

Cannabis Ad Hoc Committee

Report to Planning Commission Regarding Cannabis Distribution

Following is a brief summary of the proposed Cannabis Distribution License (Type 11) and proposed zoning districts for Type 11 Licenses.

The ad hoc committee proposes the following:

1. A Type 11 Distribution License is proposed with a Conditional Use Permit in the following zoning districts:
 - General Commercial (“C2”)
 - Heavy Commercial (“C3”)
 - Industrial (“I”)
 - Agricultural (“A”)
 - Specific Unit Development (“SUD”), whose guidelines specifically identify parcels for industrial development
2. Planning Staff and the Commission should analyze and discuss the following:
 - Including Highway Commercial as an allowable zoning district
 - Requiring air filtration systems for these facilities

Background: MAUCRSA (SB 94) defines “distribution” as the procurement, sale, and transport of Cannabis and Cannabis products between licensees.

As of now, (per SB 94) distributors are the only licensees that can transport Cannabis and Cannabis products between licensees as well as being the only licensees that must make sure third-party testing is completed and that all product packaging and labeling meet state requirements.

Although Cannabis licensees (cultivators / manufacturers) are not specifically required to sell their Cannabis or Cannabis products through a distributor, they are required to contract/interact with a licensed distributor for testing, packaging and labeling quality assurance, even if they are not selling the actual product through the distributor. Distributors are allowed to charge fees for these additional services.

Distributors will also be responsible for collecting and remitting taxes on behalf of cultivators and retailers and they must secure a Board of Equalization permit (in addition to obtaining a State license).

ORDINANCE NO. _____
AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF TRINITY ALLOWING FOR DISTRIBUTION 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 marijuana 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 marijuana 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 marijuana 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, distribution, distribution, transportation, testing and dispensing of medical marijuana 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 marijuana 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 marijuana; with some seeking to capitalize on ambiguities in the law while others lack an awareness of community and environmental consciousness.
- (5) Since the adoption of MMRSA numerous sources including law enforcement, elected officials, County administrators, neighbors and marijuana cultivators have reported numerous inquiries from individuals and entities both from within and without Trinity County, who seek to expand their current cultivation operations, or start new ones.

- (6) 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, distribution, 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.
- (7) In the absence of a formal regulatory framework, marijuana manufacturers are less likely to learn of, or implement, guidelines that are protective of the public peace health, safety and the environment; while law enforcement has been deprived of a clear means of distinguishing legally compliant marijuana cultivators from those who threaten the public peace, health, safety and the environment.
- (8) The County finds that in the absence of a formal regulatory framework the negative impacts frequently associated with marijuana distribution are expected to increase resulting in an unregulated unstudied and potentially significant negative impact on the environment and upon the public peace health and safety.
- (9) 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.
- (10) 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.
- (11) This ordinance provides regulations and control over distribution of Cannabis, and prevents the potential transportation of dangerous product and practices within the County.

Section 2: Application

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

A. Definitions:

- i. “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.
- ii. “Distribution” means the procurement, sale and transport of Cannabis and Cannabis products between entities that are property licensed.
- iii. "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.

- iv. "Youth-oriented facility" means public park, school authorized bus stop 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.

B. Allowable Zoning Districts

1. Cannabis Distribution (requiring Type 11 State license) may be permitted in the following zoning districts subject to first obtaining a Conditional Use Permit:

General Commercial ("C2")

Heavy Commercial ("C3")

Industrial ("I")

Agricultural ("A")

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

C. Regulations:

Cannabis distribution shall comply with all of the following regulations:

1. Cannabis distribution facilities shall be located only in zones that specifically provide for this use.
2. Cannabis distribution 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 or within the distance established by the State from an authorized school bus stop.
3. All Cannabis distributors shall ensure that Cannabis is obtained from licensed cultivation sources and shall implement best practices to ensure that all manufactured Cannabis products are properly stored, labeled, transported and inspected prior to distribution at a legally permitted and licensed dispensary.
3. A security plan shall be developed which is compliant with State requirements and submitted with an application for a Conditional Use Permit. The plan must restrict access to only those intended and deter trespass and theft of Cannabis or Cannabis products.
4. A site operations plan shall be submitted with the application for a Conditional Use Permit.
5. Any license holder of a distribution 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.

