

**ORDINANCE NO. 1355**

**AN URGENCY ORDINANCE OF THE BOARD OF SUPERVISORS  
OF TRINITY COUNTY  
EXTENDING THE TERMS OF PREVIOUSLY ISSUED CANNABIS CULTIVATION  
LICENSES AND PROHIBITING THE ISSUANCE OF LICENSES FOR NEW  
CANNABIS CULTIVATION OPERATIONS PENDING THE CREATION OF A  
TRANSITION PROGRAM IMPLEMENTING THE PROVISIONS AND MITIGATION  
MEASURES OF AN AMENDED CANNABIS PROGRAM ORDINANCE**

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

**SECTION I:** In enacting this Urgency Ordinance, the Board of Supervisors finds as follows:

WHEREAS, the County of Trinity administers a Commercial Cannabis Program (“Program”) that includes the licensing of cannabis cultivation sites throughout the County.

WHEREAS, the County first began licensing commercial cannabis cultivation in 2016.

WHEREAS, the Cannabis Cultivation Ordinance was enacted by Ordinance 815-823 and was amended by Ordinances 315-829, 315-830, 315-841, and 315-843, with the latter amendment occurring on February 20, 2019 (collectively, these ordinances are referred to within as the “Cultivation Ordinance”).

WHEREAS, approximately 490 cannabis cultivation licenses have been issued since the adoption of the Cultivation Ordinance.

WHEREAS, licenses issued under the Cultivation Ordinance are generally issued for a period of one year from issuance, and applicants must apply to renew their licenses for each subsequent year.

WHEREAS, as of the effective date of this Ordinance, approximately 185 cannabis cultivation renewal license applications remained to be processed for the 2020 cultivation year.

WHEREAS, because of the effect of state- and locally-mandated orders concerning the COVID-19 pandemic, and because of a lack of sufficient Program staffing to handle the volume of applications, the County has not been able to timely process all 2020 cannabis cultivation renewal licenses.

WHEREAS, in order to obtain a renewal license in 2020, an applicant for a cultivation license had to have received a license for the 2018 and/or 2019 cultivation years.

WHEREAS in addition to having had to secure licenses for 2018 and/or 2019, applicants for 2020 cultivation license renewals had to have enrolled by 2016 in California Regional Water Quality Board, North Coast Order No. 2015-0023, the Waiver of Waste Discharge Requirements and General Water Quality Certification for Discharges of Waste Resulting from Cannabis Cultivation

and Associated Activities or Operations with Similar Effects in the North Coast Region, dated August 13, 2015 (“Regional Board Order”).

WHEREAS, the securing of a County cannabis cultivation license is, under California Business and Professions Code section 19322(a)(2), necessary to demonstrate local compliance for purpose of obtaining the required state license from a California licensing authority.

WHEREAS, in having enrolled in the Regional Board Order by 2016 and obtained County cultivation licenses in 2018 and/or 2019, cannabis cultivation licensees have been required to expend significant time, money, and resources in maintaining licensed and legally compliant cultivation operations.

WHEREAS, a cannabis “black market” continues to exist locally and statewide, and this unregulated, illegal market continues to compete with the regulated, legal market.

WHEREAS, the objective of the Cultivation Ordinance and California state law, specifically the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), is to provide a path to legal cannabis cultivation.

WHEREAS, a person or entity must possess a state cultivation license to lawfully supply cultivated cannabis to a cannabis processor, manufacturing facility, distributor, or retail operation.

WHEREAS, the County’s delay in processing and issuing 2020 cannabis-cultivation renewal licenses places applicants whose licenses have not been processed for this calendar year in jeopardy of losing, or not obtaining, their required state cultivation licenses.

WHEREAS, the loss of the ability to lawfully supply cultivated cannabis within the regulated, legal state system would, through no fault of their own, expose applicants for 2020 cannabis cultivation renewal application to significant losses on the considerable investments they have made to maintain lawful cultivation operations in a still-developing and highly competitive market.

WHEREAS, it would be inequitable to expose applicants for cannabis cultivation licenses to these consequences due to circumstances beyond their control, including the effect of the COVID-19 pandemic and shortages in County staffing.

WHEREAS, in addition to the need to relieve 2020 cannabis cultivation license applicants from these potential inequities, the Program will shortly be undergoing a significant change in nature and scope due to the potential and imminent certification of a programmatic Environmental Impact Report.

