

ORDINANCE NO. 315-842

**AN ORDINANCE OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF TRINITY
AMENDING ZONING ORDINANCE NO. 315 BY
AMENDING SECTION 43.2 ALLOWING FOR
COMMERCIAL MANUFACTURING OF CANNABIS**

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

Section 1: Findings and Declarations:

1. 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.
2. 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.
3. 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.
4. Previous landmark Cannabis legislation, including the Compassionate Use Act and the Medical Marijuana Program Act have precipitated a “green rush” with individuals moving to Trinity County to grow and manufacturing Cannabis; with some seeking to capitalize on ambiguities in the law while others lack an awareness of community and environmental consciousness.
5. 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.
6. In the absence of a formal regulatory framework, Cannabis manufacturers are less likely to learn of, or implement, guidelines that are protective of the public peace health, safety and the environment.

7. 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.
8. 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.
9. This ordinance provides regulations and control over manufacturing of 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 43.2 of the Trinity County Zoning Ordinance No.315: Cannabis Manufacturing

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. "Manufacture" means to compound, blend, extract, infuse or otherwise make or prepare a cannabis product. In addition, "*Manufacturer*" means a licensee that conducts the production, preparation or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination or extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.
- C. "Nonvolatile solvent" means any solvent used in the extraction process that is not a volatile solvent, including carbon dioxide and ethanol. This requires a Type 6 license which allows for extraction using mechanical methods or nonvolatile solvents.
- 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. "Shared-Use Facility" means a manufacturing premises operated by a Type 6, Type N, or Type 7 licensee in which Type S licensees are authorized to conduct manufacturing operations. Shared Use Facilities shall be operated in accordance with California Code of Regulations, Title 17 Division 1 Chapter 13, Manufactured Cannabis Safety SUBCHAPTER 1, General Provisions and Definitions, Article 6 Shared-Use Facilities, or as those provisions are amended.
- F. "Volatile solvent" means any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. The state's examples of volatile solvents include, butane, hexane, and propane. Type 7 licensee can use both nonvolatile and volatile solvents in its extractions, infusions or mechanical methods.

- G. “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. Allowable Zoning Districts

- A. Nonvolatile or mechanical methods Cannabis manufacturing facilities (requiring a Type 6, Type N and Type P State License) may be permitted in the following zoning districts subject to first obtaining the appropriate Use Permit, See section (4) (J–M):

General Commercial (“C2”)

Heavy Commercial (“C3”)

Industrial (“I”)

Agricultural (“A”)

Specific Unit Development (“SUD”), whose guidelines specifically identify parcels

for industrial development.

Agricultural Preserve (“AP”)

Agricultural Forest (“AF”)

- B. Cannabis manufacturing facilities licensed as microbusinesses and involving Type 6 mechanical or low-impact extraction, such as Rosin Pressing, Bubble/Water Hash or Kief/Dry Sifting, may be permitted in the following zoning districts, subject to first obtaining the appropriate Use Permit:

Rural Residential

Unclassified

- C. Cannabis manufacturing facilities involving volatile, nonvolatile, or mechanical methods, processes or substances (requiring a Type 7 State license) may be permitted in the following zoning districts subject to first obtaining a Conditional Use Permit:

Heavy Commercial (“C3”)

Industrial (“I”)

Specific Unit Development (“SUD”), whose guidelines specifically identify parcels for industrial development.

- D. Shared use facilities must be licensed with Trinity County and may be permitted in the zoning districts allowed by the license type subject to first obtaining a Conditional Use Permit pursuant to Section 2 Subsection (4)(K):

- E. Cannabis manufacturing facilities shall not be allowed within the following areas:

- a. Trinity County jurisdiction of the Whiskeytown-Shasta-Trinity National Recreation Area and within the lease lots within the Ruth Lake Community Services District.

- b. Within the legal boundaries of the following areas which are in proximity to higher density populations, and therefore, create a substantial risk of a public nuisance:
Historic District of Weaverville;
Coffee Creek Volunteer Fire District;
Trinity Center Community Services District;
within the following area of the Lewiston Community Services District:
Mt. Diablo Meridian, Township 33N, Range 8W, Sections 17, 18, 19, 20, and Mt. Diablo Meridian, Township 33N, Range 9W, Section 24
Bucktail Subdivision: Unit 1, 2 and 3 as found in Trinity County Book of Maps 3, Page 273, Book of Maps 4, Page 53, and Book of Maps 4, Page 150 accordingly on record with the Trinity County Recorder

3. Types of Licenses Available:

- A. State Type 6 non-volatile licenses, defined per 17 CA CCR § 40118, are available for extractions using nonvolatile solvents or mechanical methods.
- B. State Type 7 volatile licenses are available for extractions using volatile substances.
- C. State Type N licenses are available for infusions, including using pre-extracted oils to create edibles, beverages, capsules, water cartridges, tinctures or topical.
- D. State Type P licenses are available for packaging and labeling only.
- E. State Type S licensees are eligible to conduct manufacturing operations at a registered “shared-use facility”.
- F. Shared Use Facility Licenses are available for operating a Shared Use Facility.

