

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 establish business licenses for specified businesses being conducted within the unincorporated area of Monterey County. The ordinance requires commercial medical cannabis and commercial marijuana businesses to obtain business licenses. Applying the business license requirement to other businesses would require an amendment to the ordinance. This ordinance establishes procedures for the administration of business licenses, authorizes the Board of Supervisors to adopt fees for the licenses, and provides for enforcement 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 Applicability.**
- 7.02.040 Time of procurement and term.**
- 7.02.050 Business license required for certain designated businesses.**
- 7.02.060 Businesses requiring licenses.**
- 7.02.070 Separate license required for each place of business.**
- 7.02.080 Fictitious names.**
- 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 denial.**
- 7.02.160 Grounds for revocation.**
- 7.02.170 Appeal.**
- 7.02.180 Penalty for violation.**
- 7.02.190 Implementation.**
- 7.02.200 Enforcement of Chapter.**
- 7.02.210 Fees, Fines, and Penalties.**

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 County.

7.02.020 Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings set forth below when used in this Chapter:

“Applicant” means the individual, partnership, association, limited liability company, or corporation that has applied for, but not yet obtained a license to operate and conduct a business for which a license is required pursuant to the provisions of this Chapter.

“Application” means a written request submitted to the Treasurer-Tax collector or other appropriate officer or body of the County for any license required by this Chapter.

“Business” means and includes professions, trades, vocations, enterprises, establishments, occupations, and all and every kind of calling, any of which are conducted or carried on for the purpose of earning in whole or in part a profit or livelihood, whether or not a profit of livelihood actually is earned thereby, whether paid in money, goods, labor, or otherwise. A business shall also include a person as herein defined. "Business" also means the soliciting of orders and the delivery of goods at either a fixed physical location and/or those that are operated on a mobile basis.

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

"Evidence of doing business" means whenever any person shall, by use of signs, circulars, cards or any other advertising media, including the use of internet or telephone solicitation, represent that such person is engaged in business in the unincorporated area of the County; these facts may be used as evidence that such person is engaged in business in the County.

“Operator” means any person who is operating and conducting, or intends to operate and conduct, a business for which a license is required pursuant to the provisions of this Chapter.

“Person” or “Party” means and includes an individual, partnership, corporation, limited liability company, firm, or association, cooperative or non-cooperative; when the terms used in this section designate the principal, the same means and includes the clerk, agents, servants, representatives, and employees or such principals, it being the intent of this Chapter to license the business and not separate or individuals acts or activities which constitute integral or related parts of the business except as otherwise provided in this Chapter.

“Treasurer-Tax Collector” means the Treasurer-Tax Collector of the County of

Monterey, his or her deputies or any other County officer charged with the administration of the provisions of this Chapter.

7.02.030 Applicability

This Chapter applies in the unincorporated area of the County of Monterey.

7.02.040 Time of procurement and term.

A. The business license required by this Chapter shall be procured before the commencement of business or, if the business is in operation and a license possessed, shall be renewed prior to the expiration of such license in order for the license to remain valid.

B. Unless terminated pursuant to the terms of this Chapter, all business licenses required by this Chapter shall be valid for a period of one year from the original date of issuance. To remain valid, the license must be renewed annually on or before that same date each year.

C. Operators who fail to renew their license prior to the expiration of the license will be required to submit a new application, obtain all appropriate approvals, and pay the application and license fees in addition to any previous penalties due.

7.02.050 Business license required for certain designated businesses.

A. Every operator conducting or carrying on a business anywhere in the unincorporated area of the County for which this Chapter requires a business license shall obtain 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 for which this Chapter requires a business license, unless such person has a valid license issued pursuant to this Chapter for such business.

7.02.060 Businesses requiring licenses.

A license shall be procured immediately before the commencement, operation or maintenance of any of the following businesses:

- A. Commercial medical cannabis business activity as defined by section 7.90.030 of the Monterey County Code, as may be amended from time-to-time.
- B. Commercial marijuana activity, as defined by California Business and Professions Code section 26001, as may be amended from time-to-time, lawfully conducted within the County of Monterey.

A license granted pursuant to this Chapter does not permit any occupation or activity of any kind which is prohibited by any other County regulation or by any State statute, law, rule, order or regulation.

7.02.070 Separate license required for each place of business.

A. 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 management, only one (1) license shall be required.

B. When a license specifies the location of the business licensed, the licensee may conduct such business only at the same location specified in the license.

7.02.080 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 therefore.

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. A license issued a limited liability company shall designate such company by the exact name that appears in the articles of organization of such company.