6. Cannabis and Cannabis products shall only be transported between licensed commercial operations in good standing with the County and the State.
7. Distributors shall ensure that appropriate samples of Cannabis or Cannabis products are tested by a State- and County-licensed testing facility prior to distribution.
8. Prior to distribution, the distributor shall inspect all Cannabis and Cannabis products for quality assurance.
9. Cannabis and Cannabis products shall be packaged and labeled in accordance with the requirements of State law.

D. Required Findings:

A Conditional Use Permit for Cannabis manufacturing shall not be granted by the Trinity County Planning Department unless all of the following findings are made based on substantial evidence:

1. The distribution facility is not within one thousand (1,000) feet of a youth-oriented facility, a school, any church, or residential treatment facility as defined herein, or within the distance established by the State from authorized school bus stop.
2. The distribution, as approved and conditioned will not result in significant unavoidable impacts on the environment.
3. The distribution includes adequate quality control measures to ensure Cannabis manufactured at the site meets State standards.
4. The distribution operations plan includes adequate measures that address the federal enforcement priorities for Cannabis activities including providing restrictions on access to minors, prohibiting use or possession of firearms at the premises, and ensuring that Cannabis and Cannabis products are obtained from and supplied only to other State licensed sources within the State of California.

E Required Conditions:

In addition to conditions and mitigation measures that may be included in the Conditional Use Permit for a distribution facility, the following conditions shall be met:

1. The distributor shall allow access to the facility and any vehicles utilized in transportation, and access to records if requested by the County, its officers, or agents, and shall pay for an annual inspection and allow inspections from the County or its officers to verify compliance with all relevant rules, regulations and conditions.
2. The applicant for the distribution 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 license or relating to any damage to property or persons stemming from the commercial Cannabis activity.
3. Any person operating a Cannabis distribution facility shall obtain a valid and fully executed commercial Cannabis distribution license from the State prior to commencing operations, and must maintain such license in good standing in order to continue operations.
4. 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 Trinity County Code and 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 Conditional Use Permit pursuant to this Chapter.
5. The distribution facility and activities shall be maintained in accordance with the operating plan associated with the Conditional Use Permit and approved by the County.
6. The Cannabis Distribution Program Fee is due annually on March 1st and is set at:
 - i. Type 11: \$5,000.00 plus \$1,000 towards the General Plan update.
 - ii. Fees shall be paid thereafter annually prior to March 1st of each year.
 - iii. 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.
 - iv. 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.
 - v. 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.

F. Denial/Rescission of License:

1. Applicant's application shall be denied or the issuance of a license rescinded if Trinity County becomes aware that:

- i. The applicant has provided materially false documents or testimony; or
- ii. The operation as proposed if allowed, would not comply with all applicable laws including but not limited to the Building, Planning, Housing, Fire and Health and Safety Codes of the County including the provisions of this Chapter and with all applicable laws including zoning and Trinity County ordinances.
- iii. Applicant shall be given up to seven (7) business days to correct any deficiencies prior to the issuance of a denial or rescission unless there is an immediate threat to public health or safety that requires an immediate correction of the deficiency.
- iv. 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 Hold

Introduced at a regular meeting of the Board of Supervisors held on the ___ day of _____, _____, and passed and enacted this ___ day of _____, _____ by the Board of

Supervisors of the County of Trinity by motion second(/), and the following vote:

AYES: Supervisors

NOES: None

ABSENT: None

ABSTAIN: None

RECUSE: None

John Fenley, CHAIRMAN
Board of Supervisors
County of Trinity
State of California

ATTEST:
MARGARET LONG

Clerk of the Board of Supervisors

By:
Deputy