

ORDINANCE NO. 315-852

**AN ORDINANCE OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF TRINITY
ESTABLISHING TRINITY COUNTY CODE SECTION 17.43H
REGARDING CANNABIS STOREFRONT RETAIL
AND AMENDING CODE SECTIONS 17.41 REGARDING MARIJUANA (CANNABIS)
DISPENSARIES AND 17.42 MEDICAL CANNABIS CULTIVATION REGULATIONS**

The Board of Supervisors of the County of Trinity, State of California, ordains as follows:

Section I: 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 11362.7 et 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 SB 420.
- 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 individuals 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 products and practices within the County.
- J. This ordinance reflects the Board's determination that: based on consideration of land use goals and public welfare Cannabis Storefront Retail uses are incompatible with the community values and character of the Weaverville Historic District, a listed area on the National Register of Historic Places; and based on the dormant status and lack of activity of the County's Architectural Review and Preservation Committee charged with, among other responsibilities pursuant to TCC Section 17.29C.060, ensuring compliance with the applicable standards and criteria of the Weaverville Historic District.
- K. The Board of Supervisors finds this to be consistent with and in compliance with the Trinity County General Plan.

Section II: Cannabis Storefront Retail

The County hereby enacts the following as Trinity County Code Section 17.43G entitled Cannabis Storefront Retail.

17.43H.010 - Definitions

"Cannabis" means any plant of the genus Cannabis, as defined by section 11018 of the Health and Safety Code.

"Storefront Retail" means a licensed retailer selling adult-use and medical cannabis or cannabis products to the end user or customer. A Cannabis Storefront Retailer does not include the following uses; (1) a clinic pursuant to Chapter 1 of Division 2 of the Health and Safety Code; (2) a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code; and (3) a residential hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code.

"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.

"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.

17.43H.020 – Allowable Zoning

A. Zoning -- Storefront Retail premises are only allowed in the following zones where commercial activities are allowed:

1) Highway Commercial (HC) :

a) Cannabis Storefront Retail uses in the HC zone that include the provision of ancillary services that accommodate the needs of the traveling public -- subject to a director's use permit.

b) Cannabis Storefront Retail uses in the HC zone that do not include the provision of ancillary services that accommodate the needs of the traveling public -- subject to a conditional use permit.

2) Retail Commercial (C-1) subject to a director's use permit.

3) General Commercial (C-2) subject to a director's use permit.

B. Overlay Districts -- Notwithstanding sub-section A above: if the Cannabis Storefront Retail premises is to be located on a parcel that has a zoning overlay of "Scenic Conservation" (TCC Section 17.25), a conditional use permit is required; if the Cannabis Storefront Retail premises is to be located on a parcel that has a zoning overlay of "Special Treatment" (TCC Section 17.29C) a conditional use permit is required and the Architectural Review Committee shall make recommendations to the Planning Commission to ensure compliance with Ord. No. 315-800, Res. No. 2013-20 and any other related Historical Legislation.

17.43H.030 – Regulations

A. It shall be unlawful for any person to engage in or to conduct, or permit to be engaged in or conducted, in or upon his/her property within the County the operation of a Cannabis storefront retail unless he/she has first obtained and continues to maintain in full force and effect a valid Cannabis Storefront Retail License issued by the County for that property pursuant to this Chapter.

B. Cannabis Storefront Retail Licenses are allowed subject to issuance and maintenance of the permits and entitlements set forth in this Chapter, and compliance with all other applicable County and state laws and regulations, and the issuance and maintenance of a valid and current State license.

C. On-Site consumption of cannabis and cannabis products is permitted at the licensed Retail Dispensary as set forth pursuant to applicable state and local laws and regulations if all the following are met:

1. Access to the area where cannabis consumption is allowed is restricted to persons twenty-one (21) years of age or older.

