

Chapter 5.70

CANNABIS RETAIL LICENSES AND STANDARDS

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5.70.010 Purpose.

It is the purpose and intent of this chapter to regulate the retail sale of cannabis and cannabis products in order to protect the public health and safety of the residents, visitors, and business owners of the City of Mt. Shasta. The regulations in this chapter, in compliance with the Compassionate Use Act, the Medical Marijuana Program Act, the Medical Cannabis Regulations and Safety Act, Proposition 64, and the California Health and Safety Code and future regulations on cannabis, cannabis products, and cannabis services, collectively referred to as “State law” herein, do not interfere with the right to use cannabis or medical cannabis and their derivative products as authorized under State law, nor do they criminalize the possession or cultivation of cannabis or medical cannabis as authorized under State law. All retail cannabis business shall at all times be in compliance with State law at a minimum. (Ord. CCO-17-08 § 2, 2017)

5.70.020 Definitions.

The definitions in MSMC 18.91.040 are incorporated herein as fully set forth and are applicable to this chapter. (Ord. CCO-17-08 § 2, 2017)

5.70.030 Maximum number of licenses.

(A) The City of Mt. Shasta shall allow no more than three (3) cannabis retail licenses to operate within the City limits, regardless of the location’s compliance with any other section specified in this title.

(B) The total number of retail operations shall be determined based on the number of locations which have been issued a cannabis retail license by the City or are eligible to submit for a cannabis retail license.

(C) Retail operations, also known as dispensaries, already operating with the City's permission in the City of Mt. Shasta are deemed permitted to dispense cannabis and cannabis products provided they pay all regulatory fees and taxes and meet all other requirements and standards of the City of Mt. Shasta's regulatory ordinance, zoning ordinance, and tax ordinance and as they be amended.

5.70.040 Cannabis retail license requirement.

(A) It shall be unlawful for any person, association, partnership, or corporation to engage in, conduct, or carry on, in or upon any premises within the City cannabis retail without a cannabis retail license. A cannabis retail operation shall register and obtain a cannabis retail license from the City of Mt. Shasta prior to operation. The applicant shall pay a nonrefundable fee in the amount established by the City Council of the City of Mt. Shasta.

(B) A copy of the cannabis retail license shall be displayed at all times in a place visible to the public.

(C) A cannabis retail license shall be valid for one year, unless sooner revoked. No license granted herein shall confer any vested right to any person or business for more than the above-referenced period.

5.70.050 Cannabis retail license.

(A) A cannabis retail license shall not be issued to an individual entity associated with an individual who has violated Cal. Health and Safety Code § 11590 and its provisions.

(B) The cannabis retail license shall be issued to the specific person or persons listed on the cannabis retail license application.

(C) A cannabis retail license does not transfer with the land and does not transfer with the transfer of the property. (Ord. CCO-17-08 § 2, 2017)

5.70.070 Cannabis retail license permitting process.

(A) The Planning Department will develop a cannabis retail application form and a related administrative policy. Each applicant interested in operating pursuant to this section may submit an application together with a nonrefundable processing fee in an amount established by the City Council.

(B) The application period shall be a minimum seven calendar days in length. Should the application closing day fall on a day when City Hall is closed, the application period shall be extended to the next open day at 4:00 p.m. Following the application period, the Planning Department shall stop accepting applications and review all applications received.

(C) The Planning Department shall determine whether each application received demonstrates compliance with the minimum requirements to be eligible to be entered into the selection process. These requirements include:

- (1) Application was submitted during the application period.
- (2) Application is filled out completely.

