

## **Title VII – Department Procedures**

### **Section 1100 – LICENSE TO SELL FIREARMS**

#### **A. PURPOSE**

The purpose of this procedure is to set forth the requirements for the establishment of new commercial operations engaged in the sale of firearms pursuant to County Code Chapter 5.62.

#### **B. DEFINITIONS**

As used in this procedure, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) "Firearm" means a device as defined by California Penal Code section 16520.

(2) "Clear evidence of his or her identity and age" includes, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, an employment identification card which contains the bearer's signature and photograph, or any similar documentation which provides the seller reasonable assurance of the identity and age of the purchaser.

(3) "County License" means a license issued by the local licensing authority pursuant to this chapter authorizing a person to engage in the sale, lease, transfer, delivery, advertisement or offer for sale, lease, or transfer of firearms.

(4) "High Risk Alcohol Outlet" means a retail outlet where alcoholic beverages are sold including: any bar, tavern, liquor store, or convenience store. A bona fide restaurant, wine-tasting room, banquet facility, conference center, brewpub or nightclub (which nightclub does not have an on-sale alcohol beverage control general license Type 48 or 51) shall not constitute a high-risk alcohol outlet.

(5) "Local Licensing Authority" or "Licensing Officer" means the County Administrative Officer for the County of Santa Cruz, or his or her designee.

#### **C. COUNTY LICENSE**

On and after April 8, 2013, no person required to obtain a Federal Firearms License and a State Department of Justice License to sell firearms, shall establish a business that engages in the sale, lease, transfer, delivery, advertisement or offer for sale, lease, or transfer any firearm without first also obtaining and keeping a current County License issued pursuant to County Code by the local licensing authority. No person operating under a current Federal and State firearms license as of the effective date of the County Code, shall be required to obtain a County License unless and until the State or Federal license lapses, becomes void or is otherwise no longer in effect, or if

the business moves to a new location. The license to be issued shall be in a form similar to Attachment 1.

#### D. APPLICATION FOR COUNTY LICENSE

(1) Each person applying for a County License under this chapter shall submit an application, Attachment 2, to the Local Licensing Authority.

(2) In order to obtain a County License, the applicant must first provide the following to the Licensing Officer:

- (a) A valid federal firearms license;
- (b) A valid seller's permit issued by the State Board of Equalization;
- (c) A valid certificate of eligibility issued by the Department of Justice;
- (d) Documentation that the seller is recorded in the centralized list maintained by the Department of Justice pursuant to California Penal Code section 26715;
- (e) A list identifying each employee of the applicant (name, address, date of birth and social security number) who will be engaged in the sale, lease, transfer or delivery of firearms; and
- (f) Payment of a nonrefundable administrative fee, in an amount to be established by resolution of the Board of Supervisors.

(3) Where the applicant is a corporation each of the requirements contained in this chapter must be completed and/or adhered to by a legally recognized corporate officer of said corporation. Where the applicant is a partnership, each of the requirements contained in this chapter must be completed and/or adhered to by a legally recognized general partner of said partnership. Both the individual and the corporation or partnership shall be liable for any violation of the provisions of this chapter.

(4) Each application shall specify only one location at which the sale or transfer of firearms shall take place. If an firearms dealer licensed under either federal, State or local law, changes his or her place of business, an application for the new location shall be submitted, accompanied by a nonrefundable fee (in the form of a check or cash) as set forth in the schedule of fees. That application shall be considered an initial application and not an application for renewal.

(5) Each application shall submit a security plan detailing the specific measures that will be taken to secure and protect the business, including but not limited to those items required by section 5.62.090 of the County Code.

#### E. APPROVAL BY LICENSING OFFICER

The Licensing Officer shall have the authority to approve or disapprove the issuance of the County License. For the purpose of considering requests for a County License, the Licensing Officer shall apply the minimum standards set forth in this chapter. Factors to be considered by the Licensing Officer in approval or denial of the application for a County License include, but are not limited to:

(1) Evidence of the applicant's compliance with all applicable county, state and federal laws;

(2) Whether applicant has violated any provisions of this chapter;

(3) Whether the applicant has made any false statements as to any material fact in applying for the County License;

(4) Whether the applicant has done or caused or permitted to be done any act which if done by an authorized firearms dealer would be grounds for suspension or revocation of the County License;

(5) Whether the proposed place of business meets the standards and requirements set forth in Section 5.62.080 of the County Code; and

(6) Whether the applicant or any of applicant's employees identified pursuant to Section 5.62.040(B)(5) of the County Code has ever been convicted of a felony. To this end the Sheriff-Coroner shall conduct a criminal history investigation of each said applicant and employee and provide a report for the Licensing Officer. The applicant shall pay all fees incurred by the Sheriff-Coroner in conducting any such criminal history investigation. The County License shall expire on December thirty first of the year in which it is issued.