WHEREAS, the County published a Notice of Preparation of an Environmental Impact regarding the Program on December 21, 2018.

WHEREAS, on January 16, 2019, the County held a scoping meeting to elicit public input and comment regarding the preparation of the intended environmental impact report for the Program.

WHEREAS, following the preparation of a Draft Environmental Impact Report (“DEIR”) regarding the Program, the County published Notice of Availability of the DEIR on May 29, 2019.

WHEREAS, on September 26, 2019, the Planning Commission held a workshop to receive public input regarding the DEIR.

WHEREAS, on November 19, 2019, December 11, 2019, and February 11, 2020, the Board of Supervisors held special meetings to receive further public input regarding the DEIR.

WHEREAS, a Final Environmental Impact Report (“FEIR”) has been prepared, which includes written responses to all comments received during the formal comment period on the DEIR.

WHEREAS, to incorporate the mitigations identified in the FEIR into the Program, an amended ordinance has been prepared repealing and amending Chapter 17.43 of the County Code; enacting new sections to Chapters 17.43A, 17.43B, 17.43C, 17.43D, 17.43E, and 17.43F; and enacting new Chapter 17.43G (the “Amended Program Ordinance”).

WHEREAS, a public hearing was held before the Planning Commission on November 19, 2020 and December 3, 2020, following the conclusion of which, the Planning Commission recommended, with suggested modifications, that the Board of Supervisors certify the FEIR and adopt the Amended Program Ordinance.

WHEREAS, the Board of Supervisors is scheduled to hold a public hearing on December 21, 2020 to consider and act upon the Planning Commission’s recommendations concerning certification of the FEIR and adoption of the Amended Program Ordinance.

WHEREAS, if the Amended Program Ordinance is adopted, the amended ordinance would include the mitigation measures recommended by the FEIR, resulting in significant changes being made to the Program, including existing and new cannabis cultivation operations.

WHEREAS, County Staff is presently developing a transition plan to implement the new requirements of the Amended Program Ordinance by, among other things, creating application checklists, informational material (FAQs, advisements, etc.), guidance documents, and other review and compliance resources.

WHEREAS, it is in the best interest of the public, the environment, and the Program that County Staff devote its time, resources, and efforts toward implementing the requirements of the Amended Program Ordinance as promptly as possible.

WHEREAS, to allow County Staff to properly focus its efforts on developing and effecting a transition plan regarding the Amended Program Ordinance, and at the same time to avoid the inequities to applicants for 2020 cannabis cultivation licenses, as described above, the Board of Supervisors finds there is a compelling and immediate public need to extend the dates of previously issued cannabis cultivation licenses, as provided in Section II of this Ordinance.

WHEREAS, in addition to the pending applications for renewal cannabis cultivation licenses, the County received 69 applications in 2019 and 2020 for new cannabis cultivation licenses.

WHEREAS, in March 2020, the Planning Director issued a directive advising that the County would not accept applications for new cannabis cultivation licenses due to the impact of the existing Program's need to process applications for renewal cannabis cultivation licenses.

WHEREAS, the Board of Supervisors finds that the basis for the Planning Director's directive continues to exist; and more specifically, the Board of Supervisors finds that to ensure proper implementation of the Amended Program Ordinance, it is continues to be necessary to preclude issuance of licenses for new cannabis cultivation licenses as provided in Section II of this Urgency Ordinance.

WHEREAS, this suspension of review of new license applications is necessary because it would be infeasible to meaningfully and properly consider the approval of such applications under the standards of the Amended Program Ordinance until the forthcoming transition program is developed, adopted by the Board of Supervisors, and fully implemented.

WHEREAS, for all of the above reasons, the Board of Supervisors finds that the adoption of this Urgency Ordinance is necessary for the immediate preservation of the public peace, health, and safety in that enactment of the provisions within will ensure that licensed cultivation operations may remain in the regulated, legal cannabis market, achieving the objectives of the Program and MAUCRSA.

WHEREAS, the Board of Supervisors further finds that the adoption of this Urgency Ordinance is necessary for the immediate preservation of the public peace, health, and safety in that the provisions within will ensure that the County may as promptly as possible implement the new requirements of the Amended Program Ordinance, thereby ensuring that the Program implements recommended environmental mitigation measures as expeditiously as possible.