7.02.090 Form of application.

The applicant for the business license shall be the operator of the business. Every application for a business license required by this Chapter and renewal of a business license required by this Chapter shall be signed by the applicant under penalty of perjury on a form required for such application and shall include, but is not limited to, the following information:

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, and if the applicant is a limited liability company, the name shall be exactly as set forth in its articles of organization. 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. If the individual signing the application is an agent for the operator, the applicant shall submit written signed authorization by the operator or other equivalent legal instrument authorizing the agent to act on behalf of and assume responsibility for the operator with respect to the business license. The names of all other persons having an interest in the enterprise shall be listed;

B. If the applicant is a corporation or company, 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 tax identification number if the applicant is a corporation or company;
- D. The driver's license or identification card if the applicant is an individual;
- E. Contact information for the applicant, including telephone number, e-mail address, and mailing address;
- 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 including the Assessor's Parcel Number(s) and street address or the route or territory to be covered if no fixed place of business;
- I. A description of the building in which the business is to be located;
- J. The address of the applicant or, if a corporation or company, the principal place of business;
- K. The name and address of the owner of the property where the business is located;
- L. The name and address of the lessor and/or lessees of the property where the business is located, if the location of the business is based on a lease or option to lease the location;
- M. 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, as applicable;
- N. A copy of all applicable permits and licenses required by the State of California to engage in the business;
- O. A copy of all applicable permits and licenses required by the County to engage in the business, both generally and at the specific location of the business;
- P. Per Labor Code section 3700, proof of workers' compensation insurance or exemption thereto; and
- Q. Such other information as the Treasurer-Tax Collector may request in order to evaluate and process the application for a business license.

7.02.100 Application, renewal, and required fee payments.

- A. All business licenses required by this Chapter shall be issued by the Treasurer-Tax Collector upon satisfactory completion of the business license application, including

provision of all information and documents required by Section 7.02.090 and payment of all applicable fees to the Treasurer-Tax Collector.

B. Every first-time application for a business license shall be accompanied by a nonrefundable fee, in such amount as adopted by the Board of Supervisors, to cover the estimated reasonable cost of reviewing and acting upon the application.

C. In addition to any application fee, each business shall pay an annual license fee, in such amount 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.

D. Every application for renewal of a business license shall be made prior to the date of expiration of the license and shall be accompanied by a nonrefundable fee, in such amount as adopted by the Board of Supervisors, to cover the estimated reasonable cost of reviewing and acting upon the renewal application.

E. Where, from such evidence as he or she sees fit to require, the Treasurer-Tax Collector finds that a license has been lost, mutilated or destroyed, the Treasurer-Tax Collector shall issue a duplicate license to the holder thereof upon such information as the Treasurer-Tax Collector requires to process the application of a duplicate license and payment to the County of Monterey of all applicable fees as set forth in the Monterey County Fee Resolution, pursuant to Chapter 1.40 of the Monterey County Code.

F. The Board of Supervisors may enact such other fees as set forth in the Monterey County Fee Resolution pursuant to chapter 1.40 of the Monterey County Code as may be necessary to recover the County's costs of inspection, enforcement, fines, penalties 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 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 the Treasurer-Tax Collector, or his or her deputies, to exercise due diligence in the enforcement of this Chapter, and to that end they shall be permitted to enter, free of charge during normal business hours, any such place of business required to be licensed under this Chapter, for the purpose of inspection or to demand the display of any license required hereby.

7.02.140 Licenses nontransferable.

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

If a license is issued to a partnership and the partnership is changed by the addition of new partners or the license transferred to a partnership, the license may be transferred to the new partnership if the new partnership makes application for such transfer in the same manner as for a new license and pays to the Treasurer-Tax Collector a transfer fee as set forth in the Monterey County Fee Resolution adopted pursuant to chapter 1.40 of the Monterey County Code.

7.02.150 Grounds for denial.

A. Any of the following shall be grounds for denial of an application for a business license:

1. Fraudulent representations in the application;
2. Failure to furnish all information required by the application;
3. Failure to pay the required license fees;
4. The applicant is delinquent in payment of County taxes, fines or fees associated with said business; and
5. Failure to obtain any other permit required by state law or County regulation to conduct the business, or such other required permits have been suspended or revoked.

B. If the Treasurer-Tax Collector intends to deny a license application, the Treasurer-Tax Collector shall specify in writing the reasons for the decision and notify the applicant that the decision shall become final unless the applicant seeks an appeal pursuant to section 7.02.170 of this Chapter within ten (10) calendar days of the date of service of the Treasurer-Tax Collector's decision. The notice of the decision shall be served or mailed to the applicant at the address indicated on the application.

7.02.160 Grounds for revocation.

A. Any of the following shall be grounds for revocation of a business license:

1. Violation of any conditions of the license;
2. Violation of any provisions of this Chapter;
3. If such license was obtained by fraud;
4. 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;
5. Failure to pay business property taxes or business license taxes or fines or penalties associated with said business when due and payable;
6. Where issuance of “cease and desist” has occurred by any other enforcement agency(ies); and
7. Failure to obtain any other permit required by state law or County regulation to conduct the business, or such other required permits have been suspended or revoked.