4. Regulations:

Cannabis manufacturing shall comply with all of the following regulations:

- A. Cannabis manufacturing facilities shall be located only in zones that specifically provide for this use. The facility shall not be on prime Agricultural Soil, as determined by the Planning Director or his/her designee.
- B. Cannabis manufacturing facilities shall not be allowed within one thousand (1,000) feet of a youth-oriented facility, school, church, or residential treatment facility as defined herein. Cannabis manufacturing facilities shall not be within five hundred (500) feet from an authorized school bus stop, unless a variance is obtained.
- C. All Cannabis manufacturing operations shall ensure that Cannabis is obtained from licensed cultivation sources and shall implement best practices and comply with State law to ensure that all manufactured Cannabis products are properly stored, labeled, transported and inspected prior to distribution at a legally permitted and licensed retail outlet. Cannabis manufacturing operations shall purchase at least 75% of its Cannabis from Trinity County sources.

- D. Security plan shall be developed which is compliant with State requirements and must be sufficient to restrict access to only those intended and to deter trespass and theft of Cannabis or Cannabis products. A copy of the Security Plan submitted to the State shall be provided to the Trinity County Planning Department within 30 days of submission to the State.
- E. A detailed Operating Site Plan must be submitted with an application for the appropriate Use Permit, See section (4) (J – M).
- F. Fire plans must be prepared by the applicant and approved by the Weaverville Fire District Chief or a designee of the Trinity County Board of Supervisors. An approved fire plan must be submitted with an application for the appropriate Use Permit, See section (4) (J – M).
- G. Applicants must apply for Certified Unified Program Agencies (“CUPA”) which, for Trinity County, is administered through the Department of Toxic Substances Control.
- H. Any employees of a Cannabis manufacturing facility operating potentially hazardous equipment shall be trained on the proper use of equipment and on the proper hazard response protocols in the event of equipment failure. In addition, employees handling edible Cannabis products or ingredients shall be trained on proper food safety practices.
- I. Any license holder of a manufacturing license shall not have been convicted of serious felony or Schedule I, II or III Felony, excluding a non-serious felony conviction for sale, transportation or cultivation of Cannabis except if the conviction is on public lands. Applicants will have to declare this under penalty of perjury on one of the application forms.
- J. Type 7 applicants are required to obtain a Conditional Use Permit before starting operations, including infrastructure and building improvements specific to the use, and the following additional requirements must be met:
 - a. Extractions must be in closed loop system as defined and prescribed by State of California.
 - b. Wastewater shall be disposed of in to an adequate sewage system, as prescribed by Trinity County Environmental Health Division and pursuant to California State regulations.
 - c. The facility must be setback a minimum of 100 feet from all adjacent property lines. Application for a variance from this provision will be considered concurrently with application for a Conditional Use Permit from the Trinity County Planning Commission.
 - d. All building structures must have operational automatic fire sprinklers.
- K. Type 6, Type 7 or Type N licensees who wish to register as a Shared Use Facility shall obtain a Conditional Use Permit before starting operations, including infrastructure and building improvements.
- L. For Type 6 licenses the following requirements must be met to qualify for a Director’s Use Permit. Applicants who meet these requirements must obtain an approved Director’s Use Permit before starting operations, including infrastructure and building improvements specific to the use.
 - a. The manufacturing business:
 - 1. Operates under a Type N or Type P license

2. Utilizes extractions with butter or food-grade oils, provided that the resulting extract or concentrate shall be used solely in the manufacture of the licensee's infused product, and shall not be sold to any other licensee.
 3. Utilizes extractions methods such as Rosin Pressing, Bubble/Water Hash or Kief/Dry Sifting
 4. Any post-extraction methods that involve substances included in Title 8. Industrial Relations Division 1. Department of Industrial Relations Chapter 3.2. California Occupational Safety and Health Regulations (Cal/OSHA) Subchapter 1. Regulations of the Director of Industrial Relations Article 5. Hazardous Substances Information and Training (Refs & Annos) CCR § 339 The Hazardous Substances List may require a Conditional Use Permit, as determined by the Director
- b. The manufacturing business does not employ more than three permanent, full-time employees, and/or does not compensate more than 6,240 employee work hours per year; and,
 - c. The manufacturing business does not generate more than two non-employee vehicles per week; and,
 - d. The manufacturing facilities are operated within the footprint of an existing building.
 - e. Vehicle access to the Manufacturing premises utilizing a shared and privately owned or maintained road or driveway shall prompt the Trinity County Planning Department to notify adjacent impacted property owners. Objections from adjacent impacted property owners may require mitigation measures or require a Conditional Use Permit, as determined by the Director.
- M. All Type 6, Type P or Type N applicants that do not meet the requirements outlined in Section 2 – subsection 4 L shall obtain a Conditional Use Permit before starting operations, including infrastructure or building improvements specific to the use.