2. Cannabis consumption is not visible from any public place.

3. Consumption area shall be designated on the site plan, and clearly labeled on site. Smoking of cannabis goods shall be prohibited in any areas where smoking is prohibited by law
 4. Consumption of cannabis products on the retail premises shall be in a separate area from where sales transactions are conducted. Areas shall be partitioned and provided a separate age verification check prior to entry into the “consumption area”
 5. For retail dispensaries, sale or consumption of alcohol or tobacco is prohibited on the premises.
- D. If on-site consumption is allowed, the Cannabis storefront retail facility shall not be located within one thousand feet of a youth-oriented facility, school, church, or residential treatment facility as defined herein. If on-site consumption is not allowed, the minimum required distance from these uses is six hundred feet. All other setbacks of the zone district in which the property is located shall apply.
- E. Location Limitations – Cannabis Storefront Retail establishments are not allowed in the following areas:
1. Trinity jurisdiction of the Whiskeytown-Shasta-Trinity National Recreation Area
 2. Rush Creek Estates Opt Out Area
 3. Lewiston Expansion Opt Out Area
 4. Weaverville Historic District

17.43H.040 – Application

- A. Cannabis Storefront Retail applicants shall apply and must receive approval of a use permit as identified in Section 17.43H.020.
- B. A Cannabis business shall register and obtain a Cannabis Storefront Retail License from Trinity County prior to operation. The Applicant shall pay a non-refundable fee in an amount established by the Trinity County Board of Supervisors.
- C. A copy of the Cannabis Storefront Retail License shall always be displayed in a place visible to the public.
- D. A Cannabis Storefront Retail License shall be valid for one (1) year, and subsequently valid for three (3) years, unless sooner revoked. No license granted herein shall confer any vested right to any person or business for more than the above-referenced period.
- E. A Cannabis Storefront Retail License shall not be issued to an individual or a business entity associated with an individual, who has violated California Health & Safety Code Section 11590 and its provisions.
- F. The Cannabis Storefront Retail License shall be issued to the specific person or entity listed on the License Application.
- G. A Cannabis Storefront Retail License is not transferable from person to person without completion of a new application.

17.43H.050 – Application Requirements

- A. The Planning Director or his/her designee will prepare Cannabis Storefront Retail Use Permit and License application forms and a related administrative policy. Each applicant interested in operating pursuant to this Chapter may submit required applications together

with a one-time non-refundable processing fee in an amount established by the Trinity County Board of Supervisors.

- B. The Planning Director or his/her designee shall determine whether each application received demonstrates compliance with the minimum requirements for a Cannabis Storefront Retail use permit and/or License. These requirements include:
1. Application is filled out completely.
 2. Application fee is paid.
 3. The location indicated on the application meets the zoning criteria.
 4. A notarized signature from the property owner authorizing the location to be used for Cannabis Storefront Retail activity.
 5. Live Scan background check for the Business Owner(s)/Applicants(s) referenced on the application.
 6. There may be no change in the applicant/business owner from the one(s) listed on the Cannabis Storefront Retail License Application. The application must identify individual owner(s) as defined in the MCRSA 19320(b)(1. et. seq.) as may be amended.
 7. All other application documents required in the County's application package instructions, the MCRSA, Proposition 64 and any other applicable regulations as they may be amended.
 8. Photographs of the exterior of the building including the entrances(s), exit(s), street frontage(s), and parking area(s).
 9. If the property is being rented, leased or purchased under contract, the lease agreement term and name of lessor or equivalent, shall be provided by a notarized signed affidavit of the property owner.
 10. The name and address of the applicant's current Agent for Service of Process.
 11. A copy of the applicant's Board of Equalization Seller's Permit.
 12. A copy of the Cannabis Storefront Retail Operating Standards containing a statement dated and signed by the Business Owner stating that under penalty of perjury that they read, understand and shall ensure compliance with the aforementioned operating standards.
 13. A floorplan identifying ingress/egress, customer check in, waiting area, restroom facilities, retail product area, and product storage area.
 14. Provide a statement, signed by the applicant under penalty of perjury, that the information provided is complete, true, and accurate.
 15. Release of Trinity County from all liability associated with the Cannabis Storefront Retail business. Such a release includes indemnifying Trinity County for claims, damages and injuries that may arise as a result of the Cannabis Storefront Retail business.
 16. Identified actions and commitments to implement the County's local first strategy to encourage cannabis retailers to promote locally-grown cannabis and locally-produced cannabis products to the greatest extent feasible.

17.43H.060 Prohibited activities.

It is unlawful and shall constitute a public nuisance for anyone to own, establish, operate, use, or permit the establishment or operation of Cannabis Storefront Retail:

- A. Without a valid use permit as required by this chapter;

- B. Without a valid local license required by this chapter;
- C. Without a valid State license required under California law; and
- D. In violation of any local or State regulations.

