

ORDINANCE NO. 315-837

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF TRINITY ALLOWING FOR COMMERCIAL CANNABIS MICROBUSINESS LICENSES

The Board of Supervisors of the County of Trinity hereby finds and declares the following:

Section 1: Findings and Declarations:

- A. The voters of the State of California approved Proposition 215 (codified as Health and Safety Code Section 11362.5 and entitled “The Compassionate Use Act of 1996”). The intent of Proposition 215 was to ensure that seriously ill Californians have the right to obtain and use Cannabis for medical purposes where that medical use is deemed appropriate and has been recommended by a physician, and to ensure that patients and their primary caregivers who obtain and use Cannabis for medical purposes upon the recommendation of a physician are not thereby subject to criminal prosecution or sanction.
- B. The State enacted SB 420 in 2004 known as the Medical Marijuana Program Act (codified as Health and Safety Code section 11362.7et seq.) to clarify the scope of The Compassionate Use Act of 1996, facilitate the prompt identification of qualified patients and primary caregivers avoid unnecessary arrest and prosecution of these individuals, provide needed guidance to law enforcement officers, promote uniform and consistent application of the Act and enhance the access of patients and caregivers to medical Cannabis through collective, cooperative cultivation projects and to allow local governing bodies to adopt and enforce rules and regulations consistent with SB420.
- C. On September 11, 2015, the State enacted the Medical Marijuana Regulation and Safety Act (MMRSA) which took effect January 1, 2016, and which mandated a comprehensive state licensure and regulatory framework for cultivation, manufacturing, distribution, transportation, testing and dispensing of medical Cannabis on a commercial basis. MMRSA was amended by SB 837. On June 27, 2017, the State enacted the Medicinal and Adult-Use Cannabis Regulation and Safety Act setting forth regulations for State licensure beginning in January, 2018.
- D. Previous landmark Cannabis legislation, including the Compassionate Use Act and the Medical Marijuana Program Act have precipitated a “green rush” with individual moving to Trinity County to grow and manufacture Cannabis; with some seeking to capitalize on ambiguities in the law while others lack an awareness of community and environmental consciousness.
- E. Senate Bill 94 known as the Medical and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), established a comprehensive system to control and regulate the

cultivation, distribution, transport, storage, manufacturing, processing and sale of both of the following:(1) Medicinal Cannabis and medicinal Cannabis products for patients with valid physician's recommendations; and (2) Adult-use Cannabis and adult-use Cannabis products for adults 21 years of age and over.

- F. In the absence of a formal regulatory framework, Cannabis businesses are less likely to learn of, or implement, guidelines that are protective of the public peace health, safety and the environment.
- G. It is the purpose and intent of this Chapter to protect the health, safety, and general welfare of the residents and businesses within Trinity County and comply with state law and federal guidelines.
- H. It is the intent of the County of Trinity to have a strong and effective regulatory and enforcement system with regard to Cannabis that addresses threats to public safety, health and other law enforcement interests through robust controls and procedures that are effective in practice.
- I. This ordinance provides regulations and control over Cannabis, and prevents the potential introduction of dangerous product and practices within the County.

Section 2: Application

The County hereby enacts the following as Section 43.1 of the Trinity County Zoning Ordinance No.315: Cannabis Microbusiness

1. Definitions:

- A. "Cannabis" and "Marijuana" are used interchangeably and mean any plant of the genus Cannabis, as defined by section 11018 of the Health and Safety Code.
- B. "Microbusiness" is defined as the cultivation of Cannabis on an area of less than 10,000 square feet and to act as a licensed Cannabis distributor, and/or manufacturer, and/or retailer, provided such permitted uses comply with all requirements imposed on cultivators, distributors, manufactures and retailers by the County and State to extend the permittee engages in such actives.
- C. "Premises" means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.
- D. "School" means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code, or any licensed preschool or child day care facility. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, excluding homeschools.

- E. "Third party" means an individual or entity, other than the license holder in question, possessing a valid commercial Cannabis license from the State of California.
- F. "Youth-oriented facility" means public park, and any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors.

2. **Regulations:** Cannabis microbusinesses shall comply with all of the following regulations:

- A. An applicant for a microbusiness license must be licensed under the County's cultivation licensing program and cultivating on an area 10,000 sq. ft. or less and holding a valid Type 1 or Type 2 cultivation license. The combination of the microbusiness and cultivation license will count as one license as allowed by Ordinance 315-829.
- B. An applicant for a microbusiness license must hold a Trinity County cultivation license, engage in and be appropriately zoned for at least two (2) or more of the following qualifying commercial cannabis activities in addition to cultivation:
 - 1. Manufacturing (Type 6, Type N or Type P)
 - 2. Distribution (Type 11 and 13)
 - 3. Retail (Type 9 - Non-Storefront Retail)

Microbusiness licenses shall not relieve the Licensee of the requirements of holding and following the requirements of the individual license.

- C. A Microbusiness applicant shall not be accepted until the Cultivation License and applications for commercial cannabis activities listed above (in Section 2.2.B) have been accepted.
- D. A Microbusiness License shall not be issued until the Cultivation License and applications for commercial cannabis activities listed above (in Section 2.2.B) have been determined as eligible for issuance.
- E. All microbusiness activities shall not be conducted inside a private residence or require persons to pass through a private residence to access the licensed premises.
- F. Microbusiness applicants shall obtain a Conditional Use Permit. Microbusiness applicants may qualify for a Director's Use Permit rather than a Conditional Use Permit when the following conditions apply:
 - 1. The microbusiness does not employ more than three permanent, full-time employees, and/or does not compensate no more than 6,240 employee work hours per year; and,
 - 2. The microbusiness does not generate more than two non-employee vehicles visiting the licensed premises at any one time, or no more than six non-employee vehicles per week

- G. Should the vehicle access to the property on which the microbusiness license is granted be a shared and privately owned or maintained road or driveway, the Trinity County Planning Department will notify adjacent property owners who share use of the road/driveway. Objections from adjacent property owners who share use of the road/driveway may lead to further mitigation measures or the need for the microbusiness applicant to obtain a Conditional Use Permit as determined by the Director.
- H. The primary hours of operation shall be limited to 7:00 am to 8:00 pm Monday through Saturday, and 8:00 am to 5:00 pm Sundays.