#### F. DENIAL OF APPLICATION

If the applicant does not meet all of the written standards, hereinabove set forth, the Licensing Officer shall not issue a County License to such applicant. It shall be the duty of the Licensing Officer to notify an applicant that his or her application has been denied by serving such person, either personally or by first class United States mail, with a letter setting forth the reason(s) for such denial. The notice, if served by mail, shall be deemed to have been served on the date of its deposit in the United States mail, postage prepaid, to the applicant's address of record. The notice shall also inform the applicant of his or her right to a hearing before the Board of Supervisors at which time the applicant may appear, with a representative if so desired, and be heard on the matter. The applicant shall also be given notice that any request for a hearing before the Board of Supervisors must be made in writing to the Clerk of the Board within ten calendar days after the date on which such notice is served on the applicant.

#### G. APPEAL FROM DENIAL

An applicant whose application has been denied by the Licensing Officer shall have the right to appeal such decision to the Board of Supervisors. The Board of Supervisors shall hold a hearing thereon pursuant to the procedures set forth below.

## H. LOCATION AND SITE STANDARDS

Any business licensed under this chapter shall be subject to the following vocational criteria:

- (1) Shall only be located within a zone district designated as C-2, C-4, M-1 or M-2 by the Santa Cruz County Zoning Ordinance;
- (2) Shall not be located within six hundred feet of:
  - (a) Any public or private school in which students aged 18 years or younger are enrolled;
  - (b) Any children's daycare center licensed by the state of California;
  - (c) Any publicly owned or operated park, playground or recreational area;
  - (d) Any high risk alcohol outlet; or
  - (e) Any Medical Marijuana Cooperative operating under a valid permit issued pursuant to section 13.10.670 of the County Code;
- (3) Shall not be located within three hundred feet of a zone district designated as RA, RR, R-1, RB or RM by the Santa Cruz County Zoning Ordinance;
- (4) Shall not be located within one thousand feet of any parcel on which another business licensed under this chapter is doing business; and
- (5) The distances specified in subdivisions (B), (C), and (D) of this section shall be measured in a straight line from any parcel line of the real property on which the business is proposed, to the nearest parcel line of the real property on which an existing business licensed under this chapter is located.

## I. ON-SITE SECURITY

- (1) If the proposed or current business location is to be used at least in part for the sale of firearms, the business shall be a secure facility within the meaning of Penal Code Section 17110.
- (2) If the business location is to be used at least in part for the sale of firearms, all heating, ventilating, air-conditioning, and service openings shall be secured with steel bars or metal grating.
- (3) Any time a location is not open for business, every firearm shall be stored in one of the following ways:
  - (a) In a locked fireproof safe or vault within the business premises that meets the standards for a gun safe implemented by the Attorney General pursuant to Penal Code Section 23650; or
  - (b) Secured with a hardened steel rod or cable of at least one-fourth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be

secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a bolt cutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises. No more than five firearms may be affixed to any one rod or cable at any time.

(4) Any time a location is open for business, every firearm shall be unloaded, inaccessible to the public and secured using one of the following three methods, except in the immediate presence of and under the direct supervision of an employee of the business:

(a) Secured within a locked case so that a customer seeking access to the firearm must ask an employee for assistance;

(b) Secured behind a counter where only the Licensee and the employees are allowed. During the absence of the Licensee or an employee from the counter, the counter shall be secured with a locked, impenetrable barrier that extends from the floor or counter to the ceiling; or

(c) Secured with a hardened steel rod or cable of at least one-fourth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a bolt cutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises. No more than five firearms may be affixed to any one rod or cable at anytime.

(5) Any time a location is open for business, any ammunition that is not principally for use in pistols, revolvers, or other firearms capable of being concealed upon the person, as that term is defined in Penal Code § 16530(a), shall be inaccessible to the public and secured using one of the methods mentioned in subsection (D)(1) or (2), except in the immediate presence of and under the direct supervision of an employee.

(6) The permitted business location shall be secured by an alarm system that is installed and maintained by an alarm company operator licensed pursuant to the Alarm Company Act, Business & Professions Code Sections 7590 et seq. The alarm system must be monitored by a central station listed by Underwriters Laboratories, Inc., and covered by an active Underwriters Laboratories, Inc. alarm system certificate with a #3 extent of protection.