WHEREAS, the adoption of this ordinance as a non-urgency ordinance would not allow the provisions stated in Section II to take effect until late January at the earliest, resulting in many of the adverse consequences described above—which are already occurring and having detrimental effects—being continued for several more weeks.

WHEREAS, nothing in this urgency ordinance is intended to address, or shall address, the license for any Type 3/Medium Cultivation Licenses.

**SECTION II:** Based on the above findings, the Board of Supervisors ordains the following measures be immediately implemented:

A. Extension of Previously Issued Cannabis Cultivation Licenses.

1. The term of any cannabis cultivation license issued on or after January 1, 2019, and for which an application to renew such license had been submitted to the County on the effective date of this Urgency Ordinance,

shall be deemed to be extended for the term of this Urgency Ordinance, as provided in Paragraph (C) of this Section.

2. Should any cannabis cultivation license in effect as of the date of this Urgency Ordinance be scheduled to expire after the effective date of this Urgency Ordinance, the term of such license shall be extended for the term of this Urgency Ordinance, as provided in Paragraph (C) of this Section.
  3. Applicants for licensees under Sub-Paragraph (1) and (2) of this Paragraph must pay the applicable renewal application fees and submit a renewal application as a condition for receiving the extension of their licenses for the term of this Urgency Ordinance.
  4. The County shall take all actions reasonable and prudent to advise California state licensing authorities of the extensions of their local authorities as evidenced by the licenses as provided under this Urgency Ordinance.
  5. Nothing in this Urgency Ordinance shall be interpreted to allow any licensee to violate any term or condition of any issued cannabis cultivation license or any provision of the Trinity County Code or state law. Nor shall anything in this Urgency Ordinance be interpreted to abridge or preclude the County's authority to suspend, revoke, or modify any license or seek any remedy authorized by law.
  6. Transfer of an existing license to a new property shall be treated as a new application, and shall be subject to the prohibition to the Urgency Ordinance as stated in Paragraph B.
- B. Prohibition on Issuance of New Cannabis Cultivation Licenses. The County may not accept, approve, or issue any application for a new cannabis cultivation license for the term of this Urgency Ordinance, as provided in Paragraph (C) of this Section.
- C. Term of this Urgency Ordinance. This Urgency Ordinance shall take effect immediately and shall expire on the earlier of (1) 270 days from the effective date of this ordinance, as stated in Paragraph (D), or (2) the effective date of any further or subsequent ordinance suspending, repealing, amending, or superseding this Urgency Ordinance.
- D. Effective Date. The effective date of this Urgency Ordinance is December 9, 2020.

**SECTION III:** This Ordinance is an urgency ordinance necessary for the immediate preservation of the public peace, health and safety. Pursuant to Government Code section 25123, subdivision (d), this ordinance shall take effect immediately upon adoption by four-fifths of the Board of Supervisors, and prior to the expiration of fifteen (15) days from the adoption thereof shall be

published at least one time in the *Trinity Journal*, a newspaper of general circulation in Trinity County.

**SECTION IV.** This ordinance is exempt from CEQA under the general rule that it can be seen with certainty that the temporary extension of existing cannabis cultivation licenses and prohibition on approval of new cultivation licenses have no possibility of having a significant effect on the environment, as set forth in California Code of regulations, title 14, section 15061, subdivision (b)(3). Further, this ordinance is exempt from CEQA pursuant to the provisions of Public Resources Code section 21080, subdivision (b)(4) and California Code of regulations, title 14, sections 15307 and 15308, in that the measures provided within are intended to protect natural resources and the environment. In addition, the extension of the duration of existing licenses under the terms provided within does not constitute a CEQA project under applicable case authorities, including *Moss v. County of Humboldt* (2008) 162 Cal.App.4th 1041, 1049, and *Latinos Unidos de Napa v. City of Napa* (2013) 221 Cal.App.4th 192, 202.

Introduced, passed and enacted at a special meeting of the Board of Supervisors held on the 9<sup>th</sup> day of December 2020 by the Board of Supervisors of the County of Trinity by motion, second (Morris/Brown), and the following vote:

- AYES: Supervisors Brown, Morris, Groves, Fenley and Chadwick
- NOES: None
- ABSENT: None
- ABSTAIN: None
- RECUSE: None

  
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 JEREMY BROWN, VICE-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:

  
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 Margaret E. Long, County Counsel