

Chapter 6.60 - MEDICAL MARIJUANA LICENSES

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6.60.010 - General business license regulations.

The definitions set forth in Title 10, Chapter 10.60.010 shall apply to this chapter. The provisions of Chapter 6.04 are not applicable to medical marijuana cultivation business licenses issued pursuant to this Chapter 6.60.

The cultivation of marijuana plants in the unincorporated area of Fresno County is unlawful and deemed a public nuisance unless the cultivation is pursuant to a valid medical marijuana cultivation business license issued by the treasurer-tax collector pursuant to the provisions of this chapter.

(Ord. No. 12-004, § 3, 4-24-2012; Ord. No. 11-008, § 3, 8-9-2011)

6.60.020 - Medical marijuana cultivation business license—Contents of application.

A. Written application for a license under this chapter shall be made to the treasurer-tax collector of the county, on forms acceptable to the treasure-tax collector, accompanied by a non-refundable fee as specified in Section 3001 of the Master Schedule of Fees, Charges and Costs Recovery. Fees or costs incidental to the filing of a complete application, and/or associated with the mandatory site plan review application, and/or to meet other provisions of this chapter are not included in the application fee. The application shall be signed by the applicant or applicants. The application shall include the following:

1. The name, address and telephone number for the applicant. The applicant must be a qualified patient, a person with an identification card or a primary caregiver; and
2. The name of each qualified patient, person with an identification card, or primary caregiver who will participate with the licensee in the cultivation of marijuana, either directly or by providing reimbursement for marijuana cultivated pursuant to the business license (hereinafter referred to as "cultivation participants"); and
3. A copy of the current medical recommendation or state-issued medical marijuana card for the applicant and cultivation participants; and

4. A statement, signed by the applicant and all cultivation participants, that they acknowledge that they may be subject to prosecution under federal or state laws; and
5. An agreement, signed by the applicant and all cultivation participants, to waive, release, indemnify and defend the county from any and all legal liability related to or arising from the application for a license, the issuance of the license, or the enforcement of the conditions of the license, and/or the operation of any facility at which medical marijuana is cultivated; and
6. The address of the real property upon which the medical marijuana will be cultivated, a description of the nature of the proposed use or development, and an explanation of how the proposed business will satisfy the applicable requirements set forth in Sections 6.60.06060 and 6.60.070 of this chapter; and
7. The notarized signature of all property owners of the proposed site indicating the owners' consent to the application and acknowledgement that the property owner may be subject to prosecution under federal or state laws; and
8. The fee prescribed by the board by ordinance or resolution for processing the application; and
9. Such other information and documentation as the county determines is necessary to ensure compliance with state law and this chapter.

B. The applicant and cultivation participants must be fingerprinted and photographed by the sheriff's office at the applicant's expense.

(Ord. No. 12-004, § 3, 4-24-2012; Ord. No. 11-008, § 3, 8-9-2011)

6.60.030 - Medical marijuana cultivation business license—Review and approval; appeal from denial.

A. License applications shall be processed by the treasurer-tax collector with investigation and reports by the department of public works and planning in the form of a site plan review application and the sheriff's office in accordance with this chapter. Such reports shall be submitted to the treasurer-tax collector not later than ninety working days from the date of distribution of the application.

In considering an application for a license pursuant to this chapter, the treasurer-tax collector shall issue the license only upon the department of public works and planning and/or the sheriff's office finding the following:

1. The medical marijuana cultivation facility is consistent with the infrastructure requirements contained in this chapter; and
2. The medical marijuana cultivation facility is located in any of the following zoning districts: M-1, M-2, and M-3; and
3. The medical marijuana cultivation facility is consistent with the following location requirements:
 - a. The medical marijuana cultivation facility shall be a minimum of two thousand feet from any school, public park or playground, recreation area, amusement park, sports facility, adult business, day care facility, church, chapel, youth-orientated establishment, places of worship

or other medical marijuana cultivation facility; and

4. The department of public works and planning has approved a site plan review application; and

5. The sheriff's office has certified that neither the medical marijuana cultivation applicant nor the cultivation participants have been convicted of a felony within the past ten years.

B. In the event the report of the department of public works and planning and/or the sheriff's department is adverse to the issuance of the license, the treasurer-tax collector shall not issue the license. The treasurer-tax collector's decision to approve or deny a license shall be final. There shall be no appeal to the county planning commission or the board of supervisors.

C. The following shall apply when a medical marijuana cultivation business license has been applied for on land located within a city sphere of influence:

1. The city shall be notified at least sixty days prior to the issuance of the medical marijuana business license and be provided the opportunity to comment upon the application. The county shall consider the imposition of additional operational conditions identified by the city required to alleviate potential adverse effects upon the city; and

2. Notification shall be provided to individuals applying for a medical marijuana cultivation business license that:

a. The subject property is located within a city's sphere of influence and may be annexed into the city at a future date; and

b. Upon annexation, the city's ordinances will apply to the applicant's medical marijuana cultivation facility and the city's ordinance may not allow the operation of the medical marijuana cultivation facility; and

c. The applicant may be forced to cease operation upon annexation.