(7) The permitted business location shall be monitored by a video surveillance system that meets the following requirements:

(a) The system shall include cameras, monitors, digital video recorders, and cabling, if necessary.

(b) The number and location of the cameras are subject to the approval of Licensing Officer. At a minimum, the cameras shall be sufficient in number and location to monitor the critical areas of the business premises, including, but not limited to, all places where firearms or ammunition are stored, handled, sold, transferred, or carried, including, but not limited to, all counters, safes, vaults,

cabinets, cases, entryways, and parking lots. The video surveillance system shall operate continuously, without interruption, whenever the location is open for business. Whenever the location is not open for business, the system shall be triggered by a motion detector and begin recording immediately upon detection of any motion within the monitored area.

(c) In addition, the sale or transfer of a firearm or ammunition shall be recorded by the video surveillance system in such a way that the facial features of the purchaser or transferee are clearly visible.

(d) When recording, the video surveillance system shall record continuously and store color images of the monitored area at a frequency of not less than 15 frames per second. The system must produce retrievable and identifiable images and video recordings on media approved by the Licensing Officer that can be enlarged through projection or other means, and can be made a permanent record for use in a criminal investigation. The system must be capable of delineating on playback the activity and physical features of persons or areas within the premises.

(e) The stored images shall be maintained on the business premises for a period not less than one year from the date of recordation and shall be made available for inspection by federal, state or local law enforcement upon request.

(f) The video surveillance system must be maintained in proper working order at all times. If the system becomes inoperable, it must be repaired or replaced within ten calendar days. The License holder must inspect the system at least weekly to ensure that it is operational and images are being recorded and retained as required.

(g) The License holder shall post a sign in a conspicuous place at each entrance to the premises that states in block letters not less than one inch in height: THESE PREMISES ARE UNDER VIDEO SURVEILLANCE. YOUR IMAGE MAY BE RECORDED.

(8) The Licensing Officer may impose security requirements in addition to those listed in this section prior to issuance of the County License. Failure to fully comply with the requirements of this section shall be sufficient cause for denial or revocation of the County License by the Licensing Officer.

## J. COMPLIANCE WITH STATE LAW

Any person licensed under this chapter shall obey all applicable county, state and federal laws; and in addition, comply with the following requirements:

(1) The business shall be carried on only in the building designated in the County License;

(2) The County License or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen;

(3) No firearm shall be delivered unless it is unloaded and securely wrapped or unloaded and in a locked container;

(4) No firearm shall be delivered unless the purchaser presents clear evidence of his or her identity and age;

(5) No firearm, or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside;

(6) No firearm shall be delivered to any person that is prohibited by state or federal law from possessing a firearm;

(7) The person licensed under this chapter shall post conspicuously within the licensed premises the following warning in block letters not less than three inches in height:

IF YOU LEAVE A LOADED FIREARM WITHIN THE REACH OR EASY ACCESS OF A CHILD, YOU MAY BE FINED OR IMPRISONED, OR BOTH, IF THE CHILD GAINS ACCESS TO AND IMPROPERLY USES, THE FIREARM.

#### K. MAINTENANCE AND SUBMISSION OF RECORDS

(1) Each person licensed under this chapter shall maintain records of importation, shipment, receipt, sale or other disposition of firearms and ammunition, and shall make such records available at all reasonable times, and shall submit to the Licensing Authority such reports and information upon reasonable request. The Licensing Officer, or his or her designee, may enter the premises (including places of storage) of any County License holder during normal business hours for the purpose of inspecting or examining (1) any records or documents required to be kept; and/or (2) any firearms or ammunition kept or stored at such premises.

(2) The County License holder shall maintain records of all employees, identifying them by name, address, date of birth and social security number. The County License holder shall notify the Licensing Officer in writing within ten calendar days of any change in employees and submit the required identifying information for each newly hired employee. Failure to comply with this section shall be grounds for revocation of the County License holder's license.

#### L. LICENSE RENEWAL

Every County License issued under this chapter shall expire on December 31st of the year in which it is issued. A County License holder shall submit an application for renewal in person at least ninety calendar days before the expiration of the County License. License holders who apply for renewal shall be required to meet all standards specified in this chapter. All of the requirements and procedures applicable to new applications shall apply to renewal applications. Each renewal application shall be accompanied by the applicable administrative fee.

#### M. LICENSE RENEWAL NONASSIGNABLE

Except as otherwise hereinafter provided, no County License issued under this chapter may be sold, transferred or assigned by the firearms dealer or by operation of law, to any other person or persons. Any such sale, transfer or assignment, or attempted sale, transfer or assignment shall be deemed to constitute a voluntary surrender of such County License and such County License shall thereafter be deemed terminated and void.

