therefor may be refunded.

D. No person may secure any license who has had any license issued under this Chapter revoked within the preceding six (6) months.

7.02.170 Penalty for violation.

A. Licenses not renewed by August 31 each year will become delinquent and will be canceled. Persons who fail to renew their license during the prescribed renewal period will be required to submit a new application, obtain all appropriate approvals, and pay the application and license fee.

B. Any person violating any of the provisions or failing to comply with this Chapter shall be guilty of a misdemeanor. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Chapter or the license is committed, continued or allowed.

C. Any condition caused or allowed to exist in violation of any of the provisions of this Chapter shall be deemed a public nuisance and shall, at the discretion of County, create a cause of action for administrative penalty pursuant to Chapters 1.20 and 1.25.

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 3. EFFECTIVE DATE. This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED this ____ day of _____, 2016, by the following vote:

AYES:
NOES:
ABSENT:

Jane Parker, Chair
Monterey County Board of Supervisors

A T T E S T :

GAIL T. BORKOWSKI
Clerk of the Board

By: _____
Deputy

APPROVED AS TO FORM: WENDY S. STRIMLING Senior Deputy County Counsel
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