D. The applicant may seek judicial review of the treasurer-tax collector's denial of an application as provided by the California Code of Civil Procedure section 1094.5 or its successor.

(Ord. No. 12-004, § 3, 4-24-2012; Ord. No. 11-008, § 3, 8-9-2011)

6.60.040 - License transfer prohibited.

A licensee shall not transfer ownership or control of a medical marijuana cultivation business license to any other person or entity. All changes in ownership shall require a new license application and approval.

(Ord. No. 12-004, § 3, 4-24-2012; Ord. No. 11-008, § 3, 8-9-2011)

6.60.050 - Term and renewal of medical marijuana license.

Each medical marijuana cultivation business license under this chapter shall be issued to expire on June 13, provided that no license shall be issued to expire more than one year from the date of issuance. When a license is issued during any licensing period, the treasurer-tax collector shall pro-rate the license fee as of the first of the month nearest to the date of issuance.

A license may be renewed only upon the licensee filing with the treasurer-tax collector a written request for renewal accompanied by a new application, copy of the license to be renewed and the applicable fee. The request for renewal shall be made at least sixty working days before the expiration date of the license. When made less than sixty days before the expiration date, the expiration of the license shall not be stayed.

(Ord. No. 12-004, § 3, 4-24-2012; Ord. No. 11-008, § 3, 8-9-2011)

6.60.060 - Infrastructure requirements for medical marijuana cultivation facilities.

The cultivation of medical marijuana within the county shall at all times occur within a secure, locked, and fully enclosed structure, including a ceiling, roof or top, and shall meet the following requirements:

A. The exterior appearance of the structure shall be compatible with the exterior appearance of structures already constructed or under construction within the immediate area, and shall be maintained so as to prevent blight or deterioration, or substantial diminishment or impairment of property values within the immediate area.

B. Alarms, closed circuit television.

1. A sheriff-approved twenty-four-hour centrally monitored alarm system is required.

2. Closed circuit television (CCTV) video monitoring shall be installed that meets the following criteria:

a. Continuous twenty-four-hour operation and recording with minimum archival period of fourteen days.

b. Sufficient cameras, angles of observation and lighting to allow facial feature identification of persons in interior and exterior areas where marijuana is present at any time.

c. Sufficient cameras, angles of observation and lighting to allow facial feature identification of persons in the immediate exterior areas of doors, windows or other avenues of potential access.

d. All CCTV recordings shall be accessible to law enforcement officers at all times during operating hours and otherwise upon reasonable request. All CCTV recording systems shall have the capability of producing tapes, DVDs or other removable media of recordings made by the CCTV system.

e. To prevent tampering, the recorder shall be kept in a secure location and all recordings shall be date and time stamped.

C. Windows.

1. Windows and glass panes shall have vandal-resistant glazing, shatter-resistant film, glass block, or bars installed equipped with latches that may be released quickly from the inside to allow exit in the event of emergency.

2. Windows vulnerable to intrusion by a vehicle must be protected by bollards or landscaping grade separation reasonably sufficient to prevent such intrusion.

- D. Roofs, roof hatches, skylights, ceilings. For buildings in which a cultivation facility is located:**
1. All means of gaining unauthorized access to the roof shall be eliminated. Exterior roof ladders shall be secured with locked ladder covers.
 2. Roof hatches and skylights shall be secured so as to prevent intrusion.
 3. Where a cultivation facility is located in a building with other tenants, the cultivation facility shall be secured against unauthorized access from other tenant spaces or common areas, including access through crawl spaces, ceiling spaces, ventilation systems or other access points concealed from the common areas.
- E. Visibility.**
1. No marijuana may be visible from any location off the property on which a cultivation facility is located.
 2. Exterior landscaping within ten feet of any building in which a cultivation facility is located shall be free of locations which could reasonably be considered places where a person could conceal themselves considering natural or artificial illumination.
 3. Exterior building lighting and parking area lighting must be of sufficient foot-candles and color rendition, so as to allow the ready identification of any individual committing a crime on-site at a distance of no less than forty feet.
- F. Fire suppression system. An approved automatic fire sprinkler system, designed in compliance with NFPA 13, shall be provided in buildings and portions thereof used as a cultivation facility.**
- G. Entrances, exits, doors.**
1. A cultivation facility shall have a single, plainly identified primary entrance/exit site that is visible from public or common areas.
 2. Any exit or entrance that is not visible from a public or common area shall be plainly marked as an emergency exit only. Such emergency exits shall be self-closing, self-locking, equipped with an alarm and not used except in an emergency.
 3. Any aluminum door shall be fitted with steel inserts at the lock receptacles.
 4. Any outward opening doors shall be fitted with hinge stud kits, welded hinges or set-screw hinge pins.
 5. Panic exit hardware shall be "push-bar" design.
 6. Double doors shall be fitted with three-point locking hardware and push-bars consistent with fire agency regulations or requirements.
 7. All emergency exits shall be solid core doors featuring hinge-pin removable deterrence. Emergency exit doors shall have latch guards at least twelve inches in length protecting the locking bolt area. Latch guards shall be of minimum 0.125-inch thick steel, affixed to the exterior of the door with non-removable bolts, and attached so as to cover the gap between

the door and the doorjamb for a minimum of six inches both above and below the area of the latch.