B. If the Treasurer-Tax Collector intends to `revoke a business license, the Treasurer-Tax Collector shall specify in writing the reasons for the decision and notify the applicant that the decision shall become final unless the applicant seeks an appeal pursuant to section 7.02.170 of this Chapter within ten (10) calendar days of the date of service of the Treasurer-Tax Collector’s decision. The notice shall specify whether the suspension is immediately imposed for public health or safety reasons or shall be effective following the hearing. The notice of the decision shall be served or mailed to the applicant at the address indicated on the application.

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

7.02.170 Appeal.

A. Any applicant aggrieved by any decision of the Treasurer-Tax Collector with respect to issuance, denial, revocation, or suspension of business licenses or fees and charges associated therewith may make application in writing to the duly elected Treasurer-Tax Collector for a hearing on the decision.

B. If application for a hearing is not made within the time prescribed the decision, as determined by the Treasurer-Tax Collector, shall become a final action that is not subject to any further administrative remedy.

C. If such application is made within the prescribed time period, the duly elected Treasurer-Tax Collector shall give no fewer than five days written notice to the applicant to show cause at a time and place fixed in the notice why the decision should not be upheld.

D. At the hearing, the applicant may appear and offer evidence why such decision should be vacated. After the hearing, the duly elected Treasurer-Tax Collector shall determine if the decision shall be upheld and also the proper fines/fees to be remitted and shall thereafter give written notice to the applicant.

E. The only administrative remedy available to appeal the duly elected Treasurer-Tax Collector's action is to appeal the decision to the Board of Supervisors by filing a notice of appeal with the Clerk of the Board of Supervisors within ten (10) calendar days of the serving or mailing of the final decision of the duly elected Treasurer-Tax Collector. The Board of Supervisors shall fix a time and place for hearing such appeal, and the Clerk of the Board shall give notice in writing to the applicant at the last known address of the applicant. The decision of the Board shall be final and conclusive and shall be served or mailed to the applicant at the last known address of the applicant. Any license fees or charges that were put at issue by the appeal shall, if upheld, be immediately due and payable upon the service or mailing of the notice.

7.02.180 Penalty for violation.

A. Licenses not renewed by the expiration date each year will become delinquent and the Treasurer-Tax Collector shall add penalty of fifty percent (50%) of the license fee to the renewal amount due on the last day of the month following the delinquency. Licenses not renewed by the expiration date shall be canceled. Payments made that are subsequently returned/rejected by a financial institution for any reason will incur all applicable penalties as if payment was never made and be subject to the Treasurer-Tax Collector's returned payment fee. Persons who fail to renew their license during the prescribed renewal period will be required to submit a new application, obtain all appropriate approvals, pay the application and license fees in addition to any previous penalties due.

B. Any person violating any of the provisions, making any false statement or failing to comply with this Chapter shall be guilty of a misdemeanor. Every person who engages in, conducts, manages, or carries on any business for which a license is required by this part without first having procured the required license and having paid the fee for such license as in this part provided, is 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. If a person has failed to apply for and secure a valid license prior to commencement of the business, in addition to the license fee, a penalty of fifty percent (50%) of the license fee will be added for each year in which the person was engaged in business without a valid license.

7.02.190 Implementation

Notwithstanding the effective date of this Chapter, the requirements to obtain a business license under this Chapter shall become operative on April 1, 2017.

7.02.200 Enforcement of Chapter

A. It shall be the duty of the Treasurer-Tax Collector to collect the license fees, issue the licenses, and perform the duties required by this Chapter. The Treasurer-Tax Collector may adopt such rules and regulations consistent with the purpose, intent, and express terms of this Chapter as he or she deems necessary to supplement or clarify such provisions or aid in their enforcement.

B. Any license fees, fines or penalties required to be paid by any business under the provisions of this Chapter shall be deemed a debt owed by the business to the County. Any business owing money to the County under the provisions of this Chapter shall be liable to an action brought in the name of the County of Monterey for the recovery of such amount.

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 the Treasurer-Tax Collector, be subject to an administrative action pursuant to Chapters 1.20 or 1.22 of the Monterey County Code.

D. In the event of a violation of any provision of this Chapter, or any requirement imposed pursuant to this Chapter, the County may in its discretion, in addition to all other remedies, take such enforcement action as is authorized by the Monterey County Code or authorized by any other law or regulation.

7.02.210 Fees, fines, and penalties

Business license fees charged under the provisions of this Chapter and fines, penalties and enforcement costs associated with violations of this Chapter not otherwise set forth herein, shall be established by the Board of Supervisors and as set forth in the Monterey County Fee Resolution, pursuant to Chapter 1.40 of the Monterey County Code, as amended from time to time.

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 _____, ____ by the following vote:

AYES:
NOES:
ABSENT:

Chair
Monterey County Board of Supervisors

A T T E S T :

GAIL T. BORKOWSKI
Clerk of the Board of Supervisors

By: _____

<p>APPROVED AS TO FORM:</p> <p>LESLIE J. GIRARD Chief Assistant County Counsel</p>
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