#### N. SUSPENSION AND REVOCATION

Every County License issued under this chapter shall be subject to summary suspension and revocation by the Licensing Officer if he or she determines that:

(1) The County License holder has failed to meet any of the requirements specified under this chapter;

(2) The County License holder and/or any employee(s) has violated any of the conditions or provisions of this chapter;

(3) The County License holder and/or any employee(s) has violated any provision of federal or state firearms sales laws;

(4) The County License holder's federal firearms sales license has been revoked;  
or

(5) The County License holder has committed any act which could have resulted in the denial of issuance of a firearms license.

#### O. NOTIFICATION OF SUSPENSION OR REVOCATION

It shall be the duty of the Licensing Officer or his or her designee to notify any County License holder charged with any violation or misconduct, as described above, by serving such person, either personally or by first class United States mail, with a letter setting forth the particular written standard or condition which has been violated. The letter shall inform such County License holder of the right to a hearing before the Board of Supervisors, at which time the County License holder may appear with a representative if so desired and be heard in defense of the charges. The County License holder shall also be given notice that any request for a hearing before Board of Supervisors must be made in writing to the Clerk of the Board within ten calendar days after the date on which notice is served on the County License holder. The suspension or revocation shall be effective on the date the notice is served on the County License holder. Such notice, if served by United States mail, shall be deemed to have been served on the date of its deposit in the United States mail, postage prepaid, to the County License holder's address of record.



## P. HEARING ON REVOCATION OR SUSPENSION

(1) Any applicant or licensee who is aggrieved by any action taken in regard to a County License may request an appeal hearing before the Board of Supervisors. Request for such hearing shall be in writing and filed with the Clerk of the Board of Supervisors, and a copy filed with the Licensing Officer on or before 10 calendar days after the action appealed from was taken, and shall state the grounds upon which the aggrieved party claims there was improper denial, suspension or revocation of his or her license.

(2) Upon receipt of such request for hearing, the Board of Supervisors shall set the matter for hearing not later than 20 calendar days thereafter unless the Board is not in session in which case the Board shall set the matter for hearing at the next available regular meeting date. The Board may also determine whether to stay the denial, suspension or revocation pending decision on the appeal. Written notice of the time and place of hearing on the matter shall be given by the Clerk of the Board of Supervisors to the aggrieved party and to the Licensing Officer, and upon receipt of the notice of hearing the Licensing Officer shall forward to the Board of Supervisors and provide to the appellant a report on this action with respect to the matter, attaching all relevant notices and any other materials relied upon by the Licensing Officer in making the decision.

(3) Upon hearing of the matter, the Board of Supervisors may take such action or make such orders as the Board deems just and proper in the disposition of the matter.

## Q. INSURANCE REQUIREMENTS

Each County License holder shall maintain at all times while engaged in said business a policy of public liability insurance. Said policy of insurance shall provide coverage in the amount and to the limits prescribed from time to time by the Licensing Officer in consultation with the County's risk manager. Any such policy of insurance shall contain an endorsement naming the County of Santa Cruz and its employees as additional insureds and further providing that the insurance policy will not be cancelled without first providing thirty days advance notice to the Licensing Officer. Failure to obtain and maintain insurance as required herein shall constitute grounds for revocation or suspension of the firearms dealer's County License.

## R. VIOLATIONS

It shall be unlawful and a violation of this chapter for any person, corporation, partnership or other entity to operate a firearms business within the unincorporated area of the County of Santa Cruz without a valid County License issued pursuant to this procedure.

## S. PENALTIES

Any person or entity, whether as principal, agent, employee, or otherwise, violating or causing or permitting the violation of any of the provisions of Section 5.62 of the County Code, shall be guilty of an infraction for the first offense, or of a misdemeanor for any subsequent offense(s) occurring within the one year after the first offense. Upon conviction, the person convicted shall be punished in accordance with Chapter 1.12 of the County Code.

## T. OTHER

If any section, sentence, clause, phrase or portion of this procedure is for any reason held to be invalid or unconstitutional by the decision of any court, such decision shall not affect the validity of the remaining portions of the ordinance. The Board of Supervisors would have adopted this procedure and each section, sentence, clause or phrase and portion thereof, irrespective of the fact that any one or more sections, sentences, clauses, phrases or portions be invalid or unconstitutional. If any inconsistencies between this procedure and the County Section 5.62 are found to exist, the County Code shall prevail.