- (3) Application fee is paid.
- (4) The location indicated on the application meets the zoning criteria established in MSMC 18.91.030.
- (5) A signature from the property owner(s) authorizing the location to be used for cannabis retail activity.
- (6) Applicant(s) referenced on the application completed live scan background check.
- (7) All other application documents required in the City's application package instructions
- (8) Photographs of the exterior of the building including the entrance(s), exit(s), street frontage(s), and parking area.
- (9) If the property is being rented, leased, or purchased under contract, the lease agreement term, name of lessor or equivalent, shall be provided by a signed affidavit of the property owner.
- (10) A copy of the applicant's Board of Equalization seller's permit.
- (11) A copy of the cannabis retail operating standards, listed in MSMC 5.70.110 and 5.70.140, if applicable, containing a statement dated and signed by the applicant stating that under penalty of perjury that they have read, understood, and shall ensure compliance with the aforementioned operating standards.
- (12) Provide a statement, signed by the applicant under penalty of perjury, that the information provided is complete, true, and accurate.
- (13) Release the City of Mt. Shasta from liability associated with the cannabis retail business. Such a release includes indemnifying the City of Mt. Shasta for claims, damages, and injuries that may arise as a result of the cannabis retail business. (Ord. CCO-17-08 § 2, 2017)

5.70.080 Cannabis retail license application selection process.

(A) The Planning Department will evaluate the applications received and make a determination on the eligibility of each application. The head of the Planning Department shall confer with law enforcement on the background checks of the listed business owners.

(B) The head of the Planning Department, after receiving the application and aforementioned information, will grant the permit if they find:

- (1) The required fee has been paid in full.
- (2) The application conforms in all respects to the provisions of this chapter.
- (3) The applicant has not knowingly made a material misrepresentation in the application.
- (4) The applicant has fully cooperated in the investigation and background checks required by this section.

(5) The applicant has not had a commercial cannabis license or cannabis retail license denied or revoked for cause by this City or any other city in the State of California within the last five years prior to the date of the application.

(6) The cannabis retail business, as proposed by the applicant would comply with all applicable laws including, but not limited to, health, zoning, fire, and safety requirements.

(7) The applicant has demonstrated compliance with all aspects of State regulations and any other applicable requirements contained in the California Health and Safety Code.

(C) After all tenant improvements have been finalized by the cannabis retail business owner, the head of the Planning Department, Public Works Department, Fire Department, and the Chief of Police shall perform an initial inspection of the cannabis business location to confirm compliance with this section and issue a report to the City Manager to ensure compliance with the submitted application.

(D) If any of the items listed in the application process are not met, the head of the Planning Department shall notify the applicant of the deficiency, after which the applicant will have 10 days from receipt of notice to correct the deficiency. If the deficiency is not corrected within 10 days, the head of the Planning Department may deny the permit and notify the applicant of this determination in writing within 10 business days following the decision after which the applicant can appeal the decision in accordance with MSMC 5.70.100. (Ord. CCO-17-08 § 2, 2017)

5.70.090 License renewal.

(A) Applications for the renewal of a permit shall be filed with the Planning Department at least 30 calendar days before the expiration of the current permit. Any permittee allowing their permit to lapse or expire during a suspension shall be required to submit a new application, pay the corresponding original application fees and be subject to all aspects of the selection process.

(B) Any person desiring to renew their respective permit shall have the City complete an annual inspection report and pay a nonrefundable filing fee established by the City Council to defray the cost of the review required by this section. An applicant shall be required to update the information contained in their original license application and provide any new and/or additional information as may be reasonably required by the Planning Department in order to determine whether said permit should be renewed. (Ord. CCO-17-08 § 2, 2017)

(C) Prior to renewal, a letter will be sent from the City to all property owners within 100 feet of a cannabis retail operation to identify any nuisance(s) experienced in the last year. All responses received within 30 days after the date on the letter will be kept by the Planning Department and included in the annual inspection report.

(D) Reported nuisance(s) that warrant correction or response by the cannabis retail operation owner will be made in writing from the Planning Department. Facility owners will have a minimum of 30 days to correct any nuisance(s). Failure to correct in 30 days will result in a suspension of the operation and/or revocation of the cannabis retail license; unless written approval for an extended deadline is issued from the Planning Department.

5.70.100 Appeal of denial or revocation of license.

(A) The Planning Department, in consultation with the Police Department, Building Department, and Fire Department, will review all cannabis retail license applications, and all other relevant information, and determine if a permit should be granted, the reasons for denial shall be provided in writing to the applicant. The applicant shall have 14 business days from the date of the receipt of the written denial to correct the reasons for denial and request in writing reconsideration of permit issuance. Following review of the amended permit application, the Planning Department will approve or deny the permit by providing written notice to the applicant.