17.43H.070 – Denial/Rescission of License:

- A. Applicant’s application shall be denied or the issuance of a license rescinded if 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, Fire Safe 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 Trinity County Code.

17.43H.080 – Inspection, Enforcement and Violations

The Planning Director, or his/her designee, may enter and inspect the location of any Cannabis Storefront Retail business during normal business hours to ensure compliance with this chapter. In addition, law enforcement may enter and inspect the location of any Cannabis business and the recordings and records maintained as required by this chapter.

Each day of operation shall constitute a separate violation of this section. Each and every violation of this chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Municipal Code. Additionally, any violation of this chapter shall constitute nuisance and violators shall be subject to injunctive relief, revocation of the business’s Cannabis Storefront Retail License, disgorgement and payment to Trinity 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 cannabis business and persons related or associated with the Cannabis business.

17.43H.090 – Fees

All Cannabis Storefront Retail business operations shall pay applicable fees approved by the Board of Supervisors, which shall include the following:

- A. Application Fees. The business applicant shall submit non-refundable one-time fees to cover the cost of processing an application for the commercial Cannabis Retail Storefront use permit and License.
- B. License Fees. The Business Owner shall pay license fees (“License Fees”). The amount of the fee shall be set by the Trinity County Board of Supervisors by resolution and be supported by the estimated additional costs of enforcement and monitoring associated with the Cannabis Storefront Retail business operation. The License Fee shall be due and payable prior to opening for business and thereafter on or before the anniversary date, and may be amended from time to time based upon actual costs.

Section III – Amendment of Chapters 17.41 and 17.42 to Comport

Amend the following sections as shown:

17.41.010 – ~~Except as allowed under Chapter 17.43(H), Cannabis Storefront Retail, Notwithstanding any other provision of this code, the establishment, ...~~

17.41.030 – The exclusion of any zoning district from the provisions of this chapter, as specified in 17.41.010 subsection (a), does not ...

17.42.010(C) – In recent years, Trinity County has seen a proliferation of large illegal marijuana ...

17.42.010(D) – The proliferation of illegal marijuana...

17.42.010(E) – The impact of such illegal cultivation ...

17.42.010(F) – In light of the considerable and extensive public comments provided to the planning commission and board of supervisors, received during numerous meetings held over a period of three years, the board of supervisors concludes that the deleterious impacts of illegal marijuana ...

~~17.42.030 – Deleted. The cultivation, harvesting, processing, drying, or assembling of marijuana are expressly declared to be unauthorized land uses in any zoning district of the county. This declaration is considered to be declarative of existing law, as the county zoning code has never expressly or impliedly authorized any such activities in any zoning district, whether as permitted or conditional uses, or under any provision of the code authorizing specific uses (including but not limited to Chapter 17.30B, pertaining to home occupations and cottage industries).~~

~~17.42.040 – Notwithstanding Section 17.42.030, nNeither the county nor ...~~

~~17.42.050 – Cultivation, harvesting, processing, drying, and assembling of marijuana shall meet the requirements of this chapter only if such activities are undertaken for the personal use of qualified patients. Sale of marijuana in any form, by any means, and for any consideration (e.g., cash, in-kind transfer, exchange of services, barter) is not authorized under this chapter.~~

Section IV – Severability

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The County hereby declares that it would have passed this ordinance, and each and every section, subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

Section V – CEQA Compliance

The County finds that adoption of the proposed Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) the common sense exemption, which applies to projects where the activity in question will not result in a significant effect on the environment.

Section VI – Waiver of First Reading

This Ordinance shall be introduced by title and number only and the first reading waived.

Section VII – Effective Date and Publication

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 5th day of July, 2022 and passed and enacted this 19th day of July, 2022 by the Board of Supervisors of the County of Trinity by motion, second (Groves/Brown), and the following vote:

- AYES: Supervisors Brown, Groves, Cox, Gogan, Frasier
- NOES: None
- ABSENT: None
- ABSTAIN: None
- RECUSE: None



DAN FRASIER, CHAIRMAN
Board of Supervisors
County of Trinity
State of California

ATTEST:

LETTY GARZA
Clerk of the Board of Supervisors

By:  Deputy

APPROVED AS TO FORM AND LEGAL EFFECT:


Margaret E. Long, County Counsel