5. Required Findings:

The appropriate Use Permit for Cannabis manufacturing shall not be granted by the appropriate authority unless all of the following findings are made based on substantial evidence:

- A. The manufacturing facility will comply with all of the requirements of the State and County for the Cannabis manufacturing. This includes, but is not limited to, product safety, THC levels, edible standards, timelines, packaging and labeling requirements.
- B. The manufacturing, as approved and conditioned will not result in significant unavoidable impacts on the environment.
- C. The manufacturing includes adequate quality control measures to ensure Cannabis manufactured at the site meets industry State standards.
- D. The manufacturing facility does not pose a significant threat to the public or to neighboring uses from explosion or from the release of harmful gases, liquids or substances.

E.

6. Required Conditions:

In addition to any other conditions and mitigation that apply to all permits for Cannabis manufacturing:

- A. The manufacturer shall allow access to the facility and access to records if requested by the County, its officers, or agents, for an annual inspection and submit to inspections from the County or its officers to verify compliance with all relevant rules, regulations and conditions.
- B. The applicant for the manufacturing facility and the property owner shall 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.
- C. Any person operating a Cannabis manufacturing facility shall obtain a valid and fully executed commercial Cannabis manufacturing license from the State prior to commencing operations, and must maintain such license in good standing in order to continue operations.
- D. The property owner shall be responsible for ensuring that all commercial Cannabis activities at the site operate in good standing with permits and licenses required by the Trinity County Code and California State law. Failure 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 grounds for the suspension or revocation of a Use Permit pursuant to this Chapter.
- E. The manufacturing facilities and activities shall be maintained in accordance with the operating plans approved by the County.
 - a. At any time during the license period, a licensee may request to change the manufacturing activities conducted at the licensed premises. All proposed changes require pre-approval, including infrastructure or building improvements specific to the new use. To request approval for proposed changes, the licensee shall submit a revised operating plan and drawings per Trinity County's application process.
 - b. Any change requests shall be evaluated on a case-by-case basis by Trinity County Planning Department, and upon approval, the licensee may begin conducting the additional manufacturing operation or make the requested change to the premises. The existing license shall be amended to reflect the change in operations, if applicable, but the date of expiration shall not change.
- F. The Cannabis Manufacturing Program Fee is due annually from date of issuance and is set at:
 - a. Type 6: \$5,000.00 plus \$1,000 towards the General Plan update.
 - b. Type 7: \$6,000.00 plus \$1,000 towards the General Plan update.
 - c. Type N: \$2,000.00 plus \$500 towards the General Plan update.
 - d. Type P: \$2,000.00 plus \$500 towards the General Plan update.

- e. Type S: No fee for Trinity County Commercial Cannabis licensees; \$2,000 for all other users.
 - f. Shared Use Facility: \$1,500.00.
 - g. Transfer fee to New Applicant: \$1,000.00
 - h. Transfer fee to New Site: \$60% of original license fee, prorated monthly.
 - i. Renewal fee: 60% of original license fee.
- G. 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 shall conduct a fee study to determine the total cost of administering this Ordinance.
- a. 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.
 - b. 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.

7. 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:
- a. The applicant has provided materially false documents or testimony;
 - b. The operation as proposed if permitted, would not comply with all applicable State and local 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;
 - c. The applicant engages in site or building improvements specific to the use before the appropriate use permit has been issued or before the licensee's requested changes have been approved.
- 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.

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.

The County finds that this Chapter is not subject to the California Environmental Quality Act (CEQA) pursuant to 14 Cal. Code Regs. Sec. 15378(b)(5) and is an administrative activity that will not result in direct or indirect physical changes in the environment. The establishment of individual Cannabis manufacturing operations will require a Planning Commission-issued Conditional Use Permit requiring the applicant to complete a Project Initial Study-Environmental Checklist and Evaluation of Environmental Impacts.

Section 4:

This ordinance shall take effect and be in full force and effect thirty (30) days after its passage and before the expiration of fifteen (15) days after passage of this ordinance, it shall be published once with the names of the members of the Board of Supervisors voting for and against the ordinance in the Trinity Journal, a newspaper of general circulation published in the County of Trinity State of California.

Introduced at a regular meeting of the Board of Supervisors held on the 6th day of November, 2018, and passed and enacted this 4th day of December, 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

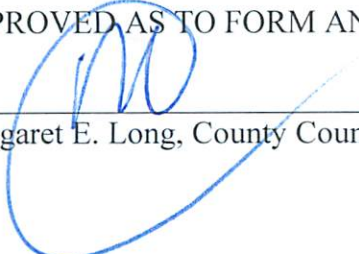


KEITH GROVES, CHAIRMAN
Board of Supervisors
County of Trinity
State of California

ATTEST:
RICHARD KUHNS, Psy.D
Clerk of the Board of Supervisors

By: 
Deputy

APPROVED AS TO FORM AND LEGAL EFFECT:


Margaret E. Long, County Counsel