(B) An applicant who disagrees with the Planning Department's decision may appeal such decision to the City of Mt. Shasta Planning Commission by submitting a written appeal within 10 business days from receipt of the written denial. A decision of the Planning Commission may be appealed to the City Council if the appeal is submitted in writing to the City Clerk within 10 calendar days following the Planning Commission's action. (Ord. CCO-17-08 § 2, 2017)

5.70.110 Operational standards for all cannabis retail business activities.

(A) Interior and exterior locations of the business property shall be monitored at all times by closed circuit cameras for security purposes, as per California State regulations.

(B) Recordings shall be maintained, unaltered, for a period of not less than 90 days and shall be stored digitally. The City of Mt. Shasta or law enforcement agencies may request the recordings in connection with an investigation with a 24-hour written notice to the business owner. If the recordings are not voluntarily provided, the City or law enforcement may seek a warrant or court order for the recordings.

(C) A commercial cannabis business entity that remains inoperative for more than 90 days shall be deemed "abandoned" and the permit shall be forfeited. A business may temporarily suspend operations for a period of time as may be reasonably required to affect upgrades, modifications, repairs, or other property issue mitigations as approved by the Planning Department.

(D) Establish and participate in a track and trace system for reporting the movement of commercial cannabis throughout the distribution chain, as per California State regulations.

(E) Comply with all State regulations regarding testing, labeling, storage, and display of all cannabis and cannabis products.

(F) Meet all State and local regulations for the disposal of all cannabis materials and materials used in conjunction with distributing cannabis and cannabis products.

(G) Conform to all State regulations requiring the use of appropriate weighing devices.

(H) Comply with all State insurance and security bond regulations.

(I) Meet all State deadlines for applying for a State license and receive a State license.

(J) All exterior signage shall conform with existing City requirements.

(K) The following information shall be provided on a sign posted in a conspicuous location inside the cannabis retail operation:

(1) Smoking, ingestion, or consuming cannabis or cannabis products on this property or within 100 feet of the business is prohibited.

(2) No one under the age of 18 shall be allowed to enter this facility unless they are a qualified patient, or a primary caregiver and they are in the presence of their parent or legal guardian.

(3) The City of Mt. Shasta has not tested or inspected any cannabis or cannabis product for pesticides, or other regulated contaminants, distributed at this location.

(L) No recommendations from a doctor for medical cannabis shall be issued on site.

(M) Each dispensary owner shall establish minimum training standards for all employees regarding security, product handling, and state standards for labeling, testing, and product advertising.

(N) There shall be no on-site sales of alcohol or tobacco products, and no on-site consumption of food, alcohol, tobacco, or cannabis by patrons without prior written approval from the City. If written permission is obtained, (K) (1) may be modified to reflect the approved use.

(O) Drive-through sales are prohibited in City limits.

(Q) Hours of operation shall be limited to Monday through Sunday 7:00 a.m. through 8:00 p.m.

(R) All employees of the dispensary must wear photo identification badges clearly identifying them as employees at all times when on duty. Badges must have a frontal face picture. Alternatively, employees must at all times on the premises wear an employer-furnished uniform and name badge which clearly identifies them as an employee and distinguishes them from customers and others.

(S) No one under 18 years of age shall be permitted to enter a retail operation unless such person is a qualified patient and is accompanied by their primary caregiver, licensed attending physician, parent(s), or documented legal guardian.

(T) Any commercial cannabis retail operation already in compliance and permitted by the City of Mt. Shasta will be considered selected and continue to operate under the regulations of this chapter; provided, however, that in order to continue operating such commercial cannabis business must apply for a commercial cannabis retail license pursuant to this chapter and otherwise meet all other conditions and requirements of this chapter imposed on newly established commercial cannabis businesses. (Ord. CCO-17-08 § 2, 2017)

5.70.120 Deliveries.

(A) Cannabis retailers licensed under this chapter may apply for registration to deliver medical cannabis within the City following registration with the City of Mt. Shasta Police Department. Registration forms will be developed and promulgated by the Planning Department.

(B) Adult-use cannabis and Adult-use cannabis product delivery is prohibited in the City of Mt. Shasta.