8. All glass doors or doors with glass panes shall have shatter-resistant film affixed to prevent glass breakage.

(Ord. No. 12-004, § 3, 4-24-2012; Ord. No. 11-008, § 3, 8-9-2011)

6.60.070 - Operating requirements for cultivation facilities.

A. The hours of operation of a cultivation facility shall be no earlier than 8 a.m. and no later than 8 p.m., seven days a week.

B. No persons under the age of 18 are allowed at, in, or on a cultivation facility, unless such individual is a qualified patient and accompanied by their parent or documented legal guardian.

C. The licensee and each cultivation participant shall be limited to cultivation of medical marijuana at one cultivation facility at any one time.

D. The following records must be maintained at the cultivation facility at all times and available for inspection by the sheriff's office:

1. A record identifying the name of the licensee and each cultivation participant, as well as the name of the physician providing the recommendation for medical marijuana for each person and whether the recommendation is written or oral. The record shall identify the city and county of residence for the licensee and each cultivation participant.

2. Current records of any transaction by which a cultivation participant pays money for marijuana from the cultivation facility during the two-year period preceding the current date. Such records must include at a minimum the following information:

- a. The name of the cultivation participant that paid money;
- b. The amount of cash involved, if any;
- c. The method of payment if not by cash; and
- d. The amount of marijuana involved.

3. An agreement, signed by the licensee and every cultivation participant, that:

a. Within seven days of request by the sheriff's office, they will produce for inspection by law enforcement a record, current to within forty-eight hours, of costs of cultivation, overhead and operating expenses; and

4. A record showing the identification of the licensee and every cultivation participant by name, home address and telephone number.

E. The total quantity of marijuana grown or located at any cultivation facility shall not exceed ninety-nine marijuana plants, whether mature or immature.

F. No smoking or any other consumption or ingestion of marijuana is allowed at a cultivation facility.

G. Cultivation facilities shall be available for inspection by the sheriff, the director of the department of public works and planning, the fire authority having jurisdiction or their respective authorized representatives, at all times during operating hours and upon reasonable notice during non-operating hours.

H. A cultivation facility shall have on its premises, posted in a prominent location, a copy of its business license and a document that provides the names, telephone numbers and twenty-four-hour emergency telephone numbers of its licensee.

I. A licensed, uniformed security guard shall be present at a cultivation facility at all times during hours of operation.

J. The licensee shall not hold or maintain a license from the state department of alcohol beverage control to sell alcoholic beverages, or operate a business that sells alcoholic beverages.

K. The licensee shall not hold or maintain a business license from the county to operate an adult business pursuant to the provisions of Title 6, Chapter 6.33

(Ord. No. 12-004, § 3, 4-24-2012; Ord. No. 11-008, § 3, 8-9-2011)

6.60.080 - Facility limits, naming.

A. A cultivation facility must have a unique identifying name, identified on the medical marijuana business license application, for purposes of tracking membership and facilities.

(Ord. No. 12-004, § 3, 4-24-2012; Ord. No. 11-008, § 3, 8-9-2011)

6.60.090 - Violation and enforcement.

Each and every violation of this chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by Title 1, Chapter 1.13 of this Code. Additionally, as a nuisance per se, any violation of this chapter shall be subject to injunctive relief, revocation of the medical marijuana cultivation business license, revocation of the certificate of occupancy for the location, disgorgement and payment to the county of any and all monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or equity. The county may also pursue any and all remedies and actions available and applicable under local and state laws for any violations committed by the licensee and the cultivation participants.

The Fresno County sheriff's office, with administrative assistance from the department of public works and planning, shall have primary responsibility for enforcement of the provisions of this chapter.

Nothing in this chapter shall be construed as imposing on the enforcing officer or the county any duty to issue any notice to abate, nor to abate, nor to take any other action with regard to any marijuana cultivation in violation of this chapter, and neither the enforcing officer nor the county shall be held liable for failure to issue an order to abate, nor for failure to abate, nor for failure to take any other action with regard to any marijuana cultivation in violation of this chapter.

(Ord. No. 12-004, § 3, 4-24-2012; Ord. No. 11-008, § 3, 8-9-2011)

6.60.100 - Severability.

If any part of this chapter is for any reason held to be invalid, unlawful, or unconstitutional, such

invalidity, unlawfulness or unconstitutionality shall not affect the validity, lawfulness, or constitutionality of any other part of this chapter.

(Ord. No. 12-004, § 3, 4-24-2012; Ord. No. 11-008, § 3, 8-9-2011)