3. Required Conditions:

In addition to any other conditions and mitigations that apply, Cannabis microbusinesses shall:

- A. Comply with all State and County codes related cultivation, manufacturing, distribution and retail, unless amended herein.
- B. Allow access to any facilities or vehicles utilized in transportation, records if requested by the County, its officers, or agents, and allow inspections from the County or its officers to verify compliance with all relevant rules, regulations and conditions.
- C. Indemnify, defend, and hold the County harmless from any and all claims and proceedings relating to the approval of the permit or relating to any damage to property or persons stemming from the commercial Cannabis activity.
- D. Obtain a valid and fully executed commercial Cannabis microbusiness license from the State prior to commencing operations, maintain such license in good standing in order to continue operations.
- E. Ensure that all commercial Cannabis activities at the site operate in good standing with permits and licenses required by the Trinity County Code and State law. Property owners who fail to take appropriate action to evict or otherwise remove operators who do not maintain permits or licenses in good standing with the County or State shall be subject to suspension or revocation microbusiness license, as well as personal liability for required enforcement.
- F. Be limited to the following distribution amounts: in addition to the product that is grown pursuant to licensee's Cannabis Cultivation License, the microbusiness can distribute the following amount of third party product:
 - 1. Those with a Specialty Cottage licenses can distribute 125 lbs. of product.
 - 2. Those with a Specialty Outdoor licenses can distribute 250 lbs. of product.
 - 3. Those with a Small Outdoor or Mixed-Light Tier 1 and 2 licenses can distribute 500 lbs. of product.
- G. Cannabis distributed from a third party shall be at least 75% from Trinity County sources.
- H. Only be located in zoning districts where commercial cannabis licenses are allowed according to their respective ordinance (Cultivation Ordinance 315-823 and

amendments; Manufacturing Ordinance 315-838, Distribution Ordinance 315-828 and Non-Storefront Retail Ordinance 315-835).

- I. A Microbusiness License shall not be allowed within the most restrictive setback distance as provided for in the Cultivation License or commercial cannabis activities permitted as part of this Microbusiness License, unless a variance is otherwise obtained.

4. Denial/Rescission of License:

- A. Applicant's Application shall be denied or the issuance of a license rescinded if the Trinity County becomes aware of any of the following:
 1. The applicant has provided materially false documents or testimony;
 2. The operation as proposed if permitted, would not comply with all applicable laws including but not limited to the Building, Planning, Housing, Fire and Health Codes of the County including the provisions of this Chapter and with all applicable laws including zoning and county ordinances;
- B. Applicant shall be given a minimum of seven (7) business days to correct any deficiencies prior to the issuance of a denial or rescission.
- C. Applicant or Licensee shall have the right to appeal any denials or rescissions as prescribed in Chapter 8.90.130 of the Trinity County Code.

5. Fees

Pay a Cannabis Microbusiness License Fee annually from the date of issuance.

- A. The Cannabis Microbusiness License Fees are set at:
 1. Microbusiness /Specialty Cottage: \$2,500 plus \$750 towards the General Plan update.
 2. Microbusiness/Specialty: \$6,000 plus \$1,000 towards the General Plan update.
 3. Microbusiness/Small: \$8,000 plus \$1,000 towards the General Plan update.
- B. The above fee amounts are not anticipated to fully cover the cost of administering this Ordinance; however, within twelve months of this Ordinance, the County may conduct a fee study to determine the total cost of administering this Ordinance.
 1. If, based on the results of the fee study, the fee needs to be increased; the County may increase the fee by way of resolution for any new or renewal registrations.
 2. If, based on the results of the fee study, the fee exceeds the cost of administering this Ordinance the County shall decrease the fee by way of resolution and shall also reimburse applicants their proportional share of any overpayment.
- C. When transferring from a cultivation license to a microbusiness license, the Microbusiness Program Fees will be reduced, on a prorated basis, by the annual Cannabis Cultivation License Fee paid to obtain a cultivation license.

Section 3: CEQA

The County finds that this Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant Business and Professions Code section 26055(h) until July 1, 2019 because this Ordinance requires discretionary review for the individual licenses that are provided for within.

Introduced at a regular meeting of the Board of Supervisors held on the 17th day of July, 2018, and passed and enacted this 7th day of August, 2018 by the Board of Supervisors of the County of Trinity by motion second (Morris/Chadwick), and the following vote:


AYES: Supervisors Chadwick, Morris, Fenley and Groves
NOES: None
ABSENT: None
ABSTAIN: None
RECUSE: Supervisor Mines



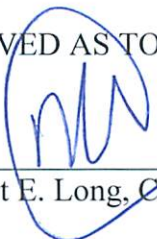
KEITH GROVES, CHAIRMAN
Board of Supervisors
County of Trinity
State of California

ATTEST:

RICHARD KUHN, Psy.D
Clerk of the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM AND LEGAL EFFECT:



Margaret E. Long, County Counsel