(C) Only registered deliver services shall deliver medical cannabis to any person or location within the City, regardless of the origin of the medical cannabis, except for medical cannabis transfers made to a qualified patient by the qualified patient's primary caregiver.

(D) All delivery operations must comply with all City and State regulations. (Ord. CCO-17-08 § 2, 2017)

5.70.130 Maintenance of records.

(A) A cannabis retail operation shall maintain records at the location accurately and truthfully documenting:

- (1) The full names, address, and telephone number(s) of the owner, landlord, and/or leasee of the location;
- (2) The full name, address, and telephone number(s) of all members who are engaged in the management of the cannabis business.
- (3) Cannabis retail operations shall maintain full name, address, and telephone number(s) of all medical patient members to whom the business provides medical cannabis, and a copy of a physician-issued recommendation card for all patient members.
- (4) All receipts of the retail operation, including but not limited to: all contributions, reimbursements, and reasonable compensation, whether in cash or in kind, and all expenditures incurred by the dispensary.

(B) These records shall be maintained for a period of seven years and shall be made available by the cannabis retail operation to the City of Mt. Shasta upon written request. (Ord. CCO-17-08 § 2, 2017)

5.70.140 Inspection and enforcement responsibilities.

(A) As agreed, upon in MSMC 5.70.110, City of Mt. Shasta City Staff may enter and inspect the location of any commercial cannabis business between normal business hours to ensure compliance with this section. In addition, City Staff may enter and inspect the location of any cannabis business and the recordings and records maintained as required by this section and California State law, except that the inspection and copying of private medical records shall be made available to law enforcement only pursuant to a properly executed search warrant, subpoena, or court order. A person, persons, or business engaging in commercial cannabis business without a license and associated unique identifiers required by this chapter shall be subject to civil penalties of up to twice the amount of the regulatory license fee for each violation, and the Department, State, or local authority, or court may order the destruction of cannabis associated with that violation. A violator shall be responsible for the cost of the destruction of cannabis associated with his or her violation, in addition to any amount covered by a bond required as a condition of licensure. Each day of operation shall constitute a separate violation of this section. (Ord. CCO-17-08 § 2, 2017)

5.70.150 Fees.

All cannabis retail operations shall pay applicable fees and taxes, which may include one or more of the following:

(A) Application Fee. The applicant shall submit a nonrefundable fee to cover the cost of processing an application for the commercial cannabis business as established by resolution of the City Council.

(B) Business License Fee. The business owner shall at all times maintain a current and valid business certificate and pay all business taxes required by the City of Mt. Shasta Municipal Code.

(C) Regulatory License Fee. The business owner shall pay an annual regulatory license fee to cover the cost of anticipated enforcement and inspections relating to the cannabis retail operation. The amount of the fee shall be set by resolution of the City Council and be supported by the estimated additional costs of enforcement and monitoring associated with the cannabis operation. The regulatory fee shall be due and payable prior to opening for business and thereafter on or before the anniversary date. The regulatory fee may be amended from time to time based upon actual costs established through resolution of the City Council. (Ord. CCO-17-08 § 2, 2017)

5.70.160 Penalties and enforcement.

(A) Violation of this chapter shall constitute an infraction, and shall be punished in the manner as specified, at the time of violation, in Cal. Gov't Code § 36900, or any successor statute which specifies the penalties of infractions.

(B) Except as otherwise provided, enforcement of this chapter is at the sole discretion of the City. Nothing in this chapter shall create a right of action in any person against the City or its agents to compel public enforcement of this chapter against private parties.

(C) Nothing herein shall prevent a person who violates this chapter from, in the alternative, being charged with and convicted of a misdemeanor or felony under any other applicable provision of the California Penal Code or other local, County, State, or Federal law or regulation.

(D) Additionally, as a nuisance per se, any violation of this article shall be subject to injunctive relief, revocation of the business's cannabis retail license, disgorgement, and payment to the City 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 City may also pursue any and all remedies and actions available and applicable under local and State laws for any violations committed by the cannabis business and persons related or associated with the cannabis business. (Ord. CCO-17-08 § 2, 2017)